David Knight: Last name, and give me your title.

Patricia Sepulveda: Pat Sepulveda, S-E-P-U-L-V-E-D-A, Associate Justice.

Donald King: Donald King, Retired Justice.

David Knight: All right, and we are ready anytime, Justice Sepulveda.

Patricia Sepulveda: This interview is being conducted as a part of the Appellate Court Legacy Project, and the purpose of that project is to establish an oral history of the appellate courts in California through interviews such as this one with justices who have served on our courts. We have with us today Justice Donald King, Retired, formerly on the First District Court of Appeal, Division Five, from 1982 to 1996. Welcome, Don. It's a pleasure to have you here.

Donald King: Thank you. Happy to be back.

Patricia Sepulveda: I thought we would start by going to the beginning perhaps, and talking about your early life. And I noted in some of the biographical information that I was given that you were born in here in San Francisco; and would it be fair to say that it appears that you are a lifetime resident of San Francisco?

Donald King: Yeah, except for time in the Army, I've been here the whole time.

Patricia Sepulveda: And it did look like you did go away for a little bit though at one point in college—that you initially went to Auburn?

Donald King: Yes. I thought I wanted to be a football player. *[laughing]*

Patricia Sepulveda: Is that what it was? I was going to ask you if it was a basketball scholarship that got you there.

Donald King: No, and I should have known, because when I was in high school, I broke something every year playing football. But it was not to be.

Patricia Sepulveda: It was not meant to be. So you graduated from Lincoln—is that right, Lincoln City?

Donald King: Lincoln High School, yes.

Patricia Sepulveda: Did you play football or basketball or both?

Donald King: Football.

Patricia Sepulveda: So I've heard about some of your prowess in basketball.

Donald King: I focused more on basketball once I learned football was not for me.

Patricia Sepulveda: So when you came back you went to Auburn initially to college and then came back and went to USF to finish up?

Donald King: Yes.

Patricia Sepulveda: And was that because of a change in focus or—

Donald King: No, there was a family . . . my mother had an illness, and it turned out not to be that severe, but I thought I'd better come back.

Patricia Sepulveda: And you ended up graduating with a bachelor of science, then, from USF; and I understand you played basketball for the Dons for a while?

Donald King: Well, a little bit, mostly when I was at law school. And I didn't play in undergraduate because I didn't care much for school at that point, and *[inaudible]* at the law school. I never cared for school, and so I graduated in three years and I . . . to make it worthwhile to play . . . having to wait a year after transferring back, and then it would have only made sense if I stayed on for additional years. So I played against them, but I didn't play for them at that point. And later in law school, I was helping them doing some scouting in my first year and then was an assistant coach my second and third year; and in between the first and second years was when they had won the national championship the second time.

Patricia Sepulveda: I was going to ask you if these were the great years of the Dons.

Donald King: And the State Department wanted to send them on a goodwill tour to play the Olympic teams in Central and South America; it was an Olympic year. So the college eligibility rules in those days, you could only take people who had no other eligibility. So I was asked to go as a player. So that was the only time I really played for USF. But it was a wonderful summer, a terrific break between the first and second year of law school.

Patricia Sepulveda: Yeah, by the time I got to USF they were not the great team they once were, unfortunately.

Donald King: Well, this was the Russell and Jones era.

Patricia Sepulveda: Right, right. Now, you got your bachelor of science in 1952, is that accurate?

Donald King: Yes.

Patricia Sepulveda: And what was your major in?

Donald King: Accounting.

Patricia Sepulveda: Well, that served you well later in life. We will talk about that in a little bit, how that played into your later career. You did take some time in between college and law school and served in the Army.

Donald King: That's correct.

Patricia Sepulveda: And it looked like you obtained the rank of first lieutenant during that time. Where were you stationed? What were you doing?

Donald King: I was drafted during the Korean War. Went through basic training and leadership school at Fort Ord, then went and spent a terribly hot summer at Fort Benning, Georgia, going through infantry OCS, officer candidate school. Then I was transferred into ordinance and went to Aberdeen proving grounds in Maryland. I was there for almost a year, and then to Fort Lewis, Washington, for about a year and a half.

Patricia Sepulveda: Now, was there anything about that experience that made you decide you wanted to go to law school? Or how did you go to law school?

Donald King: Yeah. I had no plans to go to law school. I had been hired by a corporation out of undergraduate. They knew I was going to be drafted in a short time, so it was really a break for me that they even hired me. They treated me very well.

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Donald King: They gave me some extra pay when I did get drafted. So I always intended to go back, but when I was in officer candidate school, two of my roommates who were from the East Coast were going back to law schools, and so they talked about it so much I figured I would. And I had the GI Bill. I thought it would be good in the corporate world, which is where I intended to return, and I really didn't decide to practice law as a practitioner until about halfway through law school.

Patricia Sepulveda: That was 1958 that you got your J.D., and then you went into private practice here in San Francisco?

Donald King: Yes.

Patricia Sepulveda: I understand that you weren't doing a lot of family law; none at all?

Donald King: Some, but not very much. I had a unique situation. My law office was on the same block I grew up on. I'm sure I was the only lawyer in San Francisco with that distinction. I lived out in the West Portal area, and my office was on West Portal. I had a

very varied civil practice. I went there wanting to touch on a lot of areas, trying to figure out what I wanted to do, and 17 or 18 years later I was still there. So I did almost no family law; the last five years I did almost totally engineering and construction litigation.

Patricia Sepulveda: And then somehow in that same period you got involved in politics. It looked like quite a bit in the 1960s, and you were even on the Democratic Central Committee?

Donald King: I was chairman of the Democratic Central Committee from 1962 to 1966.

Patricia Sepulveda: Is it true you beat out George Moscone for that—

Donald King: Yes, by one vote.

Patricia Sepulveda: One vote, wow.

Donald King: Yes. The irony was that the one vote was from his closest friend.

Patricia Sepulveda: Really?

Donald King: Yes.

Patricia Sepulveda: That's amazing. What led you to be involved in politics? Was there a particular reason why you got into it?

Donald King: I think my wife probably got me into as much as anybody else. My partner, my law partner, talked about it. We got involved in 1959 in a local supervisorial race with a candidate who was very, very good, and he won. So we got very excited as a result of that. So it just led to that. Then I was on the Speaker's Bureau for the President Kennedy campaign, and it just went on and on. We had a group that I was involved with who resulted in a number of people being elected to office. I wasn't interested in that. But John Foran became an Assemblyman and a state Senator; Leo McCarthy became an Assemblyman and then Lieutenant Governor—Speaker of the Assembly and then Lieutenant Governor; Quentin Kopp later became a state Senator; Jack Ertola and Ron Pelosi both became supervisors. They were all part of our group. So we had a lot of campaigns going on.

Patricia Sepulveda: Sounds like it. You mentioned your wife—that was Nikki—that you married in 1957, and you had a son; Jordan Norman, was born in 1970. And do you have grandchildren?

