Paul Turner: My name is Paul Turner, P-A-U-L T-U-R-N-E-R. I am the Presiding Justice of Division Five of the Court of Appeal of the State of California for the Second Appellate District.

David Knight: And Justice Hastings, your turn.

Gary Hastings: My name is James Gary Hastings, known primarily as Gary. I'm a retired Justice of the Fourth Division of the Second District Court of Appeal.

David Knight: All right, Justice Turner, we are ready to go.

Paul Turner: James Gary Hastings, what are you doing now?

Gary Hastings: Having fun and—

Paul Turner: *[Laughing]* But we would like something a little bit more expansive than having fun.

Gary Hastings: Well, I retired in February 2006 on my 63rd birthday, and I continued working for six months with Division Four on the Assigned Judges Program. My last calendar was July of 2006. My wife and I took our annual trip to Yosemite in the second week of August, and in the third week of August I began teaching at Southwestern University School of Law. And I taught there for the fall semester—one class on Mondays, trial advocacy—and they talked to me into doing a seminar the second semester. So I taught my trial ad class from 2:00 to 5:00 on Mondays and my seminar from 6:00 to 8:00 on Mondays.

I discovered that having not taught for at least 20 years, it took me probably three to five days during the spring semester to prepare for the following Monday and to prepare the materials to hand out the following Monday for the following Monday after that. So I ended up being retired but working full time at Southwestern, effectively preparing these classes and teaching. But I loved it, and now that I've got those classes both prepared, I should be able to do them coming up this spring in a lot more efficient manner, I hope.

Meanwhile, I did take off all of summer and all of the fall so that my wife and I could start doing that which we really want to do—and that is travel and enjoy each other some more. And so in May we jumped on a plane and traveled to Italy with Trojan Travel, which is with the University of Southern California, and did a tour involving cooking.

We had five actual cooking classes. The 20 of us on the tour, we stayed in Dante Alighieri's son's villa, which he purchased in 1353 for the equivalent of 25 cents of our dollars today. And it's a beautiful estate where they grow wine, they grow apples and cherries; and it's an ongoing concern. And they also help Masi produce wine. So we stayed in the villa there, along with 19 other people, and had five cooking classes there. We went out to the countryside. They took us up to Lake Garda. They took us to a producer of balsamic vinegar. They took us to a Parmesan cheese factory, and of course we got samples at all these places.

And then we went to Venice for four days and we returned. We spent another couple of weeks at home, and then we went to New York, where our son had an art show in July; and then we returned and went back to our annual visit to Yosemite in August. And then we came back and we were here for a few weeks and went back to the East Coast, where we toured the path of the American Revolution with Elderhostel, and then we spent four more days seeing the color of autumn coming in.

So that has basically been what we've been doing since I finished teaching in May. I'm also working on a kayak I'm building, so that my workout partner and I can start doing that as far as working out. I joined a gym. My wife and I go to the gym and work out daily. I'm also lecturing occasionally at law firms or at law schools, and otherwise just enjoying life.

Paul Turner: Let me ask you about alternative dispute resolution. Many judges, here in the first decade of the third millennium, leave the bench and become involved in alternative dispute resolution. People viewing this may very well be Ph.D. students at the state university system, because when they're looking at this, they will finally start giving out those Ph.D.s at the state university system like they ought to, and they may not be familiar with what the alternative dispute resolution process is here at this time in our state's history and how retired judges and justices often got involved. Could you give us a brief analysis of how that works? You're not involved in that, and tell us about that.

Gary Hastings: Well, before I retired, I was approached by the various different providers we have.

(00:05:08)

Paul Turner: What are some of the providers here in California?

Gary Hastings: We have Judicature, which is down in the Long Beach area. We have . . . gosh, I can't remember.

Paul Turner: Oh, JAMS.

Gary Hastings: JAMS, which retired Justice Vogel is involved in. He contacted me. We have ADR, I think it's called. There's one other; I can't remember. They all approached me and they wanted me to come to work for them.

Paul Turner: What kind of offers do they make to—

Gary Hastings: What they suggested is that I could come and make my own schedule and earn anywhere between $350 to $500 an hour to either do mediations or arbitrations. Of course, arbitrations are much akin to trial work, nonjury trials, where you hear the evidence and make decisions about who should win and who should lose—that type of thing. Mediations are effectively an attempt to try and get the parties to resolve a case amicably. I am of the opinion that after working for the state for 20-plus years and being on a retirement salary basically from the state,

that if I'm going to continue doing that type of work I should probably devote my time to the state, who is now continuing to support me in my retirement. So I decided not to do private ADR. I did join the retired, the Assigned Judges Program, because I had to continue working in the Court of Appeal for six months after I retired.

Paul Turner: Now, the Assigned Judges Program; could you sort of describe that for us?

Gary Hastings: It is retired judges who have agreed to come back and sit on assignment in the trial court or in the Court of Appeal and continue doing that which they did while they were active on the bench. They drop out the 8 percent that would normally be taken out of the judge's pay.

Paul Turner: That's for retirement.

Gary Hastings: That's correct, and then they divide the remaining amount up by I think it's 250 days, which they feel is the number of days that you work during the year and you get paid that on a daily basis for every day that you work in the retired judges program.

Paul Turner: Where would you sit as a retired judge?

Gary Hastings: Anywhere in the state of California that they would want you to sit. And I've been called to go sit out at Riverside in August, which was not a real idea that I wanted to follow—number one, because of the 100-degree weather; number two, because they wanted me to sit in a drug court, which I'd never had any experience in; and number three, because we were going to be traveling the week after. And so I turned it down and they haven't called me since. To be quite frank with you, I've gotten to the point where I'm really enjoying what I'm doing at the present time, and I may not continue in that program. What I may do is contact the local courts where I have friends and offer to volunteer my time to do mediations or whatever on a basis that is acceptable to them and me; and whether they pay me or not, I could care less.

Paul Turner: That would be sitting as a judge pro tem?

Gary Hastings: Correct. To be quite frank with you, I just don't see any need to go out and earn the kind of money that retired judges are earning in the private ADR programs. I have an adequate salary from my retirement. I have the same house I bought before Prop 13, eight blocks from the ocean, which is almost paid off. My cars are all paid for, and we have enough money left over from our monthly expenses to travel two or three times a year; and we really have no other desires than that.

Paul Turner: I'm likewise addicted to Yosemite, but I like it in the winter. But why don't you tell us about what it is about Yosemite that you and Diane like about it, or what your history has been with Yosemite.

Gary Hastings: Well, it's sort of twofold. The primary Yosemite experience is one regarding friends. We have a group that has been getting together for over 23 years every year—that goes to Yosemite. It's the same group of

people. They come from San Diego. They come from Northern California. They come from Southern California. Some of them we only see once a year, and it's up in Yosemite. And it's an extended family for us. When we started going there our daughter was 12 and our son was 8, and this time, next year, I'll have performed three weddings for three of the children that were children that my daughter helped to baby-sit when we first started going to Yosemite. And it's a group of friends that is an extended family. We love each other. We like to get together. Yosemite is our excuse to do so.

But number two, Yosemite is probably one of the most beautiful spots on the face of the earth. I am still active and I work out daily. My wife works out daily and we like to hike, so when we're up in Yosemite, we take long walks and take hikes up to Glacier Point, up to the top of the falls. And we keep an active lifestyle up there.

(00:10:14)

Our group goes to the Ahwahnee twice a week to have cocktails about 3:00 in the afternoon and relax and come back and jump in the river and all talk about our family and friends; and then we all get together and put on a good meal at the campsite.

Paul Turner: You camp, correct?

Gary Hastings: We stay in what is known as housekeeping, which is a formal tent city in the valley. And they've got cement floors; it's an H partition which has canvas over it. There is a queen-sized bed on one side and a bunk bed on the other side. We stay there and we cook on our barbecues. We have full electricity in the camp, and so it's not really camping as such. Some people do like to have clean sheets and so forth, and we do.

Paul Turner: How much time do you spend in Yosemite every year?

Gary Hastings: At least a week. We will be going I think this year the 10th through the 17th. We get the same time every year. It's the second or third week in August.

Paul Turner: Do you go there in the winter?

