William Stein: I am William Stein, S-T-E-I-N, Associate Justice of the California Court of Appeal, First Appellate District, Division One.

David Knight: Justice Low, your turn.

Harry Low: I am Harry Low, former Presiding Justice of Division Five, First District, now retired. I have been retired since 1992.

William Stein: Harry, tell us a little bit about your background before you went to college and law school and about how you developed an interest in going to law school.

Harry Low: Well, I grew up in Oakdale—born and raised in Oakdale, California, which is a very small community, 2,000 people in the whole community when I was growing up. When I left it was about 3,000 in 1950. But I was always kind of active in school and ran for school offices, held student offices. I actually was a janitor for a very small law firm in Oakdale, Bush & Ackley, and I was their janitor for about four or five years. I remember they wrote me a little Christmas bonus, and they said, "To Harry Low, a very fine lad but the worst cleaner-upper we've ever had."

But I always had some kind of an association with law—kind of curious about law. And then my activities in high school kind of interested me in government. One of the first things I did was kind of looked at law and medicine and engineering, and I kind of drifted more and more towards law. By the time I went to UC, I was pretty much headed in a pre-law law career.

William Stein: You went to UC when, Harry?

Harry Low: 1950, '52. I went to Modesto Junior College and got a scholarship to UC; and then I wanted to go to UC anyway, and went to UC and graduated in '52.

William Stein: You then went on to Boalt?

Harry Low: Then I went on to Boalt, and in between summers, June to September of '52, I got married, and my wife was still a student at Berkeley. So we were very poor, starving students in Berkeley. *[laughing]*

William Stein: A real hostage to fortune, right? *[laughing]*

Harry Low: *[Laughing]* Right, right. Those were the days when quite a few of students were in various stages of poverty—not very many were well off.

William Stein: Motivated you to do well in law school. You stayed on after graduating law school as a full-time teaching assistant.

Harry Low: Yeah, a TA of a research-writing course. And then about in 1956, Sho Sato, who was a professor at Boalt, he was a former deputy AG in the tax section, kind of said, "Gee, you majored in some tax courses"— I did a couple of extra Adrian Kragen tax classes—and he said, "I recommend that you go to the California AG's Office. And so then they kind of recruited me, and off I went to the Attorney General's Office.

William Stein: And the Attorney General at that time was?

Harry Low: Pat Brown—and Pat Brown was a very colorful guy, as we all know. And I was one of the first Asian attorneys hired in. I could remember he'd get me confused with Delbert Wong, who was an earlier deputy AG that he hired in Los Angeles.

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He once called me Delbert, then he'd get puzzled, and he said, "There's my Chinese deputy." *[laughing]* And he said, "How are things out at in Berkeley?" or whatever—"How are the Diamond Heights?" and so forth.

William Stein: That was a different time.

Harry Low: Oh yeah. It was a small office, 45 or 40-some people in this whole San Francisco office, and everybody kind of knew what everybody else was doing. You were assigned to the tax section, but we all did criminal briefs, and we all did some administrative law; and it was a very small, friendly, collegial office.

William Stein: Then the other Attorney Generals you worked for was Stanley Mosk.

Harry Low: Stanley Mosk and I worked for Tom Lynch for a very brief period of time. I didn't plan on staying there that long a period of time. And every once in a while, I would get proposals to go out in private practice, but I enjoyed the AG's Office, and it was a very good learning experience. And it was a wonderful, good law office at those days, and probably even today. And I have a high regard for the Attorney General's Office.

William Stein: Anything in your career . . . there's a lawyer that started you on your way towards the bench or any political events or major events in your life?

Harry Low: In '58—I went to the AG's office in '56—in '58, Pat Brown was running for Governor, Glenn Anderson running for Lieutenant Governor, and Alan Cranston, and then Stanley Mosk, and so in '58 I kind of got involved in the campaign a little more intensely. It was a very interesting campaign. And it was kind of

interesting working for Stanley Mosk in his campaign, because he kind of enjoyed coming to the Chinese community and he had a great affiliation with the Chinese community. And of course Pat Brown was a San Franciscan and he knew everybody in San Francisco. So I kind of got a little bit involved in the '58 campaign. But I also was trying a number of cases in the Attorney General's Office, and I guess you kind of got enamored with the court and you kind of said, "Gee, a kind of interesting role to go for the bench."

William Stein: And you were appointed in San Francisco Municipal Court in 1966?