Donald King: No. we're waiting.

Patricia Sepulveda: Still waiting?

Donald King: We're waiting.

Patricia Sepulveda: Does your son live in the area?

Donald King: He lives in Mill Valley.

Patricia Sepulveda: And has he gone into law as well?

Donald King: No. I think he saw me working too many hours.

Patricia Sepulveda: Found his own route in life.

Donald King: Yeah. Right now he is the office manager for a commercial real estate office.

Patricia Sepulveda: Very good. You were appointed in 1976 to the superior court by Governor Brown, Jerry Brown, Jr. Had you had contact with him in your political doings before that?

Donald King: Not really, no. I was involved a bit in his campaign but not in a very significant way because I was . . . well, for one thing I'd been helping Joe Alioto in the primary. So it was in the fall that I got somewhat involved. But I had come close; I had a unique situation. In 1970 or 1971 I was being considered for appointment by Ronald Reagan, and actually my name went through the whole process and the papers went on his desk to be signed, and then fate intervened. He came down with the flu and he was gone for three days. And in the meantime . . . he had very few supporters when he ran and first ran for Governor in San Francisco in the primary, because George Christopher, the San Francisco mayor, was on the other side. So he had a small band of very active people; and they had a candidate of their own who he would not appoint because he was not qualified. And so when they couldn't get their own person appointed, and they heard he was going to appoint somebody who had been chairman of the Democratic candidate for Assembly, my name disappeared from his desk. But I knew; I had a good connection, so I knew what was going on. In any event, so I almost had the unique distinction of being appointed by two different governors, anyway.

Patricia Sepulveda: And that time on the San Francisco Superior Court, it looks like it was about six years before you were elevated?

Donald King: Yeah. Six and a half years.

Patricia Sepulveda: What assignments? I know you had family law, obviously.

Donald King: I had . . . doing civil work, mostly civil trials, for about eight months, and then I was asked to take the family law assignment, and then I just stayed with it. I did sit pro tem on the Court of Appeal for a couple of months somewhere, and that was a wonderful learning lesson for me, and I thought

that's what I wanted to do. I talked to the Governor's Office about whether continuing family law would hinder that, and they said no. So I just stayed with it. I liked it; I loved what I was doing. I found I had an ability I never realized I would have, to have an impact outside of my own courtroom. And I was just in the right place at the right time for a lot of changes that came about.

Patricia Sepulveda: Certainly the majority of that six years was family law, in the trial court?

Donald King: Yes.

Patricia Sepulveda: And there were changes I know that you effectuated in the family law system in San Francisco. If you'd like to talk about some of those mediations, the one that comes immediately, in custody cases, to my mind . . .

Donald King: Well, when I first came on the court my predecessor had scheduled three afternoons a week for hearings on temporary custody and visitation. And there were numerous trials, I think, that primarily occurred because of those contested hearings on the temporary ones. It never made sense to me. I didn't know anything about mediation; in fact I'd never heard the word at that point. But I knew we had some people over in the family court services office who I thought could help parents make their own decision. And I was absolutely convinced they knew more about their child than I did and could make a better decision, if we could just give them the help to do that. So we started that as soon as I got in. I had a meeting with a number of members of the family law bar. They were very supportive and were kind of happy to have that removed from their work, and so they were very supportive of it. We started it right away and it was tremendously successful.

Patricia Sepulveda: Did you do it by a local rule that required them to go through mediation?

Donald King: No, I just told them they had to do it. We did a number of things. I did a videotape of Judy Wallerstein, who was, in my view . . . knew more about the effects of divorce on children than anybody in the world. And we used to show that at the beginning of the session for those who had child-related problems, and that was a wonderful tool. In fact at first we thought we had a magic tool, because the first day we had it, the only couple in there with child-related matters reconciled. *[laughing]* But that was the only one.

In any event it was very helpful because, as you would know from having been in family law, when parents are coming in for their first court appearance they're so wrapped up in their own problems on what's going to happen to them and how are they going to get enough support or will they have to pay too much

support or whatever it is, but they're not focusing on the children's problems. So it was important to have something at the beginning of each session that sort of forced them to focus on their children. That kind of got them warmed up. And then once we started doing that—the mediators told me at first when I just sent them over it was very difficult for them—but once we had a little program . . . And the Judy Wallerstein tape was the best part. It was amazing what a difference there was, five minutes later when they were over meeting with the mediator.

Patricia Sepulveda: This was a really revolutionary idea at that point, wasn't it, in California?

Donald King: Yeah. Nobody was doing it. And it was so successful, then Los Angeles picked it up, Fresno picked it up, and by 1980 it was a smash hit everywhere. In San Francisco I'd have maybe two or three a year, hearings on temporary custody or visitation, and almost no trials.

Patricia Sepulveda: By the time I came into family law in 1990, it had obviously been made mandatory.

Donald King: It was made mandatory by the Legislature in 1981. It was . . . I think it's the thing I'm most proud of in terms of accomplishment, because I think it helped so many people. There certainly are a certain number of people who don't want to be helped, and you can't do much with them. But I found that no matter how much emotional conflict and anger, frustration, there was between spouses, they love their children in almost every case; and if you can get them focusing on the negative effects of what they were doing on their kids, it was amazing what you'd get them to do. I found if you got them focused enough on their kids, you could get them to agree to anything with regard to the kids. It was just amazing.

In fact, I see that now, and I don't do anything really in the way of custody anymore. But I do a lot of mediation of a whole range of issues, mostly in family law, but not all; and it's the same sort of thing. It's amazing to me; you start the day with a case that looks like it's impossible, we'll never get this case settled, and at the end of the day it's settled. It's a magical process. And I've never been able to figure out exactly why it works the way it does—but somehow, talking through things with people, letting people express their own concerns, their own desires, it's amazing what you can do.

Patricia Sepulveda: We were chatting just briefly before we started today and I was telling you my favorite part of doing family law was doing settlement conferences. And it really seemed to be effective to work, if you could, at points with the parties themselves and not do everything through the attorneys. It sounds like you're still doing some of that.

Donald King: I do both. I do it with the attorneys, but as you know there are a limited number of attorneys who handle the higher-end cases. So I deal with the same people essentially all of the time and we end up being a team, really. There's no need for them to posture for their clients. There's no need to become aggressive or argumentative. It's done in a calm way, and it's productive. And I think over time, if they didn't know at the beginning, they certainly know by now, after 11 years, it just works; and if we all work together, we'll get things resolved. I normally have now open at any one time 45 to 55 family law cases because I do . . . I get assigned a judge pro tem at the beginning and I have the case from beginning to end. Out of those, I may have one trial a year, and that's usually an issue like spousal support.