Gary Hastings: We have. We went up there with the YMCA years ago and it snowed overnight. It was gorgeous. But we may want to go back during the winter now that I've got the time to do so and we have a camper. And I would love to take my wife up and just spend some time up there, just the two of us wandering around during the cold season to see what it's like.

Paul Turner: Why don't you tell us about your kids, Doug and Laura, and what they are doing now?

Gary Hastings: Laura is 35. I don't know where the time goes, but she graduated from UCLA despite the fact that my whole family went to SC. When I became a judge, I told her that UCLA would be much better for our pocketbook, so we put her through UCLA and she went to work for Nordstrom in the

human resources division. Nordstrom downsized a few years ago, and so she worked for a dot-com up in Seattle, and ultimately she went with another dot-com; they transferred her down here. She is living in Santa Monica and she is a human resources director for the MySpace portion of Fox Interactive, and so she works probably harder than I may have ever worked when I was a practicing lawyer. She works seven days a week darn near, and goes everywhere with her Blackberry. And she loves it, and so she's working with all the MySpace people.

Paul Turner: Tell us what MySpace is.

Gary Hastings: As I understand it—and I've never looked at it—it's an interactive online outfit that you can go to and you can put your own personal information on there and build your own personal Web page. And people exchange friends online and learn about each other online and they download movies online, they download papers; whatever you want, you can put it on that. And you have your own Web page, and people can look it up and find out what you're doing.

Paul Turner: That is part of the Murdoch empire?

Gary Hastings: That's correct.

Paul Turner: What's Doug doing?

Gary Hastings: Douglas went to Cal. Again, we sent him to the state school; he graduated from Cal. He still lives in the apartment he got when he was a sophomore, rent control; pays $700 a month, two blocks off of Berkeley. He never got his driver's license, so he jumps on the BART in the morning two block from his apartment, gets off at the first stop under the bay in the financial district, and goes to work for Gordon & Rees as a paralegal, where he does whatever menial things they give to him so he can think about art. Because he is an artist; he has his own artistic lifestyle. It's nonrepresentational. He will do large paintings of different colors and then he'll cut those into strips, weave them together to come up with some type of context; or he'll cut them into one- or two-inch squares and then pin them together and then weave those together. It's a very different way of doing art, and it's something I've never seen before. So he's trying to break into that area, and he would love to stop being a paralegal and just devote his time to art, but he realizes that he has to put bread on the table.

Paul Turner: Tell me about your photography.

Gary Hastings: My photography is not as broad as it used to be. I used to have a nice SLR, and I would go out and take photographs and blow up pictures mainly of just scenery—a lot of Yosemite pictures, pictures up the coast in Oregon where we've been camping. I've now gone to a smaller digital camera, which I've discovered takes almost as good pictures as an SLR with film—and so when we come back from our trips I download them onto the computer, and I'm starting to print those out now.

(00:15:17)

Whether I will ever get into photography other than just for printing my own stuff from my home, I don't know, but one of my brothers does sell his photographs out of Colorado.

Paul Turner: Your chambers here at the Court of Appeal, what did you have on the wall?

Gary Hastings: I had a number of photographs from years and years ago that I had taken when the kids were growing up. There was a picture from San Francisco. I had some photographs from Yosemite.

Paul Turner: Those are the ones that, thinking about it now, that really stay in my mind; part of that may be because of my affection for Yosemite, but anyway, go ahead.

Gary Hastings: Just places we had been. I moved all those home, and now we have a split-level home. We have stairs that go down to the bottom level and I've got those stairs lined with all of the photographs now. Wherever we've been, I blow up some of the photographs and put them there so that we have something to look at when we're going up and down the stairs and Diane is doing the laundry or I'm going to the garage to work or whatever.

Paul Turner: Tell me about . . . you were born where?

Gary Hastings: Los Angeles, California.

Paul Turner: Where in Los Angeles?

Gary Hastings: Methodist Hospital, which was right in downtown Los Angeles. It's no longer there. Once I guess I was born, they had nothing else to do, so they tore it down.

Paul Turner: *[Laughing]* Tell me about your brothers and sisters.

Gary Hastings: I have a brother, Neil, who is four and a half years younger than I am. He lives in Colorado in Telluride. He is a salesman for some condos up in Telluride, and he sells to groups to come in and put on shows and programs. Dean lives up in Big Bear. He worked for the YMCA in Big Bear for years and ran Camp Big Bear until they decided they were going to turn it into a conference center, and so he stayed up in Big Bear after they let him go. He is now working for a hardware store up in Big Bear and feels like he's semi-retired because he only has to work 35 hours a week instead of seven days a week. And he loves the mountains as does my brother, Neil.

Neil is into photography, and he will put on a backpack and hike up into the backwoods up in Colorado and take photographs. And he has won a couple of contests in Colorado for his photographs. He is online; he sells his stuff online.

Paul Turner: All three of your family members, your two brothers and you, are drawn to the mountains; do you know why that is? Other than they're just really beautiful?

Gary Hastings: I really don't. I'm drawn to the mountains and to the ocean because, of course, I surf as well. If I had to live somewhere other than at the ocean, I would probably go up to the mountains, because I like to be away from the hustle of the big city. When I get back to my house in Redondo Beach, there is only eight blocks between me and water, and so I prefer not to go anywhere after that. I'm in a very isolated area. We have our friends there, and I just enjoy . . . I have an active lifestyle, and I enjoy running, biking, surfing, and walking. My wife and I walk at least twice a week, five miles.

Paul Turner: You live up on the hills in Redondo?

Gary Hastings: No. Well, I live on the second hill back, which is probably about 200 feet elevation.

Paul Turner: But when you're running back, if you run down to the beach and back and you're running up the hill that 200 feet is just not 200 feet; that hurts.

Gary Hastings: Well, it does these days. It didn't 15 years ago when I was training for marathons. That was more fun at that point in time; but now it does, and there's no doubt about it.

Paul Turner: Tell us about some of the places you've surfed.

Gary Hastings: We live at a place right down the street from us called Topaz, which is a fast beach break, and we surf there quite a bit. A lot of younger surfers go there with shorter boards and they get in the waves quicker than I can with my long board, more steep waves. Or we go out to the Palos Verdes, where there's a place called the Cove. That's where all the old guys go and it's much of a gentler break, but it's about a quarter-mile walk down to the break and then about a 300-yard paddle out through the surf to get to where it breaks. And if I can get out during the week there when none of the contractors are working and when none of the students are out, we can get out with five or six other guys and head-high surf; it's a lot of fun.

I have surfed down in the Huntington Beach area. We've gone as far south as Cardiff-by-the-Sea and San Elijo State Beach. My running partner and I used to go down there every Easter camp with our kids and our wives, and his brother would come and we would take over three campsites. And 25 of us could be out in the water at any given time and we would take over a surf spot and surf all week long.

(00:20:09)

Paul Turner: Dick Schauer, who served on our court with your dad, is obviously deeply touched by the sea, by the ocean. Similar feelings, or are you more into the thrill of standing up on a board and racing towards the beach?

Gary Hastings: No, both. When I was at least four or five years old my parents used to take us down to the beach all the time. And I remember wading out into the surf in Laguna Beach one day when the surf was probably double overhead, and my dad said, "Well, go on; all it can do is knock you down." And I went out and he was right, all it could do is knock me down and roll me under; and from that date forward, I've loved the ocean. When I was in high school, some friends of mine and I went out, and I think we got the second rounds of certification for scuba diving that the state handed out. And so from my junior and senior year in high school, we would scuba dive all summer. And at the end of my senior year of high school I learned to surf; and so I surfed for two years until my brothers, when I was away at college, got my surfboard out and broke it. And I stopped surfing until I became a judge, when I had more time and my son wanted to learn how to surf. I went back out, learned how to surf again—that was in 1986, and I've kept up ever since. And I love being in the ocean, around the ocean, on the ocean.

My dad owned a boat from the time I was 21 until he sold it to our law firm in 1979. And we continued on in the boat, and we had a mooring over at Catalina, at Long Point, and we used to love to just take the boat over and sit there for a week—swim, snorkel, and relax on the boat. In fact, when my dad was still active on the Court of Appeal, he used to take his briefs over there and sit down and read all the briefs for a week and write up his tentative thoughts on them and then come back and then he would actually do his work in the office. I didn't do that because we got rid of the boat when I became a judge.

