Jack Goertzen: All right, Jack E. Goertzen, G-O-E-R-T-Z-E-N, Retired Associate Justice, California Court of Appeal, Division Two, Second Appellate District.

Robert Devich: Robert R. Devich, D-E-V-I-C-H. I'm also a Retired Associate Justice of the California Court of Appeal, Second District, Division One.

David Knight: And I think we're all ready to go. *[Off-camera discussion]*

Robert Devich: All right. Good morning, Jack.

Jack Goertzen: Good morning, Bob.

Robert Devich: My name is Robert R. Devich. I'm a retired Associate Justice from the California Court of Appeal, Second District, Division One, and I'm here today on October the 18th with the Honorable Jack E. Goertzen, who is also a Retired Associate Justice from the California Court of Appeals, Second District, Division Four. Jack and I will be conducting an interview on behalf of the Appellate Court Legacy Project; and this is a project that is seeking to capture and preserve the history of the California Courts of Appeal and their justices from the perspective of the justices. And Justice Goertzen has graciously consented to this interview in order to offer some of his comments and feelings in support of the Legacy program.

And having said that, good morning, Jack.

Jack Goertzen: Good morning.

Robert Devich: As longtime friends, Jack and I, we're going to forget the formalities of "Justice" or any formal titles. We're going to refer to one another just as Jack and Bob. However, I think before we do go into discussing your legal background and judicial background, I think that it should be commented that you and your family have just gone through a terrible period of sorrow and sadness at the loss of your wonderful wife Fro.

Jack Goertzen: Right.

Robert Devich: Within the last month.

Jack Goertzen: Right.

Robert Devich: So I'm just wondering initially, Jack, if there are some comments that you would like to make about Fro and your marriage; I think that would be interesting.

Jack Goertzen: Well, of course we were married for 48 years. She passed away on September 15th, a little over a month ago, and she was married to me during my whole career on the court. We were married in 1959 and I went on the court in 1968, the municipal

court. So she's been there, she was there, throughout my career. So she lived through the highlights, any lowlights that might have occurred, and we did it together. As you know, Bob, you lost your wife a few years back, and so we share that—not such a great experience, and what a terrible loss it is. Yeah, it's a rough go at times.

Robert Devich: Well, I think everybody remembers Fro as a very energetic type of a person and with a good sense of humor. And whenever you saw Jack, you saw Fro; when you saw Fro you saw Jack at all the different functions. And you mentioned something at her service regarding her humor.

Jack Goertzen: Yeah.

Robert Devich: About—why don't you relate that to us?

Jack Goertzen: Well, yeah, I was asked by my kids, they wanted me to say a eulogy. I wasn't sure I could get through such a thing, but it turned out I could, and the last three weeks after she was diagnosed with the cancer she had, she was home and two of the daughters did all the medical provisions for her and kept her in the medication she needed. The rest of the family—I have two other daughters; there are four daughters and a son—they were all here during the last three weeks of her life.

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One night, or one day late afternoon, I was sitting with her and I was reading because I thought she was asleep, and I sort of sensed her eyes were open. And I looked up and she was looking at me, so I said, "Can I get you anything?" She said no. She was very sensitive to noise, so she said, "What's going on?" We were upstairs in this home, and she said, "What's that noise downstairs?" I said, "Well, that's the kids; they're all here." She said, "You mean all five are here?" I said, "Yeah!" "What are they doing?" I said, "Well, they're down there; I think they're making some sandwiches and coffee and stuff."

She said, "That's interesting." I said, "It's very peaceful. They're all very friendly." And I thought I would throw in a little of my weird humor. I said to her, I said, "You know, there hasn't been a shooting or a stabbing yet down there." So she looked out of the window and it was still . . . the sun was . . . she looked at me and she said, "Well, just remember the day ain't over yet." That was the type of thing that she would do. That was only about four days before she passed away.

Robert Devich: Okay, well, I just know on behalf of all of your many, many friends that they really offer their prayers and sorrows for you and your family in regards to Fro.

Jack Goertzen: Thank you very much, Bob.

Robert Devich: Incidentally, you're one of these few native Californians, aren't you?

Jack Goertzen: That's right. I was born in Culver City, at what was then Culver City Hospital, Memorial Hospital; it's now Brotman hospital. Just off of Venice, in Culver City.

Robert Devich: And then what? Somehow you got connected with the beach.

Jack Goertzen: Well, that wasn't until later. My dad was a builder-contractor and at that point in his life he'd buy homes, fix them up, and then sell them for profit, much to my mother's chagrin. They'd no sooner get a place all fixed up and boom, he'd have it sold. But we moved around quite a bit and I went to . . . I did go to one particular junior high school, Louis Pasteur Junior High School, which is out in West Los Angeles; then I went to L.A. High. And they were uninterrupted. By that time he had built an eight-unit apartment and we lived in one of the two-bedroom apartments; I was an only child. We saw it had some stability there. It was about 1941 during the time when he was building it. And he made a purchase of a place down here in Laguna Beach and we came down, we're driving down . . . in fact, December 7, 1941; I was 10 years old. We were driving down the coast and we had a friend with us, a friend of my dad's. I couldn't understand all the hullabaloo they were making over this radio, and it was a Japanese attack at Pearl Harbor. But anyway, he'd bought a home that's south of this place right here, and I think he paid the munificent sum of $14,000 for it.

It was quite a large home, on a double lot, and we lived here for two years at that time, from 1941 to 1943. And he sold it and made a killing; sold it for $21,000. And I kind of wished he'd hung on to it and given it to me, so that I had it today; because the way property is selling here in Laguna, even now with a lull in the market it's still selling for huge amounts of money.