Once in a while, a *[inaudible]* allocation of separate community property in a business, but the rest of them all get settled. And it's a matter of working with the people. Unfortunately settlement conferences in the court too often are directive in telling people what they should do, and here we work with them too; we just help them reach their own decisions. And again, I found the same thing I found with the child custody and visitation mediation. If you give people help and they want to be helped—most do—then it's amazing how you can do it. I think the change from no-fault took a lot of years for people to realize the courts weren't going to allow people to fight anymore. And once you get past that emotional stage and people are realizing how important it is for the past to be past and they should be looking forward that you can help them . . . It's one of the reasons why I stayed so much in family law, because I thought that was a place I could provide more help to litigants than I could anywhere else.

Patricia Sepulveda: It is one of the few areas, I think, where you have that direct kind of impact on people's lives that much. It sounds as though the accounting experience, at least probably in the trial court level, would have assisted in doing these family law cases. I remember listening to accountants, endlessly it seemed sometimes, on some of these cases; and writing opinions, decisions, in the cases involved doing some accounting.

Donald King: Well, as you know these days with—certainly with the higher-end family law cases—there're always . . . there are two forensic accountants, and again there is a limited number of those people who do that kind of work. So I deal with them all the time. My own experience in accounting has helped a lot, but frankly much of it again, we help the accountants, help the parties and resolve things. In my system, the accountants have free access to each other; they don't go through the attorneys, through the parties. And what we end up with is a narrowing; they end up narrowing any issues regarding accounting disputes. Usually there are . . . for example, if it's a claims of reimbursement, they've narrowed it down so that there is only

a few that are in dispute. And then there's the question . . . It isn't of whose money is it, it's who's charged with this, is it the community, this person, that person. And of course, on goodwill issues and the Pereira and Van Camp, they're very helpful even though if they end up in a hearing they're going to be in an adversarial position. They're very helpful in narrowing the issues.

Patricia Sepulveda: Do you bring the accountants in on the settlement conferences?

Donald King: Yes.

Patricia Sepulveda: I used to do that as well; it was very helpful.

Donald King: Yes. They are helpful. In fact, in some cases there are a couple of them who are . . . at least it's helpful, maybe more helpful than the attorneys. They're a real resource not only for their clients but for the court.

Patricia Sepulveda: Now, was it during those years on the trial bench that you started really teaching for CJER? I know you taught for three different law schools; it looked like Hastings, Golden Gate, and USF law schools. Was it during this period that you really started in education?

Donald King: Yes. I started shortly . . . I did a lot of stuff with CJER. I'd been in the family law assignment for about a year or so and I would get these announcements of the juvenile court judges institute, or criminal law or civil or whatever it was. And Paul Li was the head of CJER at that point and I called him and I said, "I don't understand why we don't have one for family law judges." And he said, "That's a good idea, and you're in charge."

Patricia Sepulveda: That's how it always happens, right?

Donald King: So that was the first one, and it was a very interesting experience. It was in Newport Beach in a hotel. They had a unique setup. It was kind of an open courtyard hotel, and what that hotel did was to provide free drinks from five to seven to people who were staying in the hotel, and some hors d'oeuvres. So we put our program on, then everybody would congregate in the evening at the lobby and there would be, in effect, two more hours of education and a lot of good interaction, it turns out. So that's what led to CJER ultimately having wine and wine and cheese at the end of their programs. They never did that; they used to just have the program alone.

That first program was terrific. It led to the first creation outside of Los Angeles, in family law departments in Alameda, Sacramento, and Santa Clara counties and Orange County; they had never had them before. So it was a terrific success. It was a wonderful thing, because in so many of these counties you'd have one judge or two judges who were doing it, except

for L.A., and they had no contact with anybody else. And to get together with others who were doing the same thing on a statewide basis to exchange ideas and how do you do this and what do you do when this happens, it was a terrific experience. And this idea of the couple of hours after the program was over in a relaxed atmosphere, exchanging ideas, was great; it was terrific.

Patricia Sepulveda: Sometimes that can be the best part of the program.

Donald King: Yes. Because too many of those programs, as you know, are not . . . They're doing better now, but historically they were not interactive and people just sat there and somebody spoke, and maybe there was a panel but often it was just one speaker. So that led to a series of those, and I was always involved in them in some way. And then when they began their advanced course—I've forgotten what they call it now.

Patricia Sepulveda: CJSP, Continuing Judicial Studies Program.

Donald King: Billy Mills, who was on the L.A. Superior Court, and I were asked to put that program together for family law. And that was terrific because you had a small group of people; it was totally interactive. And from that we got a lot of people who were really interested in working in family law as opposed to just going in and getting out as quickly as they could.

Patricia Sepulveda: There was one point in time where family law was kind of a dumping ground for the new judges, would be.

Donald King: Unfortunately it's still the case all too often, yeah. A lot of things have gone downhill. The mandatory mediation program is a disaster now. It used to be that . . . now in most counties the court mediators are limited to one hour in meeting with the parties, and no way you can make a recommendation or help them in one hour.

Patricia Sepulveda: I didn't realize that it had changed.

Donald King: It's terrible; it's terrible. And it's financing, I guess, like everything else.

Patricia Sepulveda: Well, that judicial educational component when you first started, wondered why there wasn't a family law institute, now is mandatory for family law judges within a certain period of time of taking the assignment.

Donald King: And the advanced course is terrific for those going in; and I'm not even sure it's called advanced, but it's not advanced.

Patricia Sepulveda: When did you become involved with CJER? You co-authored, I suppose is the right term, the treatise on family law for Rutter?

Donald King: CJER, I think it really started with that first family law program, because at that point there was—there is I guess still—a division between educational programs that CJER was putting on and that the Judges Association was putting on. And I was very much involved in the Judges Association programs. But when that started, I was always involved every year in the CJER family law judges institute, almost always on the program and almost always on the planning committee. So that was . . . that continued on until I went to the Court of Appeal and occasionally after that.

Patricia Sepulveda: When did you first become involved with the Rutter publication?

Donald King: I had been on some Rutter programs, again family law programs. In 1980 or 1981 they had invited me to become the co-author of their practice guide on family law, and I was happy to do that. I didn't know that I would be doing what I ended up doing when I was on the Court of Appeal with a lot of family law stuff, both at the teaching and doing other programs. So I was concerned whether that was going to have me kind of out of touch with things; but they didn't seem to feel that was any problem, so I did that. And that's been very successful. That book is the book most used by family law attorneys in California, and we write it in a way—and we get positive feedback about this all the time—so that family law lawyers and family law judges have an easy time getting right to what the issue is, finding what is to be said about the issue they have before them. That's our goal, and we think we meet it.

Patricia Sepulveda: It still sits on my shelf and gets used in almost every family law case.

Donald King: Well, we've now had the experience of . . . there are two Rutter group books, the Weil & Brown book on civil practice before trial, and now the Hogoboom-King book on family law, where they . . . And I'm the only survivor—the others, the three, are gone now. They have bought the rights to use our name, so they're going to have those books, it's kind of like the Witkin thing. Those books would be forever known as Weil & Brown and Hogoboom & King because these citations so much have been *[inaudible]* and there's been such an identification. So that's nice.