And that's when I bought the camper, and so I would start traveling with our camper on land instead of on the ocean. And once I became a Court of Appeal justice, wherever that camper went my briefs went, as did my laptop computer. And you would be surprised how much work you can get done when you're just sitting around a campfire relaxing and reading briefs for fun, so to speak. You know what I'm talking about. Sometimes it's almost like Christmas to open up a set of briefs that are done well. Other times it's like torture.

But we had a good time. I enjoyed the camping and I enjoyed being on the boat. And I'll tell you what: if I have a hectic day on the bench, for example, as in the trial court—you know as well as I do in the trial court when you go home at night you're much more frazzled than you are when you're on the Court of Appeal, because the pressure on the trial court is different. I could go home at the end of the day, grab my surfboard; my buddy and I would paddle out at the cove, watch the sun set over the ocean, watch the moon rise in the east, and all of your cares just flow away. Whether you catch a wave or not, just being out there, sitting in the ocean, watching the seals come up around you, it's a wonderful catharsis for getting rid of tension.

Paul Turner: Tell me about your mom and dad.

Gary Hastings: I was very fortunate having the parents that I do. My father and mother married in June of 1941. I was born in February of 1943, and my father

was on a four-stack destroyer going down the Mississippi River at the time. My mother was in South Pasadena with her mother, and I'm told the first time I met my father was in New York when his destroyer put back in after going down to South America and back up. I don't remember that, of course, but I'm told that I was taken up to the top of the Empire State Building and I looked down over the city and my dad was in his naval uniform and my mom was there. And I actually have a picture of it. But after that my mom returned back to South Pasadena and my dad was sent to UCLA, where he taught navigation.

Paul Turner: A part of the ROTC program?

Gary Hastings: Yes, part of the ROTC program. After the end of the war he was discharged, and he stayed in the Reserves and he went to work for Firestone Tire and Rubber Company, which ended up being a client of mine years later. And he discovered, however, that he didn't want to continue working for someone else.

(00:25:02)

So his father, who had been a lawyer and was a lawyer at that time . . . he decided to go to law school, so he went to law school at USC. Meanwhile my mother, along with her mother, ran a nursery school at their residence on Rawlings Avenue, which was just down the street from South Pasadena High School. And my mom and her mother earned enough money for my dad, on the GI Bill, to go to law school at USC. And I remember attending that nursery school, and my dad ultimately graduated and then he went to work with his father in downtown Los Angeles.

Paul Turner: What was the name of the firm?

Gary Hastings: Hastings, Blanchard & Hastings. Bob Blanchard was the other member, and Dad also started teaching at that point in time at Southwestern Law School. So I remember him coming home at nights, bringing blue books, preparing for classes, studying to try and stay ahead of the students; and at the same time he and his father were trying to bring the law firm back up to prominence. During the war there were some problems, of course, so I remember him coming home and preparing trials and so forth when I was in the lower grades and even up through when I was in high school.

Paul Turner: What kind of work did your dad do?

Gary Hastings: He did primarily a lot of probate, a lot of will and estate planning, but he also represented corporations, small corporations. He would do trials for them and he would incorporate them, handle their affairs. He also did a lot of banking law and he helped form a bank in Pasadena, the Bank of Pasadena, which I think has been merged since in a larger bank. On the other hand, my mother had gone to USC; that's where my mom and dad met. She's a very strong woman, very optimistic about life.

And the night that my mother and father were to have their first date, she was driving home to change and get ready for the date and she was

on the Pasadena Freeway and she was listening to the radio when it was announced that her father, the principal of South Pasadena High School, had been shot and murdered along with four other members of the school board.

Their date was canceled that night, obviously, but they got together after that, and she somehow got through that and continued going to USC, graduated. And her mother was very strong as well and, as I said, helped her within the nursery school. And then ultimately she had me and my brothers Neil and Dean, and she became a full-time mother. We had a very supportive family when we were at home. My dad also, to help with regard to developing clients, became a teacher at a local church, and I remember being in his class. I was forced to go to his class every week whether I wanted to or not.

Paul Turner: You said local; is this all in South Pasadena, Los Angeles?

Gary Hastings: Actually, by that time we were in San Gabriel, and so I remember going to those classes and Dad teaching Bible school, which was an interesting concept. Ultimately, we moved to Arcadia, where I went to high school and graduated from Arcadia High School, and my brothers both started at Arcadia. But shortly after that when I went to SC, my mom and dad moved to Palos Verdes, and they've been there ever since.

Paul Turner: Your dad was appointed to the superior court, am I correct, by Governor Reagan, correct?

Gary Hastings: He was appointed in the same month I graduated from Southwestern Law School in June of 1972; and he was sworn in on one of the days I was taking the bar exam, so I missed the swearing-in. Fortunately I passed the bar exam and I was able to attend his swearing-in at the Court of Appeal level 8, 9, 10 months later.

Paul Turner: Your dad's practice before he became a superior court judge—was it principally litigation or had he moved over into other areas as well?

Gary Hastings: No, it was . . . as a matter of fact, litigation was a very minor part of his practice. It was primarily estate and probate; in law school I worked for him as a law clerk and I used to do tax returns for his clients and small corporate.

Paul Turner: Was he ever involved in governmental relations—lobbying or anything like that?

Gary Hastings: Not that I know of. He did get involved in the State Bar and the unlawful-practices committee and some other State Bar committees to the extent that they may have been involved in some type of governmental action, he may have been involved; but he really had no direct tie-in other than when, I think, he was the San Gabriel Valley representative for Eisenhower in the early '50s. Other than that, he had no direct tie-in with politics or government.

(00:30:07)

Paul Turner: He was appointed by President Reagan. Do you remember what his assignments, your dad's assignments, were?

Gary Hastings: He was first assigned to the civil division in downtown L.A., and that's where he sat until he was elevated to the Court of Appeal less than a year after he was first appointed. He wanted to get to criminal, but they didn't have time to get him there. So he did mainly just civil trials.

Paul Turner: So he was appointed to the Court of Appeal, Second Appellate District, Division Five, the premier appellate court in America?

Gary Hastings: At that time.

Paul Turner: *[Laughing]* So as a kid . . . by then you're a lawyer. How did you find out that Dad is going to be on the Court of Appeal?

Gary Hastings: I recall that he contacted me and said, "Well, Governor Reagan has asked me to go on the Court of Appeal." I said, "Fine." I was involved in just learning the practice of law at that point—as you know, the first five years of trying to practice law is nothing but a learning experience and you're trying to keep your feet going the straight way instead of falling off the cliff.

Paul Turner: You're right, it takes five years. There's something about that five-year thing.

Gary Hastings: No doubt about it. It wasn't until after five years of practicing law and I was in the trial firm that I realized I thought maybe I knew what I was doing; and it was only then that I was able to sit down and try and figure out how to better try a lawsuit. Of course, the National Institute for Trial Advocacy teaches that to you now, and I'm involved in that and I work with them. I wish they had had that back when I was beginning the practice.

Paul Turner: Let's go back to high school. What did you do in high school?

Gary Hastings: I had a good time. I wasn't really a student that much. I think I averaged about a 2.7 grade point average, mainly because I showed up every day. But I was also . . . I had played Little League baseball and I was involved in sports all throughout my life, and I ended up on the tennis team in Arcadia High School. So for three years I played tennis, I went to football games, I went to school every day, and I managed to squeak out a 2.7 grade point average. My parents told me I should go to college—it would be the four most fun years of my life. And I thought, okay, well, why not? If it's going to be fun, I'll go to college. And so we applied to USC and I got in at USC.

Paul Turner: What did you major in at USC?

Gary Hastings: I started out in poli-sci and ended up in business because I really wasn't too good at languages and some of the classes I had to take at poli-sci, so I transferred over to business. And true to my parents' prophecy, I

was having some of the most fun that I've ever had in my life, and I flunked out after three years. What happened is that at the end of my sophomore year, my grade point average fell below 2.0. This is the time that the Vietnam War was just getting under way, 1963 or 1964. Because my grade point average fell below a 2.0, I was reported by the school to the draft board.

Paul Turner: I trust that reporting took, literally it was a nanosecond after you had less than 2.0.

Gary Hastings: Probably, because I went back to school in the summer and took two classes and made up the grade so that I would get back above a 2.0.