Harry Low: Yeah. I was a midnight appointment of Pat Brown. Pat Brown ran for, of course, his third term, and I remember helping him put on some rallies in San Francisco and in Chinatown. Pat Brown appointed me to the Worker's Comp Appeals Board in early '66, January of '66, and I had a four-year term, a very interesting role on the Worker's Compensation Appeals Board. And I thought Pat Brown was going to win a third term, but Ronald Reagan of course won.

And so I approached Pat and said, "I kind of always wanted be a judge." And he said, "How old are you?" *[laughing]* But Pat at the very tail end of his administration appointed me to the municipal court, at the very end of '66.

William Stein: You were the first person of Chinese-American ancestry to serve basically in Northern California?

Harry Low: Yeah, I think there were only two. There was Delbert Wong, who was a former deputy AG who Pat appointed in Los Angeles, and then he appointed me in San Francisco, a Chinese-American. I think he appointed a couple of other Asian-Americans, Japanese-Americans, to various judicial posts, but—

William Stein: Long-term, "first Chinese-American ancestry" has followed you through your career quite a ways, hasn't it?

Harry Low: It has, yeah; first on the superior court, first on the Court of Appeal.

William Stein: And we will get into the others before this is over. It's an amazing thing for you, I know it must be. Then you ran for superior court.

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Harry Low: Right. I served on the municipal court. I had been the presiding judge and then served in virtually all the roles. Ronald Reagan was of course the Governor then. I think that having had a

fairly active Democratic background, it kind of held me back in his appointments. And so an opportunity came up when a judge retired; Judge Byron Arnold retired. And I put together a campaign and called up all of my friends and all of the groups that I belonged to. And I was fairly close to Joe Alioto, the former mayor of San Francisco, and he was very supportive. And so we put together a campaign and no one else ran. So I was elected and then appointed by Governor Reagan for the unexpired term of Byron Arnold, and I took over his office in January of 1974.

William Stein: That background, Harry, leads to some issues that I'd like . . . if you want to express some interest on it for the purpose of the interview. You've been appointed to the bench, and you ran for the bench. So you were on both sides of how you can become a judge in California. Any views on the benefits or negative aspects of each of those processes?

Harry Low: Yeah. I think that the process works very well in California. Most judges are appointed and then they stay on unless they get into some difficulty of some kind or get involved in some issue. But I think that it also allows for an elective—somebody retires . . . and like there were two or three vacancies in the year that I ran—and allows for somebody to run for the trial court. I think the appointment process for the appellate courts are very good, and I think that it kind of removes it from its political elective process. Of course when I became Insurance Commissioner, there was a real, there's still a real, question as to whether or not an elective office should be maintained for either judicial or a pure regulatory position. But I think the process works very well in California.

William Stein: The other process you went through there that I'd like to discuss, if you want to voice any opinions on, is that you were on the municipal court, as you mentioned—when you were on the municipal court and the elevation is at the behest of the Governor and you're in the wrong political party. You can spend a lot of time on the municipal court, or a short time, if you happen to get in the right timing. But since you retired we unified the courts and there's only really one court now; municipal, superior now just the general trial court. Do you have any views on how that's working out, or whether that was a good idea or not?

Harry Low: I spent seven years on the municipal court, and those were very, very interesting times dealing with the misdemeanors, and then I took assignments for the superior court from time to time too. I thought it worked very well. But I enjoyed my role on the municipal court, and I thought that I got tremendous training on the municipal court. And even though you didn't handle serious felonies, you did the preliminary hearings, you dealt with a whole batch of misdemeanors. Of course 1967 was when the Summer of Love came in, and all of Haight-Ashbury,

the Vietnam veterans against the war, the Black Studies protests, and a number of those kinds of things were pretty heavy type cases. And it was a wonderful training ground.

I think that there are some advantages in the unification of the courts. I think, certainly in the felony preliminary hearings, that it's good. But I kind of think that the training that I got from the municipal court was wonderful training—in calendar management, and handling volumes of cases, and the variety.

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I think that if you're stuck in the municipal court for a long, long period of time, it is kind of, somewhat, disheartening, particularly if you feel that you're a fairly good judge; but then there were always assignments to the superior court, which I took on a regular basis. And I remember when I was PJ, when Joe Karesh was PJ of the superior court and we worked out, okay, you're going to have this judge for two weeks, you're going to have this judge for four weeks or whatever period of time. So it allowed for the interchange to take place on an informal basis.