Patricia Sepulveda: It is. It will be there forever. I thought Judge Hogoboom had passed away; I wondered about that. Now, in 1982 when you were nominated for the appellate court, one of the things I was reading was that you got a record of something like 423 letters of support to the commission on appointments. That really is phenomenal.

Donald King: Well, a lot of it was from . . . I'm not even sure anymore what the breakdown was between lawyers and judges, but in the

family law field I had a lot of contact with both. And because of having done some of these things, there was a lot of positive feedback, and so I think that's what generated that. It was very nice because it's . . . with busy people it's nice that they take time to sit down and write such a letter.

Patricia Sepulveda: Especially the positive letters.

Donald King: Yes.

Patricia Sepulveda: And you also, though, were found extremely well qualified, as I recall, for the position, which is also a great honor to have that level of qualification.

Donald King: I was the only one; I don't know why, but I was the only one.

Patricia Sepulveda: And this was for a newly created position? Was this when Division Five was being created initially?

Donald King: Yes.

Patricia Sepulveda: Who were your colleagues then when you first came in?

Donald King: Harry Low and Zerne Haning; we all started together. Zerne was there the entire time I was there. Harry left maybe two years or three years before I left. So we had a very congenial group and we worked well together.

Patricia Sepulveda: Sounds like a good group.

Donald King: Well, we went there . . . part of the reason that the division had been created was there was a tremendous backlog in the First Appellate District. And in fact I remember one lawyer telling me she had a case before the First Appellate District and she got a letter directing her to appear for oral argument in San Diego. She couldn't figure out what was happening, and what happened is they had transferred some cases out and they'd mixed up in not giving the notices of transfer out. So anyway, there was a considerable backlog. When we first came, we were assigned our proportionate number of cases, but we were given all the old cases; and what we found was that we had cases that had been fully briefed for two years or more where the trial would have maybe took place four or five years before, which is terrible.

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Patricia Sepulveda: How does that work in family law?

Donald King: Well, it wasn't just family law; this was everything. So what we did, we decided that the most expeditious way we could handle that was to divide between the three of us subject matter areas. That's partly—or at least in the early days, until we got

current—that's what caused me to have so many family law opinions.

Patricia Sepulveda: I was going to ask you that; because in eight years here, I haven't seen many that I personally got.

Donald King: I took all the family law. I don't remember what I took. I took the family law cases, and I took one or two other categories; Zerne Haning took the tort cases and some contract cases or something; Harry got stuck with indemnity cases. And then what would occur is we would get all of the cases, all of these old cases in our different subject matters in our own chambers, and what you'd find is in the family law cases, for example, you might find eight cases that had essentially the same issue.

So we were able to produce more opinions than the other divisions because of the way we were operating. And we operated from the very beginning in a different way too. The minute—at least once we got caught up—the minute a case became fully briefed, it went on the next month's calendar. So these cases, as soon as we got a group together and knew what we were working on with those, we would put them on the next month's calendar.

So the calendars were quite large while we were getting caught up because we did have groups of cases with similar issues. And it was an interesting process in oral argument because sometimes we could pretty well get some direction as to where we were going, and it was helpful then to the others in the courtroom who had the same issue. But that's what started that. After we got caught up—which I think would have been about 1985 or something like that, about three years—then we started doing everything just in regular rotation. I still got a number of family law cases, but the others had them too.

Patricia Sepulveda: So there were no more specializations, so to speak, after that?

Donald King: No. Then it was around that time that I approached Chief Justice Bird about going back to the superior court to help them out. And I couldn't convince her to let me do that because she felt I could only do it if somebody else came up and replaced me and I said no, I can do both. So the result was that I didn't do that until Malcolm Lucas became Chief Justice. And it shows you there was some difference between the two of them. I ran into him in the garage a couple of days after he had been sworn in, told him what I wanted to do, and that afternoon there was an order that came to me giving me my assignment to the superior court.

Patricia Sepulveda: So how often would you go back?

Donald King: Well, at first I went back for two weeks every other month because what I thought I would do is try family law cases. But I

found out very quickly that almost all of the family law cases ready to be tried should never have gotten that far; they should have been resolved much, much earlier. So that's when we start doing what is really a case management process with minor modifications identical to what I do today.

So I went over to . . . then I decided to change it by going over on some order to show cause days, where lawyers and clients were given an opportunity to come to me. If they would agree—I would explain to them what I was planning on doing—and if they would agree to have it assigned to me then I just took the case from beginning to end.

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That worked out very well, because I took about 45 or 50 cases; and somewhere between 10, 11, 12, we settled the first day, got everything all done. The others, none of them ever went to trial; they all got settled. That just made it clear to me there is a better way to do things than the adversary system. So in effect, then, once I did that, I couldn't continue doing it the same way because there were such an ebb and flow. I had a point where I had no cases or down to no cases, and how did I get some more? How did it work?

So then what I started doing was taking higher-end cases. And they would be assigned to me and I found . . . That started this way, a very interesting experience. I was over there helping them out occasionally and the presiding judge called me one day and said, "We've got a difficult case. Will you take it on and see if you can resolve it?" I said, "Sure." So I got over there for what was supposed to be an issue on an order to show cause and it was Melvin Belli and his wife. And they didn't have a courtroom for us. They had a whole bunch of issues. They didn't have a courtroom for us; so they put us in the old City Hall, which was facetiously called the judges' lounge, which was a room just about this size, very small. It had a small, round table in there, and some chairs, and so we went in; they said go in there because we don't have a courtroom available. So we all we went in there and sat and then they said we're going to have to wait, we don't have a court reporter available. So we waited and started talking; and by the time the court reporter came, 15 minutes later, we had it all resolved by agreement. And these were difficult people.

Patricia Sepulveda: That's amazing!

Donald King: He was no more difficult than she was. They were both very difficult people. So it became clear to me that a mediation approach was much better—to get them involved, let them participate, let them be telling us how the case should be settled. And working within that framework, finding where the party's positions were, not having to decide anything in terms

of who is right or who is wrong but where within the extremes of their positions can you reach a point of getting agreement.

So that's what I did from that point on. I took higher-end cases, took them from beginning to end and provided case management, which is mainly monitoring things; but it also involves . . . I set up my own rules; for example, nobody could file a motion without calling me first. First of all, the exception to the public system—which I always explain to them, that it's contrary to public policy—is, I can have ex parte communication with anybody, including the parties. So one of the rules I had was that before an attorney could file a motion, he had to call me and get my approval. The result was we virtually never had any motions. And the files, essentially the court files are the petition and response and a judgment and the MSA. There's no paperwork. We ignore virtually all of the statutory procedural rules because we don't need them; we don't need to follow the rules for setting a motion because the way we do that is we have a conference call and say okay, what's a good day for everybody, and then we do it.

Patricia Sepulveda: How many of these cases, when you got to this point of doing the bigger-end sorts of cases, were you handling a year?

Donald King: It's hard to say because they would go on for varying periods of time. I usually would have about three or four of those at a time.