Paul Turner: Why don't you tell whoever is going to be listening to this, you said you lost your 2-S; what's a 2-S?

Gary Hastings: That meant that as long as you were an active student in college, you were deferred from the draft.

Paul Turner: Okay, and when you no longer were a 2-S?

Gary Hastings: I became eligible to be drafted and go to Vietnam.

Paul Turner: That's a 1-A?

Gary Hastings: That's right, and so I got my grade point average up again. That would have been after my junior year, because I got back into school and the next thing you know, I got my draft notice in the mail halfway through the fall semester.

Paul Turner: Did you have to have a draft physical?

Gary Hastings: Yes, I did.

Paul Turner: Where did you go for a draft physical?

Gary Hastings: It turned out I had that draft physical on the first day of my finals in downtown Los Angeles at the old building near Los Angeles and 11th Street. I can't remember the name of it. But believe it or not, I flunked the physical. And that's because when I was a sophomore I had been, I think, misdiagnosed as having an ulcer, and they were still being selective back at that time.

(00:34:56)

Paul Turner: It *was* called the selective service. *[laughing]*

Gary Hastings: That's right. So they told me they didn't want me. By then I had blown off all my finals because I knew I was going to be going into the service, and I came home and told my parents I had flunked the final and that I also flunked out of college.

Paul Turner: *[Laughing]* But you also flunked the physical.

Gary Hastings: I did; I flunked everything.

Paul Turner: You were then rated 4-F; is that right?

Gary Hastings: 4-F, meaning not qualified. So I started working out and I went back to the doctor and got a letter from the doctor saying that my ulcer had been cured. I signed up for the Marine Corps, and I was going to hopefully go into their warrant officer training to learn how to fly helicopters. And fortunately or unfortunately, depending upon who is who, they still would not accept that from my doctor, and they said I was still 4-F.

Paul Turner: What year is this?

Gary Hastings: Nineteen sixty-five. And so they would not take me; so at this point in time, I'm out of USC. I only have 32 units to graduate. I'm down 28 units, below a C, because I didn't take any of my finals. So I went to work at a hardware store in downtown L.A.; I was working there during the Watts riots.

Paul Turner: Was there any damage to the store during the—

Gary Hastings: Oh, yeah, they broke into the store, broke all the windows, went in, and there was a gun portion of the store—they looted the guns, the ammunition and so forth.

Paul Turner: Was that investigated by the police department, or it was just so much chaos that nothing got investigated?

Gary Hastings: So much chaos nothing got investigated. By the next morning the National Guard had come in and taken control, so we went in and boarded up the store. But then for some inexplicable reason the National Guard pulled out and they started looting again. I decided maybe that discretion was the better part of valor, so we left. And those riots went on for another week or two.

Paul Turner: Where was this store located?

Gary Hastings: Thirty-first and Vermont, just two blocks from where I lived, from my apartment. And I stayed in my apartment all the time, and I remember running . . . We had police roadblocks, and I remember going out and buying beer with my friends from college and running the police roadblocks, going down to the beach. It was during the summer.

And so ultimately we got the hardware store going back and I decided to move to Manhattan Beach, where . . . great lifestyle. We were told stewardesses lived there, and again, I love the beach. So we found a place about half a block from the ocean at the beach and started having a good time.

Paul Turner: Who is the "we" here?

Gary Hastings: My best friend from high school. But then he decided after he had flunked out of Arizona that he was going to go back to school, so he left and I had another guy move in that I met down at the beach. And the two of us were living there and he decided to have a . . . This is a way of getting around to how I met my wife, who was the one that saved my life, of course. He decided to have a party for his girlfriend and bring a bunch of girls over, and my wife was one of the girls who came by. And from the moment I saw her, that was it. I was going to El Camino College to try and make a couple of grades back up, and she was working at El Camino College.

Paul Turner: What did she do at El Camino? Do you remember?

Gary Hastings: She was going to Long Beach State and working in the department where they do the advising of students, and she worked there from noon until 9:00 at night and she went to school in the mornings. So I got to know her and I asked her out, and our first date was on her birthday on May 4, 1967. And by June, I had somehow proposed to her, and the next January we were married. And she was almost a four-point student at Long Beach State, and at that point in time I realized I had to do something with my life.

Paul Turner: What was her major at Cal State Long Beach?

Gary Hastings: History. As a matter of fact, I'm very involved in history now. I'd gotten involved because I started reading some of her textbooks, which she thought was boring; but I digress.

Paul Turner: What was her maiden name?

Gary Hastings: Lyon. Diane Lyon.

Paul Turner: I went to Cal State Long Beach at the same time. I've got both pistons pounding, steam coming out my ears trying to remember if I met her.

Gary Hastings: She was a fairly quiet-type person. She would have been the one that went to school. She didn't live on campus. She went to school with her friends, came back, studied; as I said, she was almost a 4.0. So she shamed me into going back to school. I got my grades up a bit at El Camino; I went back to USC.

Paul Turner: El Camino is located in Torrance?

Gary Hastings: Torrance. Correct; South Bay. I remember going back and talking to Dean Himstreet, who was the assistant dean of the business school, and I said, "I've had a cathartic happening.

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"I've met the girl I want to marry. I'm going to get married. I realize I need to get my act back together. I know I'm down 28 grade points. I would love to petition to get back into USC."

Paul Turner: Were you groveling in this conversation?

Gary Hastings: I was; I was groveling. Blessed be, he said "Fine." He took me back. As I said, I had only 32 units to take. I got seven A's, a B, and a D. The D was, of course, in statistics, which I had at 8:00 in the morning; I had to drive from Palos Verdes every morning down to USC. And that brought me back up to 2.000001, and I was able to graduate.

Paul Turner: That's .00001 higher than the GPA of Secretary of State Collin Powell, at that time City College of New York.

Gary Hastings: Well, I'm in good hands then.

Paul Turner: Well, both you and he changed. So you graduate. Do you know what you want to do?

Gary Hastings: No. I was going to become the president of a company, of course, because I was in the business school at USC and they teach everyone to become presidents of companies. So I went to work for Alcoa in downtown Los Angeles.

Paul Turner: What did you do when you were working for Alcoa?

Gary Hastings: I was called an in-house customer service representative. I had three salesmen that worked out of our division, our office, and I had a staff of four gals that did input on sales. And I was the in-house person, and if any problems came up with customers they would call me and I would work it through the gals; and we would contact corporate, where they would process the aluminum, and I would take care of those problems. And the salesmen, of course, were out selling product. I had a boss at Alcoa that was on his way down, and he was, I thought, someone I did not want to work with the rest of my life.

And I discovered that in big corporations, just as my dad had years before, that that might not be the way to go. He had been bugging me ever since I was a kid that I had to become a professional lawyer or something like that. His father was a lawyer, his father's father was a lawyer and a dentist; and of course I wasn't going to believe any of that. I wasn't going to do what he wanted me to do until my eyes were opened—of course, after working for Alcoa. So I went to Diane in May of 1969 and I said, "This is a no-win situation; maybe I should go to law school." She said, "I have no problem with that; I'll put you through three years of law school." She was still working at El Camino.

So I applied to Loyola and Southwestern, which were the only two schools still open for taking students, and I remember getting an acceptance from Southwestern. I don't remember if I ever heard from Loyola, but the dean at Southwestern at that point was Wildman; he had just started. And they had just obtained their California accreditation, and they were going to start a full-time day program. So I thought I was going to end up going to the night school at either Southwestern or Loyola for four years, but when I found out I could do it in three years, I jumped at it. So I entered Southwestern in the fall of 1969, scared to

death that I was going to flunk out and my wife was paying the bill. I studied like I never studied before. Somehow I ended up number one in my class at the end of the first semester and at the end of the first year, and remained that all throughout my career there. And so I got a good foundation and surprised the hell out of myself that I was able to study.

Paul Turner: Looking back on it, did you develop a greater level of self-confidence at the end of that first year when you realized, I can hack this academic side of life?

Gary Hastings: No doubt about it. As a matter of fact, I had developed that confidence at the end of my career at USC—because remember, I said I got seven A's, a B, and a D. I found out I could excel if I really put my mind to it. So when I got into law school, I really didn't know what I had facing me, so I just worked my tail off and to my surprise ended up as well as I did. And that gave me a whole bunch of confidence.