William Stein: I think when you retired you were giving a talk, and I think you said that you enjoyed . . . or that the best court that was closest to the people was the municipal court—where you saw the real people, the real day-to-day problems that people have that don't escalate into superior court felony problems or civil law problems that are hundreds of thousands of dollars; but just the day-to-day, getting-through-life problems are in that court.

Harry Low: Yeah. I still think that that's the case, that the system is somewhat backward—that the encouragement of good judges to stay on in a municipal court to deal with the real people, people-type problems, ought to be encouraged. And the differences in the role should not be—at least in pay and prestige—should not be as disparate as it was in preconsolidation. And even the work of the appellate court, I think compared to what you do on the municipal court, in terms of overall social value, I think that the municipal court should be given the recognition and the prestige of a higher degree than it had in those early days.

William Stein: You obviously are a hands-on kind of personality that likes to get involved with people, with people's problems. Did you have any problem when you got to the appellate court? This place is like the ivory tower. My phone never rings unless it's my wife. *[laughing]*

Harry Low: *[Laughing]* Well, I think that the creation of a new division and being a PJ and dealing with all the writs . . . and then of course,

I always kind of took a fairly active extrajudicial role in activities: the National Center for State Courts, the ABA, and some other community-type activities that were somewhat law related but were certainly diversions. So I enjoyed the role on the appellate court. And I guess it's like every role—if you're a master calendar judge or a PJ for a period of time, you kind of get a little worn out, and you kind of want just to try cases. Or if you try a whole bunch of cases you say, "Well, maybe I'll take a role as a law and motion judge or something of that kind that gives it a little more excitement." Then you could say, "Gee, it's a little bit too much excitement. Let's try something different."

William Stein: Speaking of midnight appointments, you were appointed to the Court of Appeal in 1982 by the outgoing Governor Jerry Brown. That was a new division that had been created. Do you want to talk at all about how that came about?

Harry Low: Yeah. Well, it was . . . there are various stories on it. It was . . . They added three new justices to the First District, and a question of whether it was intentional or was just to add more judges; probably the First District didn't really merit at least a whole new division, three additional appellate judges. But the law, the Legislature passed it. I guess part of it was to give Jerry Brown a crack at appointing some additional judges. I think Bob Puglia of the Third District and others said, "Gee, you guys are going to have nothing to do." But it passed and created a whole new division. Of course, we had then the work of the Sixth District.

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The Sixth District initially was not part of . . . did not get created, because the appointments were somewhat delayed. And then there was still the influence of cases coming out from Monterey and Santa Clara and so forth that went to the First District. And the First District was very much backlogged in 1982, 1983. So, the three of us stuck together for nine years, Zerne Haning and Don King and I.

William Stein: Yeah, Don King from San Francisco and Zerne Haning from San Mateo. And the three of you were the . . . were they still with you when you retired?

Harry Low: Oh, yeah. All nine years we stuck together—and wonderful colleagues. And I probably talked to Don King three or four times a day and probably had lunch with him two, three times a week; and Zerne I would see all the time too. And we worked very, very closely together. And our philosophies were pretty much the same—very few dissents, very few concurring opinions, rather rare that we had dissents. We hammered out our differences, if there were differences. And we also had a similar type of philosophy in terms of calendar management: that we just disliked old cases.

William Stein: Yeah. At that time most of the other divisions—our careers overlapped a little bit—most of the other divisions worked the cases a long time before they had oral argument, and the cases might be a year or more old by the time you had oral argument. But you guys were popping them out as we try to do today now. It was kind of a—

Harry Low: Yeah. I think that it was sort of the master calendar roles and PJ roles that I had, and Don King and management of the family court and Zerne and his sort of efficiency-minded court—that if we delayed, particularly things that dealt with procedural appeals, a demurrer, or a motion for summary judgment . . . And then it was an event that occurred maybe five years earlier already, and then by the time it went through the appellate court it would be eight years old and nine years old. And so we thought that was just an abomination.

So we took upon ourselves, we got a lot of old cases from the First District and they were reassigned. We said, gee, working on old, old cases just was not a very desirable thing. And so we each took on at least 10 cases a month, and we were handling 30 cases a month, the three of us. Then we also kind of grouped the cases together, like tort cases would be one judge; contract cases, employment cases, or whatever cases; family law cases, Don King of course kind of ate those up very well. *[laughing]* So we kind of grouped the cases together. The writ material, we conferred on a regular basis. So we brought in some kind of management efficiencies and just wrote opinions very, very quickly on the cases that we had.