Patricia Sepulveda: And you continued to do that until you retired?

Donald King: Yes, and after. I still do the same thing.

Patricia Sepulveda: Do you?

Donald King: Yeah, I just have larger numbers now, but it's the same thing. I had a meeting this morning with one client and his attorneys on a big, big case which has got a lot of complications to it. It's a Pereira and Van Camp case where a business has been sold for many, many millions of dollars; and from that some threatening action that the other attorney was going to take, which I can't stop him from doing—filing a lease pendente on what in essence is a commercial real estate business.

(00:39:58)

What came out of that—I then called him afterwards and talked to him about the meeting to resolve this—he agreed to not do that. And it solved a lot of problems for the husband, too, who would be in a terrible position if he can't do anything in terms of refinancing or anything else without getting court approval.

I did that in other ways, too, in the *Belli* case. The nature of the Belli law office was they had huge cases, brought in huge fees; but the fees disappeared the moment they came in, and there

would be huge accounts payable. So I ended up acting as an unofficial receiver, really—no court order, no nothing. And just every Friday they would tell me what money had come in during the week and what they intended to do with it; and if they didn't hear back from me by Wednesday they can go ahead and do that. And that's the way we operated, and with very rare exception, I usually said yes.

Patricia Sepulveda: You must be one of the few appellate justices in the state that really, on a regular basis at least, was continuing to do this kind of sitting on assignment in a trial court.

Donald King: Yeah, I think I was. Marc Poché ended up doing it after my model. He was going back, though, just doing trials.

Patricia Sepulveda: I think Doug Swager, for a period of time at least, was going back once a year and doing a little bit of trials.

Donald King: Yeah, that's very important. I think one of the problems with the Court of Appeal is . . . And it's especially true, I think, for lawyers, with all due respect, who came out of the public offices; they don't have the same kind of responsibility to satisfy clients, they don't have the same overhead expenses of a secretary and an office and so on. And I think it's an important experience to not get so far away from it that you forget what goes on and the way it goes on. So I always thought it would be a good idea for all appellate court justices every four or five years to go back for six months and do it and say . . .

It's so easy . . . I don't view the Court of Appeal as an ivory tower by any means; and there's a lot of benefits to it that you don't have at the trial court, particularly the interaction with colleagues on difficult issues. But I think it does have a tendency, if you're here for too long, to—unless you really work at it—to forget what's happening, and not only with regard to lawyers and their clients but in terms of looking at what judges do. I mean, sometimes it's too easy to say, "How in the world could this person have done this?"

Patricia Sepulveda: One of the things I always appreciated about your opinions on the Court of Appeal on family law . . . first of all I appreciated that they were coming from somebody who had actually done family law as a trial judge, and that's relatively unusual.

Donald King: Very unusual.

Patricia Sepulveda: It was in those days. And then the fact that you were still going back and so you again had maintained that touch with what happens in a court and what a trial judge is really facing in heavy calendars and warring parties.

Donald King: Yeah. I did one other thing with my opinions in the very beginning, and I think I was pretty unique in doing this too. I always used the first paragraph to give the full holding in a case. If nobody wanted to read beyond the first paragraph that was okay, but to avoid misstatements in terms of what the case was saying . . . because in a lot of instances, certainly in the family law cases, I was writing them only partly to decide the case and just as much as an educational component for lawyers and family law judges in terms of how to handle issues and ways to do things.

Patricia Sepulveda: It was interesting. I was chatting with Jim Libby before this interview, and Jim has been a family law commissioner for a very long time in Contra Costa County. And he said that Don King opinions and his opinions frequently had dicta in them, but that the lawyers and the judges that had been practicing in these areas and family law for some time appreciated that because it really gave you some idea of how to handle cases and how to apply the law that you were actually ruling on in the case.

Donald King: It was especially important during the time that I was here, again because family law changed. The Family Law Act passed in 1971, and no-fault went out, or it came in. Certification of family law lawyers started in the late '70s. That's why I say I was in the right place at the right time in a lot of things. And opinions were just coming out and starting in the late '70s, but in the '80s . . . and so it was really a propitious time for me to use them as an educational tool.

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I think I never distinguished between cases or opinions which I wrote on any case, but I particularly had a case called *Marriage of Cream.*

Patricia Sepulveda: I was going to say, I was going to talk to you about *Cream* in that regard.

Donald King: Yeah, *Cream* was the case of the only privately owned geyser in the United States. And I used that both for my own knowledge but also talking to family law judges around the state to have an appendix giving 12 or 14 ways that you can resolve issues by agreement as the tool. But it was an example, what I tried to do really in every opinion, but it was a . . . I thought it was . . . if I was doing this, deciding it for these parties, and then the case might well have not even been published.

Patricia Sepulveda: Well, I think that *Cream* opinion, as well, is an example of what I was speaking to where you obviously had the experience in family law of having parties that want to potentially bring it into court and have a judge decide how to divide pots and pans. Or my favorite when I was doing family law was how do you divide

the Golden Retriever or who is going to get custody of the Golden Retriever. And you recognized in that opinion, even though we found it was improper to force the parties to get in a bidding war and an auction between themselves for the geyser . . . but there were all these methods that, by agreement at least, between the parties, could be used—creative ways.

Donald King: Yes. I think that's a deficiency in the system, that there's . . . most judges are so busy, they don't have time to think about creative ways of doing things. And I think there are ways that we can help lawyers get their cases settled, and that redounds to our benefit.

Patricia Sepulveda: And that may be one of those areas where the cocktail-hour continuing education part of the program gives the judges the opportunity to really talk about these kinds of things. Other than the *Cream* opinion, what other opinions do you remember that you thought were particularly important in the family law arena that you authored? Do any come to mind?

Donald King: I don't distinguish between them, really.

Patricia Sepulveda: Now, were *Richmond* orders kind of your creation, or—

Donald King: I was the trial judge in *Marriage of Richmond*, so I used that as a tool which I thought was very useful in certain circumstances. The circumstances in that case were that Mrs. Richmond had seemingly become a lifetime student, and probably she kept saying she was going to finish her postgraduate work and become a teacher, I think. It never seemed to happen. So I asked her on the stand to give me a time by which she would finish her work and what time beyond that she would need to get a job, and then I just incorporated that into a *Richmond*-type order. Unless she showed . . . I gave her the time she asked for and provided at that point spousal support would terminate, jurisdiction would terminate, unless prior to that date she made a motion and showed good cause why it should be extended.

It made a lot of sense, and it's very useful I think, especially in the short- or medium-term marriages, especially in cases where the parties are in their 30s. One spouse—usually the wife is; the kids are old enough now, they're teenagers—wants to go back to school, and yet it provides some incentive to do things by a given period of time. And it's good for the one who's paying also because it gives them some light at the end of the tunnel. And it puts the burden on the supported spouse to show why things have not developed the way she—usually it's a she—have anticipated. So they're not shut off from getting support beyond the date set, but they've got a burden of proof; and that's where it ought to be, because the other side never has enough information or insight to shoulder that.