Paul Turner: You became the editor of the *Law Review*, is that correct? Tell me about how it is, the process by which *Law Review* articles were prepared in the years that you were at Southwestern.

Gary Hastings: They were not my first year, because we didn't have a law review. What happened is that at the end of my freshman year, my 1L year, the dean contacted me and asked to meet with me and asked to meet with some other people—Stan Getz, Larry Greenberg, Mike Singer, and one or two others. Dick Durant.

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And he said, I'd like to revive the *Law Review* that Southwestern had begun back in the early teens of the 20th century, when at one point in time Burke had been, I think, the editor of the *Law Review*, who had been on the Supreme Court of California.

So Stan Getz agreed to become the editor-in-chief, and they made me a notes and comments editor. So we started from scratch. We went out and recruited people. We contacted people out in the industry to submit articles. We got students to write articles. We had no idea what we were doing, and in fact the first issue was not put out until after the editor-in-chief and the other third-year students graduated. And I automatically became editor-in-chief; they just made me editor-in-chief because I had been the notes and comments editor.

Paul Turner: How would you physically prepare an article?

Gary Hastings: I wrote an article on *People v. Anderson* and—

Paul Turner: How did you go about the physical act of preparing the article?

Gary Hastings: Fortunately the best class I ever took in high school was typing. So I was very good at typing. I typed all of my exams at law school; I typed my bar exam. So I would type out an article on a typewriter. Of course, you had multiple onion skins and erasers and so forth.

On the other hand, if I wasn't typing I would cut and paste and handwrite, and then of course we'd do the editing, cutting and pasting, and so forth. It was, of course, long before computers. And I got used to doing that. So at the end of my final year at Southwestern we put out the first volume, and we were in the midst of the second and third volumes when I graduated.

Paul Turner: How did most of the persons who wrote *Law Review* articles or notes or whatever, how did they do that? Did they write it out in longhand and they would type it up, or had someone who would type it up for them?

Gary Hastings: They would submit them in typewritten form. We didn't want them in handwritten form because we couldn't read half the stuff we got in the handwritten form; so one of our requirements was it be submitted in typewritten form, and more than one copy.

Paul Turner: So by the time you were in law school, did you have photocopy machines?

Gary Hastings: Yes.

Paul Turner: What would happen?

Gary Hastings: I'm not that old.

Paul Turner: *[Laughing]* Inside the photocopy machines were the ones which were the reverse photocopy, which is when I started.

Gary Hastings: Some of them were.

Paul Turner: Tell us what the reverse photocopy would look like. Describe the wet page.

Gary Hastings: The wet page. You would put the item that you wanted to copy on top of the glass and then out would come a limp, wet page which you would have to let dry, and it smelled like hell too, and we would use those to cut and paste. At the same time, some of the better copying machines were being purchased by the *Southwestern,* and we were able to use those as well. So it got a little easier.

Paul Turner: Did you ever have the ones where the background is all black, but the typewriting was white?

Gary Hastings: No, but I saw those. I saw numerous of those, but never had to worry about those.

Paul Turner: You would get the draft of the note or the article. Now someone had to edit it, and that's the reason they're called editors. Tell us how that was done.

Gary Hastings: Well, if you can imagine, here I am as a note and comment editor and my third year as the editor-in-chief, a second- or third-year law student,

getting *Law Review* articles from professors and lawyers in the field. And we students would sit down and read the articles and research when necessary and decide when this practicing lawyer, this professor, was saying something wrong or how could it be said better, and we would suggest changes.

It was rather arrogant of us at that time, but we didn't know any better, and so we would suggest changes. It would either go back and the author would make the changes or we would rewrite them, cut and paste, and send it back to the author with the suggestions; and ultimately we would get the final draft in.

Paul Turner: You used the term "cut and paste"; in the computer age we know what that is, but before computers, B.C., tell us how you would cut and paste.

Gary Hastings: You would make a photocopy of the article instead of using the original, and if there was any extraneous material in what the original had or if maybe the organization wasn't proper you'd take scissors and you'd cut out paragraphs or sentences and rearrange them by pasting them with tape or library paste, which by then didn't taste as well as I thought it did back in the third grade . . .

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. . . and rearranged the article or maybe even throw in some handwritten material so that you would end up getting probably the yellow legal tablets with a number of white copies cut and pasted to redo the article. And then you would either have that retyped—

Paul Turner: And who would do the retyping?

Gary Hastings: That was a good question. Every now and then they would provide us with a secretary at the school or we would have to send it back to the author and suggest it be retyped that way. They were more than patient with us, for some reason.

Paul Turner: Who would make the final decision—we're going to put this article in the *Law Review*?

Gary Hastings: The staff—basically the editorial board, which was the editor-in-chief, the notes and comments editor, the lead articles editor, and maybe the managing editor.

Paul Turner: At some point are you, by coup d'état or otherwise . . . become the editor-in-chief of the *Southwestern University Law Review*?

Gary Hastings: It was basically a coup d'état, because I had been the notes and comments editor; and they said, "We need consistency, so you're now the editor-in-chief."

Paul Turner: Tell us what you would do on a daily basis; what time would you get to law school?

Gary Hastings: Most of my classes started around 9:00, and that semester, my final year, I tried to have them finished by noon. If I couldn't, we did have an office—my wife sewed the curtains for the office and we got some borrowed desks—and I would go up to the office and we would work in the *Law Review* office either studying for classes or working on *Law Review.*

And we would have our staff members come in and leave on whatever basis they could; they would work in the libraries. And we would review input articles that would come in; we would work with the notes and comments editors. And I was there probably from 8:30 until 4:00 in the afternoon every day, and then I would go home and try and study in the evening because Diane worked, fortunately, still at El Camino until 9:00 at night; and so that gave me the time I needed to study.

Paul Turner: And when you graduated from law school and took the bar, describe where the bar exam was held.

Gary Hastings: I took it out at Glendale College in the typing room with my old 1945 portable Royal typewriter. I drove from Palos Verdes every day, leaving at 6:00 to get down there, and went in, took the bar—three days' worth. That was the first bar, as a matter of fact, that they had the multistate; so the first day was all writing, and the second day was multistate, and the third day was all writing again. Three full days.

Paul Turner: How did you prepare for the bar?

Gary Hastings: I took the bar review course. Josephson had started up a bar review course in the year that was my last year of law school, and he was just coming out to the West Coast, and he was looking for people to represent it. And he heard of me and came to me, and I agreed to represent and sell his bar review course at the school, which I did, and then I got the course for free.

And so for six weeks I went down to the Masonic Hall, I think it was, in downtown L.A., and attended lectures, did writing practice. Every day when I wasn't down there, I went over to El Camino College and sat in their library and worked on the various classes that I had to take.

Paul Turner: How many weeks did you spend with that regimen of just studying for the bar?

Gary Hastings: Six weeks. The problem was that we were still trying to put out another version of the *Law Review,* so during a portion of that six weeks, I was still working over at the *Law Review* office after I graduated to get that out. But I think the last four weeks before the bar exam, I spent the whole time in the bar exam.

I would go to the library at El Camino College at 9:00 in the morning, take my running clothes. At noon I would go to the track and run three miles, take a shower, come back, and start studying again from 1:00 until 4:00. I'd go home, eat, jump on the freeway.

We lived in Gardena at the time, drive downtown, take the class from 6:00 until 9:00 at night, same thing the next day except for weekends. On weekends, Saturdays, I went to USC games, and Sundays I studied.

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Paul Turner: Did at some point in that process did you get the confidence to know, "I can win this thing, I can pass the bar"?

Gary Hastings: I had no doubt I was going to pass the bar, for some reason. The way I studied, I got all of my classes outlined, all the courses; I got all the concepts into an outline that could fit on a three-by-five card. I would then make sure I knew what those three-by-five cards said, and when I would go into the bar exam I would look at the problem—and this is on the writing portion—was it a contract problem, was it a tort.

If it was a contract problem then I would take my scratch paper and I would regurgitate those items from that outline on a piece of paper to bring it to my forefront, and then I would read the problem. At that point, I could spot the issues, and then I would spend the last 15 to 20 minutes typing the answer.

And I developed that before I took the bar exam. When I left the bar exam and I went home . . . and I remember going out to dinner with my parents. My dad said, "How did you do?" I said, "No problem at all, I passed it."