William Stein: Before you got started on the cases, though, you had . . . as I recall, those confirmation hearings were very late in the year; they were in November or early December. And then you were becoming an appellate judge right now. What I wanted to talk a little bit about, if you could recall for us . . . I mean, first of all, physically you had to access some space in this building, and then you had to hire a staff—not only your own staff, but each of you had to hire a staff. And then you had to get a clerk's office going for you. The rest of us have all moved into a position—like my position goes back to 100 years. How did you physically . . . anything about that?

Harry Low: Yeah, sure. Well, going back a little bit to the confirmation hearings . . . were kind of interesting because the Attorney General then was George Deukmejian, who was the elected Governor; Rose Bird, the Chief Justice; and Tom Caldecott was the First District person. But we were all pretty much confirmed unanimously, so we took office fairly quickly. It was appointment at the tail end in the Brown administration; we were sworn in.

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But we quickly built our staffs. We interviewed staff people from the attorneys' research staff, and then I hired a fairly young secretary, Harriet Helmer, who stayed with me for nine years—a very efficient, very able person. But we kind of got lucky; we hired excellent staff. I know that Don King hired John Isenberg, who is a specialist now on appellate matters; and I hired Dennis Leader, who was formerly on the staff. Then we drew people from the clerk's office. And I recall the clerk was really running, stamping out opinions by the . . . and issuing opinions and getting them served and all that. He was working very, very hard. But we were fortunate that we set a good pace. And we had some excellent staff that did the work for us, and of course we all worked fairly hard and just read the briefs and listened to the arguments.

William Stein: I want to talk a little bit, if you can, about the impact of the changing technology now. I know I went on the Superior Court of San Francisco shortly after you left, and the phone still had the round buttons. And it was Klondike—I mean, computer was unheard of; the judges certainly never saw one. When you arrived here, they had some early-version word-processing system. I don't know what they had. How did you work through that? How did you see the changes? Did they work?

Harry Low: Well, the word processor was just kind of beginning. In fact, I was not used to using a word processor and I went to San Francisco junior college to learn a little bit about word processing. And I learned quite a bit about word processing. And the technology just continued to improve. Even getting records of the trial courts—it was amazing, the changes that were made, because we were trying to get records for starting the appeal. I remember I had a role of trying to get the reporters to get the records in on time. I had orders to show cause on reporters; and I mean, that technology has just changed dramatically, because you could get instant transcripts now and so forth.

But the technology has greatly, greatly improved. Now things are done so much more quickly and efficiently that that's changed. But I think the judges tend to lag behind in their use of technology and don't have the upbringing the young people now have; and the technology is still lagging somewhat behind by the justices, in even just using Westlaw or Lexis and so forth.

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William Stein: Or even knowing how to type on the—

Harry Low: Right, right, right. *[laughing]*

William Stein: I just want to talk a little bit about some of the big issues that went through the courts while you were on the appellate court.

And I was reviewing some of the former opinions. There was a lot of environmental law. There was a great kind of growing.

Harry Low: It was. And I remember Division Five issued a rather significant opinion on the Forestry Act, where it said that CEQA applied to forestry. And all the Mendocino forestry cases kind of seemed to wind up in Division Five, and we were fairly strict about cutting down trees and made sure that the CEQA was adhered to and that the removal of trees were met with forestry *[inaudible]*. And also about the same time, the whole BCDC issues were very significant; the Bay Area conservation district was a significant piece of legislation. And we dealt with a number of those issues, and general land use problems were very, very evident. So we had a great deal of government law that passed through about that period of time. And kind of my former AG experience and the way government worked, it was very helpful to me.

William Stein: Yeah. I noticed actually reviewing some of those, some of the cases you wrote . . . And one that comes quickly to mind is Laurel Heights, where the UC took over the old Fireman's Fund building in the city here and was converting it into a campus. And you wrote the opinion about CEQA; they didn't take into account the future development. But that and several of the other cases that were then taken over by the Supreme Court . . . But they came out the way you did, which is always how it feels to an appellate court judge, how they feel as an appellate court judge. We don't start a CEQA case, I think, without citing Laurel Heights.

Harry Low: Is that right? That is very interesting.

William Stein: In the *Bay Conservation* case, you wrote the opinion in *Mein v. Bay Conservation*, required this house that was built without permits over the bay to be removed.

Harry Low: Removed, yeah. And it was a drastic result, but I think it was the right result; it just did not meet the BCDC requirements. And we said, "Gee, you did wrong, and you have to tear it down." And it was a very, very expensive house for that period of time.