Yeah, so *Richmond* was one of the things I did in the trial court and then affirmed by the First District here.

Patricia Sepulveda: Again, another example, I think, of a creative way of trying to approach some of these cases.

Donald King: We just had, for example . . . Last night I just had a . . . I've got a very difficult case with very difficult people with a lot of money.

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They've got a very expensive house up for sale, probably a $15 million or $20 million house. They're battling every step of the way in terms of how it's to be done. The realtors who are handling it can't do anything without the rule of both people, and these are not two people who agree on anything. One of the most difficult cases I've ever had. So in a telephone conference call for about an hour yesterday afternoon, an hour and a quarter, I finally got them to agree to the attorneys agreeing to a person to be appointed as a third party—kind of like a receiver but not officially. And that person would be responsible for all dealings with the realtor in terms of what painting has to be done, what has to be fixed, and so on—as to everything other than an ultimate debt, a question of whether an offer is accepted or countered or whatever.

That adds up to the parties. So it gets them both out of this, gets them both out of the realtor's hair, and it's again a different way of doing things that I don't think would be burdensome. These people can afford it, but I don't think it's even going to be costly, because it may require one or two phone calls a month from whoever this person is and the realtor to say, "I've got a bid this much for some painting that needs to be done"; "send me the bid and I'll tell you whether it's okay." It's not going to be a big deal.

Patricia Sepulveda: It sounds like you're still really enjoying doing this part of the business.

Donald King: Oh, yeah. Well, this is partly why I like dealing much more with the parties. Part of the problem when you are on the bench, whether . . . and certainly at the trial level you don't have access in the same way, and motions have to be filed because there is no way to get a resolution. For example, you saw, I am sure, in the custody time-share era, someone either is always picking up the child late or bringing them back late or not showing up at all or whatever. So that person who is disadvantaged by that calls her attorney; that attorney calls the other attorney, says, "Well, actually that didn't happen, I will talk to my client." And, well, he told her he wasn't going to come. And there is no solution to it, whereas these telephone

conference calls I had or individual calls in that kind of instance solves the problem.

And it's just a so much better way of doing it; it's one reason why we avoid all that paperwork. We rarely have . . . I had my first discovery motion in nine years earlier this week—first one that actually came to a point of wanting to be heard as a motion. So it makes it much easier, much less expensive, and lawyers tell me even with the outrageous amounts that I charge for my services, it costs the clients less than if they were in the public system, the free public system. It's terrible.

Patricia Sepulveda: How many cases do you think are going out into—

Donald King: Tremendous numbers; I don't know. I don't think that that many other family law cases, although there are an awful lot of . . . There is at least one lawyer who does what I do full time in San Mateo County. There are at least another 8 or 10 lawyers I know who do a lot of private judging in family law cases in the Bay Area. There's one in Marin who does it almost full time also.

Patricia Sepulveda: There's at least one in Contra Costa.

Donald King: Yeah, so there's a lot of it. And yet in the civil area, between people at the American Arbitration Association, where I work through, and JAMS, they're probably—and just in the Bay Area—there probably are at least somewhere between 10 and 15 people working full time.

Patricia Sepulveda: Are you doing exclusively family law?

Donald King: No.

Patricia Sepulveda: No?

Donald King: No. I do mostly almost all family law, but I also do a lot of arbitration; and those are civil cases, usually contract disputes. And I do some other mediation works in other areas. I have a case now. And I've had several over the years in probate cases; it also works where you get family disputes going on, often kind of tearing the family apart, now that the controlling person of the family has died.

Patricia Sepulveda: This may be a reason why we're seeing, I think we're seeing, a lot fewer of the family law cases—at least that are bigger-end cases and have a lot of issues in them—here in the Court of Appeal. It may be because a lot of those are going out to private judging.

Donald King: I think so, but I think it's also true with civil cases. When I ran into judges from the San Francisco Superior Court, they complained that we're taking all the good cases.

Patricia Sepulveda: Yes, they do. They talk to me about that at lunch frequently.

(00:54:56)

Donald King: That all they get is asbestos and unlawful detainer practice, they say. So I . . . and I think it's true, but you know it's a deficiency in the system. The system ought to be providing mediation because that's what these cases want; they don't want litigation. The costs of litigation are too great; it takes too long to get it over. They want mediation, so that's why they go to JAMS, or they go to AAA or Southern California or ARC, or whatever the other one is called. They want something that the court system doesn't offer and they're willing to pay a lot of money for it.

Patricia Sepulveda: And of course, I guess, the negative argument about this is that it's only the rich that can afford to go to you and get what they may need.

Donald King: That's true.

Patricia Sepulveda: And everybody else is stuck in the trial courts.

Donald King: That's true, but if what these lawyers tell me is correct, that it costs their clients less to do it that way than to do it through the regular system, it makes sense. And I think it would be true for moderate cases also. I fully believe one of these years we will have what's called a law firm: a group of lawyers who get together and who will mediate medium-sized cases on a very inexpensive method and do it full time. So they don't need the same kind of malpractice insurance coverage; they don't need the staff; they don't . . . In fact in mediation they don't even—it's helpful to have a computer, but it's not critical. And just have some nice office space that they can share and that they will . . .

The lawyers love doing mediation. The ones who are doing it privately, they just love doing it, and they'd like to do it full time. Everyone I know who does it would like to do it full time, and I think that will happen one of these days, and it can be done in a way that is not too costly. But again the public system ought to do it. The Continuing Judicial Studies Program, three or four years ago I guess now, had a mediation program.

Patricia Sepulveda: They did.

Donald King: And they were going to expand it the next year and also have one for family law, and then finances caught up with them and they didn't do it. I think they've cut off the first one.

Patricia Sepulveda: Really? I think they have.

Donald King: I don't think they have any, and yet that's what's wanted. That's what is wanted. That's what the lawyers want. That's what the parties want.

Patricia Sepulveda: And in family law, as you were talking about, that's what makes sense.

Donald King: Yes, but I think it's beyond that, Pat. I think it's the whole system. I don't know that much about criminal, I don't know that much about juvenile. But in probate and in civil cases that's what people want. And the thing that's remarkable about them is you get cases settled that way. It's early intervention. It's before they've got huge investments in, and you're helping them in a way that the adversary litigation process doesn't.

Patricia Sepulveda: And hopefully by having the parties reach an agreement rather than having it go to trial and having a winner and a loser.

Donald King: Works much better, much better.

Patricia Sepulveda: You lessen the continuing hostility, which as you know, in family law some of these cases go on forever.

Donald King: Yes, and it does; there's no question about it. When they've reached their own agreements, it's amazing how they will bend to the breaking point to comply with it. But you know, on the civil side, once you get away from . . . Well, certainly in any kind of business litigation cases, they usually are people who have ongoing dealings with each other. They don't want to get into big, heavy litigation and have it possibly destroy their relationship. They want to get this dispute over and get on with their other relationships with each other, and the public court system doesn't give them that opportunity. So that's why so many of them go into the private sector. It isn't even a matter of economics; they want an early resolution.