Of course, that was the end of July, and by November, before I got the results in the mail, I was really worried; but I had no doubt that I had passed the bar exam the day I walked out of it.

One thing I did not do is talk to anyone else at lunch about any of the questions—because you know as well as I do the moment you start talking to someone, they're going to say, "Well, that wasn't a contract question, that was a real property question," and then you start having doubts. The last thing I wanted to do is have doubts. In fact, I studied for the bar exam up to a week ahead of the bar exam, and then I didn't study after that.

Paul Turner: You mean you stopped studying the week before the bar?

Gary Hastings: I stopped studying. We were house-sitting for some friends of ours from Palos Verdes and they had a beautiful pool. Diane was seven months pregnant. She had stopped working. I had to pass the bar and so I completely weeded and worked in their yard that week before the bar exam and also tasted some of their very good wine from their wine cellar; and so when I finally took the bar exam, I was totally relaxed.

Paul Turner: How did you find out that you passed the bar?

Gary Hastings: That's an unusual situation. Normally you get the package in the mail. I was working at Belcher, Henzie & Biegenzahn by then, and I went down

on a Saturday because I had a project that George Henzie had told me I needed to have done by that following Monday.

Paul Turner: Could you spell their names? Belcher is B-E-L-C-H-E-R.

Gary Hastings: Henzie is H-E-N-Z-I-E, and Biegenzahn is B-I-E-G-E-N-Z-A-H-N. And I got there on Saturday at 7:00 in the morning, which I usually did because Frank Belcher would get in at 7:00 and expect the coffee to be there, and I was hired to work with Frank. But this was Saturday; he wasn't going to be there.

At 7:15 the phone rang in George's office. I was in the library next door and I went over and answered it and "Hello, is George Henzie there?" And I said, "No, he's not. Who is this? This is Gary Hastings." He says, "Gary," and I can't remember his name right now, "this is so and so, and I'm on the bar examiners. George had asked to let him know as soon as I knew whether you passed the bar, and you passed the bar."

This was Saturday before Thanksgiving, and so I said the hell with working the rest of the day; and I got in my car and drove home and I was home by 8:00. And I told Diane, I said, "I passed the bar," and she said, "How do you know?" And I said, I told her the story.

Paul Turner: By then Douglas had been born?

Gary Hastings: No, Laura had been born by then. Laura was born September 21st of 1972 and I was sworn into the bar in December '72.

Paul Turner: Tell us what kind of practice you had as a lawyer at the Belcher firm.

Gary Hastings: Well, Belcher was basically a small trial firm. They had seven lawyers when I joined them—six partners and an associate, John Curtis. I was the second associate. And they represented State Farm Fire and Casualty Company, Firestone Tire and Rubber Company. They had medical malpractice defense. They did some divorce dissolution work.

George Henzie did probate and estate planning, but I was hired to help Frank Belcher represent Howard Hughes and his then–Hughes Tool Company in a lawsuit brought by Noah Dietrich against Howard Hughes for defamation, which was the sister lawsuit to the Mayheu lawsuit for defamation—which was brought arising out of the Clifford Irving autobiography where Howard Hughes had done a phonographic, telephone news conference where he denied that he had worked for Clifford Irving and that a lot of what Clifford Irving said were lies.

They had asked Howard Hughes about Mayheu in the interview, and he said he was a crook, a lowdown, rotten son-of-a-gun, and so forth. And later they asked about Noah Dietrich, who was, had been, his longtime associate. He said well, "Well, he's the same as Mayheu."

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So they both sued for defamation and so forth, and this is at the time, if you recall, when Howard Hughes was not making public appearances. And so everyone was trying to get his default in the *TWA* lawsuit; they had gotten his default, and ultimately it went to the United States Supreme Court. The United States Supreme Court reversed the default for his failure to show up for his deposition.

So for the first two or three years of my practice I worked with Frank, working on that case, trying to prevent Howard Hughes's default from being taken and representing Hughes Tool Company, which ultimately was sold and become Summa Corporation, and trying to get Summa Corporation in there to defend the lawsuit. And so I was doing a lot of procedural work under the law in reverse, to try and preclude things from happening, to help defend Howard Hughes.

As a result I learned a lot about civil procedure and ultimately ended up teaching at Southwestern in the mid '70s. And after that I went on to work with the firm; I became a partner in 1978.

David Knight: I need to stop right here and change the tape.

Paul Turner: Did you ever meet Howard Hughes?

Gary Hastings: I never met Howard Hughes, but I did meet Marty Cook, who was a personal aide to Howard Hughes in the '50s. Marty ultimately went to law school and became a lawyer, and he was the West Coast representative of the law firm, a very, very wonderful person—one of the Mormon mafia is what they used to call him. But he used to drive Howard in one of those nondescript Chevys.

Paul Turner: Did Mr. Belcher ever meet Howard Hughes?

Gary Hastings: Not that I know of.

Paul Turner: Did Mr. Belcher ever talk to Howard Hughes?

Gary Hastings: I don't know; he may have. Frank was one of the top trial lawyers in the early 1900s and up through the 1970s. He may have because he had been involved in very high-profile divorces and other cases.

Paul Turner: How is it that Howard Hughes came to hire Frank?

Gary Hastings: Noah Dietrich at one point in time was Howard Hughes's right-hand man. And in the early '50s, Noah Dietrich's wife decided to get a divorce, and she hired Frank Belcher. And as I understand it from other people, Frank kicked him all the way around the block and back and she got a very good settlement.

And ultimately down the line, Noah Dietrich said that any time that Howard Hughes gets in trouble, he should go hire Frank Belcher. That, of course, turned ironically back against Noah Dietrich, because by the time Noah Dietrich is now suing Howard Hughes they came out and hired Frank Belcher to represent Hughes and Hughes Tool Company.

Paul Turner: Is there any logic to the way that . . . it seemed at the end of his life, he was involved in a lot of litigation. My advice to clients was, you don't want to be involved in litigation.

Gary Hastings: That's my advice too, but it just followed him. He was that type of person, where it just followed him no matter what.

Paul Turner: He was a big company. He had a lot of, I want to say high-risk—I don't mean to say things like stock property, but he had a lot of high-risk business ventures and companies.

Gary Hastings: Exactly. That, and he was a recluse, and so people thought, of course, that they could probably sue him and if he wouldn't show up for his deposition they would get an easy judgment.

Paul Turner: Do you have any other cases when you were a lawyer that stick out in your mind?

Gary Hastings: There was a series of them. By the end of my career at Belcher, Henzie & Biegenzahn, I was involved in all of the Firestone 500 litigation. Back in the early '70s, the car companies all wanted radial tires. Michelin made the best radial tires in the world. So they went to the different tire companies and said, "If you guys can't start producing radial tires for us, we're going to go to Michelin." So all the tire companies started developing radial tires. Michelin had a super process, and it was secret.

As the American tire companies started developing the tires, they would fly apart, they would explode. All the tire companies had those problems. Firestone had a marketing problem in that they designated their radial tire the Firestone 500; they never changed the name until they got to the 721.

The 721 was the process by which they wrapped seven bundles of wire with one to keep it from exploding, so to speak. And all the other tire companies changed the names every time they had a reiteration of their new product; so Firestone, of course, became known as having problem Firestone 500 tires.

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Louie Biegenzahn had four tires blow up on him on his Cadillac; it was happening to CHP cars in California, down in the south, all over the place. Ultimately, by the late '70s, Firestone had that problem licked. The problem was that anytime anyone had a Firestone 500 that went out, and then a 721 after that, they filed a lawsuit no matter what.

So Firestone had a national program to defend those cases. They had three different law firms regionally. Our law firm was the firm that handled the cases on the West Coast, in the Southern California area. So I was deeply involved with those at the end, defending Firestone.

Paul Turner: Did any of those cases go to trial?

Gary Hastings: No. We were able to settle most of them, but that didn't mean that I wasn't working six and seven days a week to prepare cases to go to trial against the likes of Ned Good and Dan Cathcart and Browne Greene and Art Hughes, all the major players in the personal injury field. And it was in the mid '80s, and I was getting worn down doing that. I learned that there were 11 new openings had been made for the superior court in L.A. County, that maybe I should apply for one.

Paul Turner: Tell us how you applied to become a superior court judge.