William Stein: The other one that I recall was *Yarbrough v. Superior Court*; it made you popular with the bar.

Harry Low: *[Laughing]* That was an interesting case. We felt that a person that was indigent in a civil proceeding should have the right to counsel, and if he did not have the funds to hire counsel that one should be appointed for him; and so we wrote that opinion. We consulted the bar, we invited amicus to file briefs, and so forth. It created quite a stir, but in terms of the practicalities of those kinds of cases coming up, it was a person that was in prison who was assaulted but charged with assault. It's very

rare, and I don't think that since *Yarbrough*, very, very few appointments from the court have ever come down to say, you, Mr. Attorney, have to represent for free, the civil litigant.

William Stein: But those problems exist for the courts today. And you were on the committee that produced the 2020 report in the 1990s and you chaired that?

Harry Low: Yeah, I chaired one section of it.

William Stein: This was where we look forward to what the court might have problems with, development, and we're still working on that. And in pro per litigation in the court still is a big problem. Some things do not change.

Harry Low: Yeah. They don't change, they don't change. They only get more attention.

William Stein: Anything else about the time you spent here on the court, Harry?

Harry Low: Well, it was a very enjoyable period of time. And I did serve on a number of committees by appointment of the Governor and by appointment of the State Bar. I was on the State Bar Futures Committee. I chaired a committee, while I was at the appellate Court, PJ, on the Jenny Commission . . . some leaks that the Jenny Commission allegedly was involved in.

I served on the National Center for State Courts. And I think that that was a very interesting, helpful committee, because it gave me a little more appreciation of calendar management and the ability of a judge to influence the flow of cases. So that was a very interesting role.

William Stein: You mentioned the Jenny Commission, and there may not be . . . anybody who looks at this, they may not know what we're talking about. Do you remember how that came about? How it was created, when the Lieutenant Governor was trying to appoint judges every time Jerry Brown left the state?

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Harry Low: Right, right, yeah. So they appointed a Judicial Nomination Evaluation Commission, kind of they have to go through that to make some kind of a grade, the Governor could still appoint somebody who was deemed unqualified, but it was very rare. But it had to go through that process. And the Judicial Nomination Evaluation Commission took 90 days to go through that process, and it put a kibosh on the Lieutenant Governor making those appointments.

William Stein: And we still use that. And the commission still works, and it works very hard today.

Harry Low: Yeah, yeah, right, they built *[inaudible]*.

William Stein: Now, at some point you retired, Harry. One of the questions is, why did you leave? Why did you leave this wonderful place? *[laughing]*

Harry Low: *[Laughing]* Yeah. Well, I guess I stayed seven years on the municipal court, nine years on the superior court, and then nine years on the appellate court. It was a very enjoyable role on the appellate court, and it was getting to be kind of a very routine, fairly easy job. I think that it had good staff, good colleagues. But I reached 60 and I had put 25 years on the court, and I felt that there's a possible new career in working as a mediator-arbitrator, and that some of the retirement benefits were also a great influence in my decision to say, okay, it's time for me to move on. So at the end of 1991, '92—I guess 1991—I decided to say goodbye to the courts and continue to work in a private capacity.

William Stein: Why don't you talk a little bit about the private judging and how that's grown? And I mean, is it a competitive system with the public system?

Harry Low: Yeah. Well, I really think it is an adjunct; I think it is an alternative dispute resolution system. I joined JAMS. I've always been involved in settlements and case management, and I thought that it was a good adjunct to the judicial system and I still think it is. It takes away a great deal of the litigation that comes through the courts, and it's handled privately in a very efficient and generally satisfactory manner in the mediations that we handle. The arbitrations are very much like trials, and so you handle those . . . and arbitrations are being written in more and more clauses in every field of conflict. So I think it's a very, very important function. And then you handle some evaluations on appellate matters, evaluations, and you get special referee roles that handle division of property, probate matters, and so forth where you're assigned to take on that role.

I think it's a very, very important function. And JAMS handles something like 10,000 cases in California. So it's just really a drop in the bucket, but it's a very important part of the judicial system.

William Stein: And that only started a few years before you retired?

Harry Low: Right, right. It started about 1978, '79 in Orange County, and then it moved to San Francisco about 1985, and so I joined about five, six years later.

William Stein: You had a few other careers in retirement?

Harry Low: Yeah. *[laughing]*

William Stein: *[Laughing]* You're not a retiring kind of guy.