It's similar . . . the federal district court, as you know, has an early neutral evaluation program. The same sort of thing: they want early resolution and the court system doesn't give them that. There's no way to get it. And I think it's a real deficiency because what it means is that the system, the court system, is not meeting the needs of the people who would otherwise use it—and that's partly when they leave to go. It isn't just the rich; it's because they're going to seek what it is they need to solve their problem.

Patricia Sepulveda: Why do you think the public courts haven't responded?

(Audio Break 00:59:37-00:59:54)

Patricia Sepulveda: Don, why do you think the public court system hasn't responded to this need that's out there?

Donald King: I don't think they understand it or recognize it. For many years, probably now 18 or 20 years, there had been a professor at Harvard Law School, Frank Sander, who is advocating what he called the courthouse with many doors. You came into the system and you went through the door that fit your need. We just have one door in our court system.

Patricia Sepulveda: And try to make everybody fit.

Donald King: Make everybody fit the system instead of having the system fit the need of the parties. I think it's mostly a factor of overload. I said earlier that most judges are so overwhelmed by their workload they don't have time to think about other things. But there is no question in my mind that that's what . . . The need is there, and the court system ought to be doing it. I think that the settlement conferences are not the same because they're usually too directive, and also they're late in the game. They're usually so close to trial that so much money has been spent. I remember when I was on the superior court I was talking to one of the very best settlement judges we had, and he said the most difficult thing he had with a case and getting the case settled was because there was a million dollars had been paid in attorney's fees. This was a case involving an auto manufacturer, so it wasn't somebody who didn't have money. So I would hope that the system at some point would make that change.

And the Legislature, of course, knows nothing about this law. And in fact, now the minute you mention family law everybody hides. But the court system won't recognize it, and I don't think they do. I don't think . . . for one thing, I don't think they realize how many cases there are that are getting out of the system to go to the private sector for that reason—a tremendous number. I mean, if you've got in the San Francisco JAMS office, if you've got 12 or 15 people who are working full time every day a different case—usually every day or maybe two days on a case—that's a lot of cases over a year, and they are . . . But they're providing the service that that case needs and the public court system is not.

Patricia Sepulveda: I think, as you say, it's not just family law; it's all civil we see this.

Donald King: At civil.

Patricia Sepulveda: We see the civil cases we're getting here in the Court of Appeal are very different than they were eight years ago when they started here.

Donald King: Absolutely. Now it's all, it's all—I exclude criminal—but it's all, all civil cases at all times. And I think at some point it will change, but it requires . . . It's more than leadership, because I regard Ron George as a very good leader. I don't think he

understands this either. I don't think anybody within the system understands it. I don't think they understand how much of this is going out. I don't think they understand why it goes out. I don't think they understand what the needs are. They look at the court system as being in the business of trying the case that comes to trial.

Patricia Sepulveda: In all of those years that you were in the Court of Appeal, what were the biggest changes you saw? We've seen a tremendous difference in the type of cases that I think that we're seeing.

Donald King: Well, the biggest change we had was getting current, because that was very discouraging. One of the problems when you had cases that had been tried before every war, in many instances the law had changed. So it was a . . . and of course it wasn't fair to the parties that five years later they were finally going to get an opinion.

Patricia Sepulveda: And did you say they were actually transferring cases out of the First District down to San Diego?

Donald King: Yeah, they had done that, and they were talking about transferring more of them. And then when we came, then they stopped doing that. I think the . . . nothing much changed on the criminal side in the years I was here. The three strikes came along and there were, there was, a lot of letting the dust settle on that in terms of what did it mean and how did it work. And so there were some reversals because it was something new and not fully understood how to do it. But that I think the trial judges picked up on that pretty well; and of course I think also the DAs and public defenders picked up on it well, so they were helping trial judges.

Other than that, nothing much changed on the criminal side. On the civil side, I don't know. To me one of the great benefits of the Court of Appeal—and this has nothing to do with the way the cases change—but one of the great benefits was if you had good staff help.

(01:05:03)

It allowed you not to ignore their work, but to spend more time on the cases you found to be most interesting; and that was a luxury, that was a real luxury.

Patricia Sepulveda: Did you have two attorneys in your chamber?

Donald King: I had two. And one of them was the best, I think, in the whole system: John Isenberg, who has probably appeared before you. Now he went to—

Patricia Sepulveda: He later became our lead attorney and then went into private practice.

Donald King: Yeah, he was terrific. But I was always impressed with the attorney staff for the Court of Appeal here and I think throughout the system.

Patricia Sepulveda: Did you write a lot of your own opinions or not?

Donald King: Yes. And the reason I paused is that on the criminal side, as you know, once there was a free attorney and a free appeal . . . And nothing worse could happen to you. There was an appeal which, if it would have been a civil appeal, we would have imposed sanctions for a frivolous appeal. So I didn't spend much time on those. I'd look at the briefs—I always read the briefs in every case—I would look at the briefs, and I would look at what the staff person had done and recommended.

But when you have a case like a guy who was picked up in the United Nations Plaza for selling drugs to an undercover agent under the San Francisco system was his first offense, well, they agreed to put him on probation for a period of time. And that's how it goes. And then he's picked up two months later selling drugs in the United Nations Plaza to the same undercover agent and they revoke his parole and he's appealing the revocation of his parole—not a very weighty legal issue to deal with. And there certainly were some criminal cases that were weighty, and of course we did have the ones that came, were life without possibility of parole; and those you did spend more time on.

But many of the criminal cases did not have complex issues; many more of the civil cases did. But there were a lot of civil cases that were fairly easy too. You would get a summary judgment granted that shouldn't have been granted because there were some material issues of fact or something like that. Again, it doesn't take a lot of work to do that; you have to understand what the record is and the law, but . . . So it varied somewhat. If you have good staff and you can rely on them and they're doing what they're supposed to do, it relieves you of a lot of the burden. You still have to work on every case, but working on my revocation parole case really meant just reading the briefs and reading what had been prepared and saying "this looks fine."

Beyond that, the more interesting the case was to me the more I wrote the whole thing; and as I say, that's a luxury to have the time to do that with the cases that have issues you're interested in.

Patricia Sepulveda: So if you saw an interesting, let's say a family law, case that was coming in with something new and different, you might have grabbed that yourself and . . . or at least spend a lot of time on it after.

Donald King: Yeah, they just came, but we have cases, we had a case where a . . . I don't remember the name of the case, but it later went to the Supreme Court, so our work kind of went for naught. In fact, we thought it should go to the U.S. Supreme Court. It was a case where the head of a rental car maintenance operation which had Hispanic employees was treating the Hispanic employees very badly, calling them names and all sorts of things. The trial judge had . . . there had been a verdict, a dollar verdict, in favor of the employees, and the trial judge had issued an injunction preventing this guy from making any further comments, similar comments. So it came to us, and it was a very interesting case because it was the question of free speech versus harassment on the job.