Gary Hastings: My dad called me and told me there were openings, told me to call the Governor's Office and get what was called a PDQ, a professional development questionnaire. I did; I got that. And of course I had to fill it out and come up with the names of all of the attorneys that had been opposite me in cases, all the judges I had been with before, all of the names of the different cases, other people; and then you send that in. If the Governor is impressed enough to think of sending it to the JNE Commission, the commission for the State Bar that then reviews nominees—

Paul Turner: Is that the Commission on Judicial Nominees?

Gary Hastings: It is, and they have 90 days within which to do a review and turn around and give a recommendation to the Governor. They then send out their own questionnaires to attorneys and judges throughout the state about whether they know the individual or not, and then they get feedback.

They then come up with a "qualified," "not qualified," "exceptionally well qualified" or "well qualified" standard, turn it in to the Governor. And at the same time, the Governor had his own in-house committee that would do the same thing; they would give another recommendation to the Governor.

I would be out beating the bushes to try to get recommendations from judges I had appeared before, from lawyers that I had been opposite, to get them to write letters to the Governor and that type of thing. And I was fortunate enough to get an appointment in September of 1985, and I took my oath October 1, 1985.

Paul Turner: Were you ever interviewed by anybody in the Governor's Office?

Gary Hastings: By Marvin Baxter, who was then the Governor's appointments secretary.

Paul Turner: Where did the interview take place?

Gary Hastings: Los Angeles, in the Governor's Office. And that was a fun interview, because it turned out that Marvin Baxter and I had a very similar background with regard to college. I told him I flunked out of college and it was only after I met my wife that I went back and realized things were serious, and he commiserated with me and said that he had had a similar problem himself.

Paul Turner: Did Marv's wife have the same effect on him?

Gary Hastings: That I don't recall.

Paul Turner: I bet she did, because he is very loyal.

Gary Hastings: She's a very charming lady too. I've met her on a number of different occasions, and I wouldn't be surprised.

Paul Turner: I can tell you this. Governor Deukmejian would be very impressed with someone who has allowed his wife or her husband to change their life, because there's no question he would never have been Governor without Gloria—never would have happened.

Gary Hastings: I would never have gotten where I got without Diane.

Paul Turner: What else did Marvin Baxter ask you?

Gary Hastings: Believe it or not, at the time he asked me what I thought about the death penalty, which surprised me. And I just told him, "I'm going to be a judge and I'll apply the law, whatever it takes."

Paul Turner: How long did that interview last?

Gary Hastings: Probably an hour.

Paul Turner: Did you walk out of the interview thinking, "I've got it"?

Gary Hastings: No; at no time in the whole time did I think "I've got it." I was hoping that I might get it, because it ultimately dawned on me that I would be a much better judge than a litigator. And that's what turned out. I really enjoyed the judicial process much more than I did being an advocate in trial court.

Paul Turner: How did you find out that you were appointed? What happened?

Gary Hastings: Believe it or not, my secretary hung up on the Governor of the state when he first called to advise me that I was being appointed. I had told her and my partners at the time that I had applied. She walked in and she said, "Someone called and said he was the Governor of the State of California, and I got so nervous I pressed the wrong button and I hung up on him."

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I said, "Well, if he really wants to appoint me, he'll call back," which he did. He called back in five minutes, and I apologized and spoke with Governor Deukmejian. And at that point in time, he told me I was being appointed.

Paul Turner: *[Laughing]* How long did the conversation last?

Gary Hastings: Maybe 5 to 10 minutes; very cordial conversation. He sounded like a wonderfully warm person. I'd never met him, and he didn't interview me for the position.

Paul Turner: Was he amused that he had been hung up on, or does that happen all the time?

Gary Hastings: Yes, he was; he was amused. He said, "Don't worry about it, it happens." And something similar happened in my appointment to the Court of Appeal. I was interviewed for that by Chuck Poochigian.

Paul Turner: How do you spell Chuck's last name?

Gary Hastings: P-O-O-C-H-I-G-I-A-N. And he and I also hit it off real well because we had kids about the same age, and we talked about my background and so forth.

Again, I didn't think I had gotten the position when I walked out of there, but I really enjoyed meeting him. I met him here in the Reagan building, at that point in time in 1983, and so a long time went by.

There were six openings, and five people got appointed and the sixth was left vacant. About nine months went by; I figured, no way I'm going to get it. And I was sitting in Torrance and I finished a trial on a Thursday afternoon. They were going to shut down all the phone system on Friday, and so I didn't have a trial on Friday. I checked with Department A, and they didn't have anything to send to me.

Paul Turner: This is in Torrance, right?

Gary Hastings. In Torrance. So I said, "Okay, I'm going to take the day off." And so I jumped in the car with my wife and my golfing buddy and his wife and we drove down to my parents' condominium in the desert and we played golf. And I came back up Sunday night and there was a message on the answering machine: "This is Chuck Poochigian, Friday morning. I need talk to you urgently; can you call back right away?"

Well, of course it's Sunday night. I called the number and no one was in the office. I called back Monday morning: "Mr Poochigian has gone away for a two-week vacation." He wouldn't be back in the office for two more weeks.

Well, I figured, that's it, I'm dead. So I said, "I'm back." And so I went back to work that Monday morning, and I'm sitting in the office about 11:00 and the phone rings and I pick it up and it was Chuck. And he's at Pismo Beach on vacation with his kids, and he said, "The Governor would like to nominate you to the Court of Appeal. Would you accept it?"

And I said yes, and we of course talked about what happened Friday and so forth, and he laughed about it and I laughed about it. And ultimately I was affirmed by the commission and took my seat on my daughter's 21st birthday, which also was the birthday of then–Attorney General—

Paul Turner: Dan Lungren?

Gary Hastings: Dan Lungren. It was September 21, 1994.

Paul Turner: I was there. We talked the other day about big trials. Why don't you tell us about the Gaithers, G-A-I-T-H-E-R-S?

Gary Hastings: Well, actually it's G-A-T-H-E-R-S, it's Hank Gathers. He was a student at USC, along with his buddy.

Paul Turner: *[Laughing]* I always fell out in the first round of spelling bees.

Gary Hastings: I can't remember his buddy's name at the present time, but they ultimately transferred to Loyola to get more playing time in basketball, and he was really a good pro prospect.

And he . . . and at that time Paul Westhead was the coach. They did a great job of developing that team, But in Gathers's final year, during the pre-season he collapsed on the court, and they determined he had a heart problem and that he needed medication. They gave him medication and it affected his ability to play basketball. He was unable to play at the level that he had been able to play.

Paul Turner: Westhead's style of play, it would be called run and gun.

Gary Hastings: Exactly, run and gun, all up and down the court.

Paul Turner: Run, run, run, run and gun, gun, gun, gun, gun.

Gary Hastings: That's right. And so I was told, at least in the settlement conferences, that what happened is that Gathers and Westhead and others went to the cardiologist and said, "We've got to have the medication reduced so he can play to his level." And the cardiologist agreed, and so they played, and in his senior year he played.

They got to the playoffs, and of course in the first minute or two of the first playoff game he collapsed on the floor and died on the way to the hospital as a result of his heart problem. His girlfriend had a baby by him, so on behalf of the baby, the mother as well—Hank Gathers's mother—and his brother, who was in the stands at that time, I think his cousin and his aunt who were also in the stands when this occurred . . .

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They sued the school, as well as the doctor for Loyola, as well as the orthopedic surgeon; the Kerlan-Jobe Clinic, who was on the scene at that time; as well as the school, alleging that he should not have played.

The cardiologist put in his million dollars immediately. Ultimately, the case came down to a settlement conference in front of me. The school paid another million and a half. The child, if I recall correctly, ended up with about a million and a half in trust.

Paul Turner: What was the name of the plaintiff's lawyer in that, do you remember?

Gary Hastings: His name was Bruce Fagel. He was an excellent lawyer. He was a medical doctor who had gotten his law degree.

Paul Turner: Do you remember who was conducting the defense for the various?

Gary Hastings: I do. Marshall Silverberg was for Kerlan-Jobe and Craig Dummit was for ultimately the final defendant.

Paul Turner: Craig Dummit attended Cal State Long Beach at the same time your wife did.