Harry Low: No, no, I'm not. Almost right after I retired, I get this call from Mayor Frank Jordan. He wanted to . . . "Now that you're retired, you've got some free time; you could take on this, president of the Police Commission"—I was a former chief of police—"and you just run these police commission meetings." And I said, "Okay, Frank, I'll do it." I knew Frank very well. I knew him since he was a rookie police officer and I was on the municipal court, and we worked on a number of things together, including minority police officer problems and recruitment problems. And I kind of admired the fellow. So I took on that presidency of the police commission; and almost from the very beginning, we had the Rodney King riots, so we had to discharge a former chief of police. We had all kinds of problems with the management of the police department.

And it was a very interesting, challenging role. I was still doing full-time JAMS work; then I went to the president of the . . . Frank Jordan served one term and then Willie Brown came in, and I kind of sat back and stayed away from things for a while. Then Willie Brown says we got some problems with the Human Rights Commission, and the FBI was looking into a lot of the airport contracts. Willie didn't tell me about that part, but he asked me to chair the Human Rights Commission, and I did that for about two years.

And then I was arbitrating a case in San Diego and I get a call from the Governor's Office that said, "Send me your resume." I said, "What for? There are no vacancies on the Supreme Court." I was thinking and . . . no, but Chuck Quackenbush was removed from, was asked to resign. And the Governor was looking for somebody that might be able to kind of restore some confidence in the Insurance Commissioner's role. And one of my questions was, "Can I run the office out of San Francisco? Because that's where my home is, so . . ." "Well, we think so." But no, you had to get an apartment in Sacramento and spend a lot of time in Sacramento. But it was a very interesting role when I was Insurance Commissioner. I met some very interesting people, worked with some very interesting issues, and kind of rebuilt the office and worked very hard in that position.

William Stein: Yeah, just for the record that was Gray Davis, right?

Harry Low: Gray Davis, yeah.

William Stein: And you did work. I mean I remember that office was in the bottom of the . . . a bottomless pit, ethically and reputation-wise.

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Harry Low: It was. It was a very interesting challenge. And even staff, one-quarter of the staff, had left that office, so we had 350 vacancies out of 1400 people. So I had to rebuild the entire staff and rebuild the executive staff and give it a whole new direction and look into a lot of things that were amiss or I thought not very well handled. Then I also took an active role in the regulatory side of the thing in the office, and spent a lot of time in Sacramento, Los Angeles, and San Francisco, and a lot of time going back east and the midwest for meetings. What's California doing about terrorism insurance, what's California doing about NAFTA problems, what's California doing about Holocaust issues,and so forth.

So I did a lot of traveling in those days. But I enjoyed the role. But after two and a half years, I said, "Well, I've done my job." *[laughing]* I kind of cleaned up the office and put it back on track. So it was a role that I still enjoy, and I do a fair number of mediations involving insurance cases.

William Stein: I remember, to introduce this subject, but I remember visiting your court in San Francisco Superior Court and you had the huge mural of the old city—pre–earthquake and fire city—and then you used to run a court of historic review out of that. You had a longtime history, interest in the history of the city or the history basically of California and those issues.

Harry Low: Right.

William Stein: I wanted to talk about some of the issues that are facing our court now, and if you feel comfortable giving us kind of a historic pre-review about perspective on the matters. You've been a longtime advocate of diversity and opportunity for minority people, and we still . . . You were on, as I mentioned earlier, on that 2020 committee. You said you'd been the first person of the Chinese-American ancestry in a lot of areas. Recently our strategic plan for the judicial branch, which just came out for 2007–2012 . . . The number-one goal is to have the makeup of the judiciary branch reflect the diversity of the state residents. And I know you've given a leg up to a lot of people when you had the opportunity to do that. And I just wondered if you had any views.

Harry Low: Well, I think that that's certainly a desired goal. I think that there are . . . California has 50 percent minority population, and the judiciary should reflect to some degree that makeup of our communities at every level. And I think that the First District now sits right in the heart of a huge Asian and Hispanic population, and I think that there are just no Asians on the current Court of Appeal. I think that in the First District . . . And I think that that's a deficiency that should be addressed by the Governor and certainly by the Court of Appeal. Not that the

Court of Appeal deals a lot with the type of trial public process that invites a lot of minorities in there, but it certainly deals with minority issues; and I think that to have more diversity is very, very important.