We reversed the injunction because it wasn't specific enough. It didn't put the guy on enough warning as to what he would say. But we . . . and that was the only issue that was appealed to us, was that—the damage thing they never appealed. It went to the Supreme Court. We did it on a 2-1 decision, which was unusual on our division; we were almost always together. I mean, I think I can almost count on one hand the number of times when we had a dissent, but that one we did have a dissent on.

Clint Peterson was then our PJ, and he was reported to be the most conservative of the three of us; but he was in effect taking the most liberal issue because he dissented on the basis that this was a free speech issue. And Zerne Haning and I ruled in favor of the employees that this was a harassment-on-the-job issue. If it were sexual harassment or any other kind of harassment, if the employee has no ability to escape from it, then there has to be a remedy. And the U.S. Supreme Court never dealt with this issue. So that's why we *[inaudible].* We all spent a lot of time on that, and we had a wonderful, vigorous discussion amongst us, which was again something on the Court of Appeal I really loved. We had . . . if we were undecided on something or we had some differences, it was wonderful having those discussions. They were never heated; they were never ones where anybody walked away mad or wasn't talking. It was just a wonderful experience to engage in those kinds of discussions. I thought in many ways it was the best part of the job.

Patricia Sepulveda: Do you miss that now, or—

Donald King: Well, I do it some now; still I've got . . . I just finished a four-week arbitration where I'm the chair of the panel, so I have to write the award. And it's the four of us—another retired judge and a lawyer who has done a lot of arbitration. All of us have concluded it's the toughest case we've ever had; we've had a very difficult time reaching a decision. We still haven't finally reached it totally, but I think we're almost there. It involves statute of limitations issues, and it's a real estate fraud case.

So I do have it there; it's reliving the Court of Appeal experience. And again it's really good; we have good discussions. We started off with three different positions and I think we now have come pretty much to one, at least on the liability issue. So there's still some opportunity for that; but as each of the three of us said, in some ways we're constrained when there are three of us. But I think it's a good constraint on a big case. That's a good reason why people pick three arbitrators. If I was doing this as a sole arbitrator, I would have had no problem making a decision; but you start dealing with others and they raise this issue and that issue, and it leads to wonderful discussion. We've had to ask the parties—normally you have to get an award out in 30 days—we've asked the parties for an extension. We've brought it back in for argument, further argument.

I mean, it's really much more akin to the Court of Appeal than anything else I've done. Even the other cases in which I've been on a panel have not had this sort of thing, because we've kind of ended up pretty much with a consensus. But to me it was the most wonderful part of the Court of Appeal experience, having those discussions before and after oral argument.

Patricia Sepulveda: In your retirement what are you doing besides all this work? Are you traveling?

Donald King: Some travel, but I love what I'm doing; retirement's supposed to be to do what you like to do, so . . . and I've got as much work as I want and more than my wife wants. And as I said earlier, she is now limiting my jurisdiction so that I don't get out of the Bay Area, because she doesn't like me to be gone for . . . I have one remaining two-week arbitration in Los Angeles, and she's going crazy. And that's okay in some ways; it's fine with me. I like doing . . . I've found the legal culture so different in Southern California, but I've enjoyed being down there and being exposed to that. It really is like a different world.

Patricia Sepulveda: Is it?

Donald King: Yeah, in both family law and in other thing. I've been doing some cases for the top family law lawyers down there; they're very good, but they just operate in a very different way. It's a much more adversarial system than it is up here.

Patricia Sepulveda: That's interesting. I wonder why that is.

Donald King: I think there are just too many lawyers and they don't know each other. Even among the family law, I mean here in San Francisco, there are maybe 10 or 15 lawyers who handle those kinds of cases; and in L.A. there probably are 50. They don't deal with each other that much, but somehow it's more than

that. I don't know—it's just a much more adversarial atmosphere down there. Maybe it's the having to travel on those crowded freeways. *[laughing]*

(01:15:06)

Patricia Sepulveda: It puts them in a bad mood to begin with.

Donald King: Yeah, that's right.

Patricia Sepulveda: Are you still running and—

Donald King: No, my knees gave out, and now I try to go for a long walk with the dog every day, at least when it's still light, when I get through. And I do do that every day if I can.

Patricia Sepulveda: Any thoughts of a real retirement at some point?

Donald King: Yes. We're planning on moving into a life-care place up in Santa Rosa. We have a second home in Healdsburg on the river. So we would sell our home in San Francisco, keep the one up there, and then move into this place in Santa Rosa. And we're on a waiting list; there's a three-year wait, so that kind of sets the timetable. But I think, I'm hopeful, within another year or two we will make that adjustment, and then I may either totally retire from the law. Or I may figure out, try to figure out, some way to help the Sonoma Superior Court—come in occasionally and help them.

Patricia Sepulveda: I'm sure they would love that.

Donald King: I don't think I would want to sit on assignment, but I want to try to help them do settlement conferences or something like that.

Patricia Sepulveda: That would be great. Well, are there any areas that we've missed that you would like to talk about, either about your profession or—

Donald King: Well, so many people do so many things for which they don't get recognition, and I've gotten so much more than my share.

Patricia Sepulveda: I was going to say, there is actually something here I skipped, which was all of these awards you've got over the years—if there are any of those that really were most significant.

Donald King: I'm still getting some occasionally. I just got one by the Association of Certified Family Law Specialists this year. No, they're wonderful. I was the first non–Los Angeles person recently to get an award, their annual award from the family law bar down there. That was two or three years ago. I think the topper was . . . the State Bar every year, the Family Law Committee, gives an award to the Trial Judge of the Year; and

when I retired they named that award after me. So that was really special.

Patricia Sepulveda: That's really special.

Donald King: Really special. But I've just been so fortunate because I've gotten so much recognition; and as I say, a lot of people do a lot of things and don't get much at all, so it's been wonderful.

Patricia Sepulveda: We'll always think of you as the King of Family Law. Jim Levy's comment—this is quoting him the other day—he said that one of the things he thought always characterized your decisions was your "understanding of and empathy with the human condition and your willingness to discuss that in cases." And he always appreciated that, and I think that's very true.

Donald King: Well, it's there, and I think unfortunately in the legal system too often we overlook it; we get so focused on the damages or so focused on who did what than to . . . we don't think enough about that. And I do think that our role—certainly the family law field, maybe juvenile also—ought to be to help people, and we don't help them by making them fight.

Patricia Sepulveda: Well, Don, we really appreciate all your time today. I know when you finally do really retire we're going to miss you tremendously if you get out of family law completely, and you've made a great contribution over the years.

Donald King: Thank you.

Patricia Sepulveda: You'll certainly be remembered, again, as being one of the leaders, I think, in the family law field.

Donald King: Well now that the Rutter group has bought my name I'll be around forever.

Patricia Sepulveda: We know you'll be around forever. Thank you, Don.

Donald King: Okay.

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