Gary Hastings: I know he did, and he told me that. And he represented the doctor who worked for Loyola Marymount. And the only defendants left at the time of trial were the doctor who worked for Loyola Marymount—because allegedly he didn't teach anyone how to use a defibrillator that was on the sideline, which they didn't use at the time he collapsed—and the Kerlan-Jobe Clinic, who had a doctor on the sideline and they alleged he should have used it as well.

The case went to trial for three weeks, and it was a monumental example of good trial lawyering by Bruce Fagel on the plaintiff's side and by the two defense lawyers on the other side. After three weeks, the plaintiffs rested their case. The defense had requested that the plaintiffs all be present at the beginning of the defense case because they wanted to put them on the witness stand. They refused to show up.

Paul Turner: We're talking about the plaintiffs?

Gary Hastings: The plaintiffs: the mother, the son, the brother, the aunt, they refused to show up.

Paul Turner: Why?

Gary Hastings: No one told me why. My guess is that they had received $2.5 million already, which was probably sufficient. They also had a claim against an insurance company for another million on a policy they had taken out on Hank Gathers that if he was unable to play in the big leagues, he would get $1 million.

So I think they just didn't want to go through with it, and so a motion to dismiss was made when they refused to show up. And according to the law, if the party fails to show up at trial, the case has to be dismissed; so it was dismissed.

Paul Turner: Was there any media coverage of this?

Gary Hastings: Yes, the trial was on national television. Not on a daily basis. It wasn't like the O. J. Simpson case where the TVs had it on all day long. I do recall being at home one night, though, working out in my garage on my Stair Stepper watching the news, and all of a sudden I found out I was bald by watching the TV. They said, "We're going to the Gathers trial,"

and there I was looking over my notes and big as life on TV. But that was on TV.

Paul Turner: That was the bald spot.

Gary Hastings: That was the bald spot.

Paul Turner: So the record is clear—you and I talked about it shortly after that, and you had absolutely no insecurity as a result of that.

Gary Hastings: None whatsoever. In fact, I ultimately seven years ago decided to shave it all off and the hell with it. I was on national television in Australia on another case involving a Qantas airlines attendant whose car had been found with $40,000 worth of drugs in it ready to fly back to Australia. And they came to me and asked if that could be televised live in Australia because they wanted to see what our system was like in California, the United States, and I said, "Sure."

And as far as I know it was televised live down there. He was convicted and I ended up putting him in prison for whatever period of time was appropriate. I never heard anything back from that except for the fact that the defendant himself was a young man who was a good runner. He was a champion mile runner in Australia and he was also a surfer.

And I did get letters from him from state prison telling me all the best places to go to surf if I ever got to Australia. And I'm not sure I really want to check those places out, but he seemed like a nice young man, and his parents were in attendance during the whole trial. And it was different.

Paul Turner: Who did you serve with on the Court of Appeal?

Gary Hastings: I was very fortunate; when I first came to the Court of Appeal, Arleigh Woods was presiding justice of Division Four. Norm Epstein had been there for years, and Chuck Vogel had been appointed nine months before. As far as I'm concerned, those were giants in the law, and I was very fortunate to be able to come in and work with them.

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Arleigh ultimately retired a couple of years later, and Elizabeth Baron was appointed. And she is just a charming person, hard worker; but she came in with some back problems and ultimately those required her to retire with a disability. And her seat was taken by Dan Curry from the trial bench, also a wonderful person. He had been the chief counsel for Times Mirror Company, so he had a corporate background. He was there until two months after I retired; but Chuck Vogel then retired, if I recall correctly, about two years before me. And Tom Willhite was appointed to replace him, and Tom was there for a year or two. All of those people were just wonderful people to work with. It was a very collegial division, and by then it was the top division in the Unites States as far as Courts of Appeal go, notwithstanding the fact I was a member of it.

Paul Turner: We'll have to have the janitor come and clean up the vomit I just put on the floor, but go ahead. *[laughing]*

Gary Hastings: But it was a very collegial group. We kept our doors open. If we had problems, we could go in and talk to each other. During the 13 years I was there I think I wrote one or two dissents, and I think someone else wrote maybe one or two dissents on my opinions. Otherwise, we would go in and talk things through, and if it sounded right we would make changes; if not, we wouldn't.

Paul Turner: Any cases that you wrote opinions on that stay with you in your mind?

Gary Hastings: The first was *Boeken v. Philip Morris*, which was involving a person that died during trial from smoking cigarettes because of cancer. It was the first Southern California case where a multibillion dollar award was made against Philip Morris for fraud—$3 billion, in fact, for punitive damages.

The main issue on appeal that I worked on . . . and I had a research attorney, Catherine Bennett, that just did a dynamite job. And it was a six-month trial. She took three months to go through the record and come up with the first 95-page opinion.

A number of issues were raised on appeal, but the most significant one was punitive damages. The award in the trial court for compensatory damages was $5.5 million. The punitive was $3 billion. The trial court, Charles McCoy, an excellent judge, reduced it to $100 million, and it came up to us and we reversed it to $50 million.

We then had a rehearing because more cases from the United States Supreme Court had come out and we wanted to rehear it in light of those. We again held to our $50 million, and ultimately the Supreme Court of California and the United States Supreme Court never took it, and that stands today.

The reason it was so significant in my mind is that that gave the factual background of what had happened since the early 1950s all the way up to the present with regard to how tobacco companies packaged their product, advertised their product; and if you ever read the decision, you will find out that we upheld the jury's verdict for fraud.

Another one of the important cases that I was on was *Marich v. MGM/UA*, which involved a reality television show where some reporters followed the police into an apartment where there had been an overdose and the person that died. They called his parents live on the show and told the parents that their son had died from an overdose, and they got the response from the parents in this live show.

Well, the parents sued for invasion of privacy. It was a touchy case, but we ultimately concluded that summary judgment had been improperly granted—that they did have a legitimate claim for privacy. My recollection is that that was not taken up by the Supreme Court.

State Farm Fire & Casualty Company v. Superior Court. *Taylor*, a real party in interest, was another interesting case; I had represented State Farm when I was a lawyer. They had a first-party claim for property subsidence by the Taylors, and they brought a firm in to defend them. And during the defense of that case, a summary judgment was brought by State Farm that they had not done anything wrong, they were being sued for bad faith, and so forth.

Summary judgment was granted again by Tim McCoy, and a motion for reconsideration was brought by the plaintiff's attorney. And he brought in a declaration from a former employee of State Farm who had worked in their claims division. Her declaration established, if you believed it, that they had hidden documents from discovery during that litigation—that they had a process of doing this to preclude people from getting information to sue the company for bad faith.

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Ultimately, Tim McCoy decided that the crime fraud exception applied and he refused to suppress her declaration and he granted reconsideration. We took it on a writ and we had to decide whether or not there was sufficient evidence. And that was a very gutsy call he made, and it was supported by the evidence. That's an important case.

Paul Turner: Did you uphold Tim's ruling?

Gary Hastings: We did. Those are the important ones that come to mind.

Paul Turner: Who were the attorneys who worked for you when you were here?

Gary Hastings: I had Catherine Bennett; she worked for the last half of my 13 years. I had Cecily Bray, that worked for me the entire time, ultimately part time after four years, along with Rene Judkiewicz, who also worked part time. And they were wonderful people. In fact, I got more than one person's work out of the two of them.

Mary Louise Blackstone worked for me full time until she retired. She was excellent. And for a short period of time I had one of Chuck Vogel's research attorneys, Richard Cates, who was also excellent. But when I decided to retire, I went to my staff and I told them, "Tom Willhite is just now coming in; if you want to interview with him and go with him, I won't have any problem with it." And so I lost Richard and Cecily to Tom, as well as my secretary, Glynis Williams, who was excellent, during that period of time.

Paul Turner: You want to call it a day?

Gary Hastings: Well, I probably should. I've got to get over to Southwestern to help them with the moot court program. You've gotten everything you wanted to get?

Paul Turner: I think so. But you and your dad and your mom and your wife have touched people of the state in so many ways. I want you to know, those who watch this, I hope they understand the depth of the way you and your dad and your mom and your wife have helped the people of the state.

Gary Hastings: I will tell you, I really enjoyed working for the people of state. It was an honor, a privilege, and I am somewhat humbled by it. Thank you very much.

Paul Turner: Thank you.

Duration: 87 minutes
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