William Stein: It was interesting to me, because I have known you for a very long time. I remember in 1988, when you wrote that concurring opinion in the *Peat, Marwick* about the use of the term "the Chinese wall." Until I read that, I had never realized that that could be, that it was being, interpreted as a derogatory matter—until I read that thing. I said, "Oh, my god, it's so clear after reading your concurring opinion." I think that is part of the problem with the lack of diversity. People go on saying and doing things they don't even realize are offensive or demeaning.

Harry Low: Yeah, right.

William Stein: I have a concern, though. And you have two sons who are attorneys, partners in major firms, have done very successfully. I'm just concerned about . . . you mentioned the retirement system here. I mean, that used to be one of the big draws. The current retirement system, which I'm fortunately not a member of, is not a big draw. I mean, it is . . . I don't know how familiar you are with it. You're out there hopefully recruiting people because you know everybody. And is there a resistance to coming, to join?

Harry Low: I think it is; there are barriers. And I think that the financial incentives are somewhat below private practice, and to entice good, top-notch people who will go through the ranks of the trial in the appellate process are diminishing because the financial incentives are just not there. And I think that all or most people who take on a job don't really look at the pension till they get a little older. The financial rewards of being a trial judge are somewhat limiting. And particularly if they have young families and if they have two or three kids that are going on to private schools or going to college, it's very, very much of a barrier—and that has to be addressed. And I think that it's an issue that's national, of course, and even the federal courts are having great difficulty in keeping good people on the court.

Then I think that there probably has to be a more concentrated recruitment process to encourage young Asian lawyers to go into public service and develop an interest in the judiciary and find that there are a lot of rewards in being . . . And people kind of live within their financial boundaries anyway, and it works out very well.

William Stein: As you and I have learned. Well, it seemed to me back when I was young and there were . . . Well, you mentioned Byron Arnold. Byron Arnold was a friend of our family and one of the influences that gave me a lead where I went. But it seemed to me in those days it would be people out of successful private

practices who perhaps hadn't put enough away for a good retirement that were interested in coming over and taking a pay cut; then they came at a senior time in their career. But they weren't appointed as young as you and I were in those days; they served and then retired on . . . And Walter Carpeneti, he was appointed fairly young.

Harry Low: Yeah.

William Stein: But anyway, the other thing: you were the president, you served as a president of the California Judges Association in the late 1970s, and in those days . . . I want to talk a little bit, if you want to, about the changing in the Code of Judicial Ethics and the view of judicial ethics in your career here. That time, the California Judges Association basically wrote and promulgated the Code of Judicial Conduct, but the commission . . . Now after the amendment to the Constitution, the Supreme Court now promulgates what they call the Canons of Judicial Ethics. It seems to me it's gone from a few "Thou shalt not" type rules to almost a manual now. We just had a three-day course, a mandatory course, of 12 hours in code. I remember dealing with it back in the 1970s when I was a prosecutor for the commission, and it was much simpler in those days. Now we seem to have gone from actual prejudice or bias to conduct that might leave the impression of—

[Audio Gap – 00:58:36 – 00:58:50]

William Stein: We were talking about the ethics, changing views of judicial ethics. I don't know for sure that—

Harry Low: I do. I think that . . . And I've kind of lived through it, because from the mid-1960s when I first went on the bench, judges were far more loose in handling questions of judicial ethics and kind of engaged in a fair amount of outside activities and it wasn't particularly scrutinized or closely monitored. And I've kind of watched this changing atmosphere of greater and greater scrutiny; and I think it's good, overall it's good. I think that judges are held to a very high standard, and that standard has to be enforced. During my period of time while I was on, the California Judges Association wrote the opinions about rules, and some kind of favored the judges. But I think that now it's handled more independently, and it's a good thing. I think that the judiciary has benefited from this and more intense scrutiny.

I do think that there is an area of drawback, and that is I do think that you need to balance. The judge who remains fairly active in the community—and I think that that's a good thing for the judge to be active in the community, to be a participant, to learn from the community, to sit with police officers one day, gang members another day, or to mix with the diversity of the community, to mix with the economic levels within the community—I think that that's greatly discouraged or

scrutinized nowadays so that the judges are very, very fearful of participating in many kinds of community-type activities.

And I think that that's a balancing factor; but it's also, I think, a negative. I think that when we remove judges more and more, particularly trial judges—I don't know how you could really make a distinction between trial and appellate judges—but I think that it's good for trial judges to be involved in the community to see the various issues that members of the community face on a daily basis. I think that judges can become very isolated if they don't participate. And the canons, I think, discourage that to some degree, and I think that that should be corrected.

William Stein: It's interesting. I'm sure you have the same experience, that people like to meet a judge.

Harry Low: Right.

William Stein: And the first thing they always want to talk about is their experience on jury duty. Nobody wants to serve on jury duty and nobody ever forgets that they always . . . But it is, I think, a reinforcing experience for the people as well as the judge.

Harry Low: Right. The jury experience, their personal experience in some kind of a small case, or their involvement with the traffic court and so forth. I think that it's very helpful for members of the bench to hear those from the people and to be part of the community process.

William Stein: As you say, you were actually appointed to the bench fairly young, had a young family—raised, well, pretty much while you were a judge. How did that affect the family life and all?

Harry Low: I was appointed around in 1966, so my family was fairly young in those days; three kids. My older son was a teenager, a young teenager at that period of time. That was during the height of the Haight-Ashbury development and the demands on young people to try to fit in and try not to fit in. It was pretty hard on the kids, but they managed. They all went to public schools, and public schools were still quite good in San Francisco. And they went to the public universities and two of them went on to Hastings. So it worked out all right. But I think that the demands now on young families are far more intense, and I think that private schools are taking more and more of a big bite out of the family budgets. And we didn't have to deal with that, fortunately, because the public schools were still fairly good. But overall we all managed and enjoyed a pretty good middle-class life.

William Stein: I think your . . . was it your youngest son the other day quoted as saying that the description of your compass was the sense of purpose in life? And I think that's probably the best way to sum

that up. Any words of advice you'd like to pass on about . . . we talked about the impact of the career on your family life and social activities. How about any rewards or advantages?

Harry Low: Well, I think that just about every phase of my judicial career I really enjoyed. I enjoyed the municipal court; I really found that a fascinating experience. And the kinds of social issues that we dealt with from the mid-1960s, we had kind of a front-row seat seeing the changing things that were going on in San Francisco and in the world. Experience was . . . while I was a municipal court judge.

Then on the superior court I took on just about every role; and even the juvenile court, I took that on at that sort of the tail end of my judicial career on superior court. I thoroughly enjoyed that role and experienced a great deal of extrajudicial-type activities like the California Judges Association and even took on a role at the Board of Visitors at West Point. And when they had a Women at West Point program going on and there was kind of a minority recruitment effort going on then, and I chaired the Board of Visitors in the late 1970s, early 1980s. And so it was . . . I've had that experience.

And then on the appellate court, I really enjoyed working with my colleagues there. And it was a fun time. And I'm still having a fairly good time doing what I'm doing; and I think that that's sort of my key, was that I enjoyed the various roles that I've had.

William Stein: Then you made the exodus with us from this building after the earthquake of 1989. So I think, as I recall, you were actually in the building?

Harry Low: I was. Yeah.

William Stein: We had to shut down here and go to Marathon for . . . well, you retired from Marathon. You didn't move back here?

Harry Low: No, no. I didn't move back here. Yeah, in fact, in the 1989 earthquake, I was leaving the building and I was in the basement of this building. And I remember going to my car just about 5:00 and the whole building was shaking and the pillars were moving back and forth that were holding up the building and the sewer lines; the big, old sewer lines that ran through the basement were bouncing up and down. I thought, gee, I don't want to be drowned in sewage. *[laughing]* It was a very interesting experience, because this was a pretty old building and this was a rather vulnerable building.

William Stein: It really was, and we were out of here for about 10 years while they got it rebuilt.

Harry Low: Yeah. It's a beautiful old structure. I remember you and I spent lots and lots of years in this building. I remember we spent 10 years in the Attorney General's Office on the sixth floor of this building. And then I spent some time as a Workers' Comp Appeals Board member, and then I spent a lot of time around City Hall, and then back here in the Court of the Appeal for a period of time. So I have a great fondness for 350 McAllister Street.

William Stein: Anything else you'd like to add, Harry?

Harry Low: No. I think that we've covered a lot of territory, and I was glad to participate and share some thoughts on this Legacy Project.

William Stein: It's been an honor for me; and agreed, a rewarding experience to learn more about my old friend.

Harry Low: Yeah, yeah. Well, we go back a lot of years; and I remember performing your wedding and swearing you in three times. *[laughing]*

William Stein: Each time I was appointed.

Harry Low: Yeah, yeah.

William Stein: There's Justice Low . . . and my wife sends her best.

Harry Low: Okay, thanks, yeah.

William Stein: I know that one of the reasons your children turned out so well is they have a wonderful mother.

Harry Low: Yeah, that's true, and it's been a very long and good marriage.

Duration: 71 minutes
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