Robert Devich: Well, you went into the service, into the Army, didn't you, Jack?

Jack Goertzen: I went into the service the end of 1953, in the Army. I was stationed in Oklahoma. And the Korean War ended just when I finished basic training, so I ended up not getting sent over and instead spent my time Oklahoma for almost two years—well, about 21 months.

Robert Devich: Then after the Army did you come back and then go to school?

Jack Goertzen: No, I was in law school when I got drafted. I was in the draft board area where the first deferments went to married people, the second deferments went to undergraduate people, and third deferments went to graduate students. Well, I was considered a graduate student. I had a year and a half in law school and we

had a lot of married guys and a lot of undergrads, so they got first deferments, so I ended up in a pool that got drafted. So I did my service and then I came back and completed law school.

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Robert Devich: What was your undergraduate school and what was your law school?

Jack Goertzen: I went to both USC undergrad and law school—'48 to '52 undergrad. And I graduated in 1957, because of the Army interlude, from SC Law School.

Robert Devich: So then what happened after you graduated from law school?

Jack Goertzen: Well, about within a week after—I studied for the bar for three months, as we all had to—and I think it was a week after the bar was over, I got offered a job with the State Attorney General's Office. Bonnie Martin—we were on superior court together, all of us—Bonnie Martin worked for the Attorney General's Office. She pointed out there was a real hiring; there was a market for young lawyers to get jobs then. And so I came down and interviewed and got hired right away, and I was there my entire legal career, until I went on the bench.

Robert Devich: What department were you basically in for the Attorney General's Office?

Jack Goertzen: Well, I did criminal appeals, which was kind of neat; it took me into the appellate court. And the Attorney General would handle the respondents or the State; we would represent the State. The district attorney would prosecute to get a conviction; a defendant would appeal. We would step in for the State on appeal, and of course the appellate counsel, which represent the defendant. I did a lot of those criminal appeals, including a lot of experience in the state Supreme Court in those cases. And then they created a trials and investigations section, which of course everybody wanted to try cases and I got a chance to step in and try a lot of lawsuits and—

Robert Devich: Any one that you can think of that sort of stands out in your mind?

Jack Goertzen: Well, I did try . . . one of the cases I got, I had to step in for the DA's office as a prosecutor because the attorney who had been prosecuting this fellow, there was a reversal, and that attorney had gone into private practice and represented the guy on some aspects of the case. So they felt, the district attorney's office felt, they should recuse themselves, and they called for our office and I was assigned to prosecute this case after the reversal. And I secured a death penalty in the case, tried the case against the deputy public defender named Wilbur Littlefield, who later became the public defender of L.A. County.

And it was a great experience, because he had a wonderful sense of humor and was a really neat fellow.

Robert Devich: A very fine reputation.

Jack Goertzen: Yeah, a very good lawyer.

Jack Goertzen: Then we had a case involving statewide investigation of assessors' offices. There had been some allegations of bribery in San Diego County, Orange County, L.A. County, and so we had a widespread investigation of that. And I was involved in that for about a year and a half. And that was the type of things we handled, and they were really interesting.

Robert Devich: So did that eventually graduate you into the judicial arena somehow, or how did that happen?

Jack Goertzen: Well, graduated in what sense?

Robert Devich: Into the judicial arena.

Jack Goertzen: Yeah, what happened was, through my appellate experience, I got to know many of the appellate justices, a lot of the old-timers that you knew. And one of them was Walter Fourt, who was in your division, Division One. He was a wonderful fellow, and I got to know him and have coffee from time to time. At a given point, Walter Fourt was very close friends with Bill Clark. *[Pause for ringing phone]*

I believe before we got the phone ringing here, we were talking about how I got into the court. Walter Fourt was very close friends with a fellow named Bill Clark, and Bill Clark was Governor Reagan's executive secretary at the time. And Walter Fourt asked me one day, he said, "How would you like to be on the municipal court?" I said, "I've never given it that much thought." I hadn't at that time.

Robert Devich: What year was that, Jack?

Jack Goertzen: That would have been around the end of 1967, early 1968. No, it was the end of 1968. And then he called me up one day and he said he'd talked with Bill Clark and he said, "Put in your application," which I did. And sure enough there were several vacancies in the municipal court; I got appointed in I believe it was September of 1968. And that was really quite nice.

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Robert Devich: How long were you on the municipal court?

Jack E. Goertzen: Two years and about two weeks, because during that time, toward the end of the two-year period, I got a call from Justice Fourt, and he said, "There are some vacancies coming up in the superior court, so be sure you get your application on file and

lively to be considered." And sure enough, I got a call and got elevated to the superior court in 1970, November of '70.

Robert R. Devich: How long were you on the superior court?

Jack E. Goertzen: Till I went on the appellate court, which was April of 1988 and then April of '88 to September of '91.

Robert R. Devich: In what capacity did you serve on the superior court? I think you were—

Jack E. Goertzen: Well, I started out in criminal, as most of the judges did at that time. And I was in Long Beach for a couple of months and I was in the valley for a few months, and then I finally got brought downtown. And I was in that pool and I served on criminal till 1976, when I requested and got a civil assignment. So I moved over to civil and then I was on civil for a number of years, and then I decided to run for the assistant presiding judge of the court. And that would have been '87—let's see, '85—and I got elected to that spot and then two years later I was elected the presiding judge until I was appointed to the Court of Appeal.

Robert R. Devich: Any cases that you can recall from your superior court days that sort of stand out?

Jack E. Goertzen: Well, I did . . . I recall we had a trial involving a fellow named Vaughn Greenwood, who was quite a vicious fellow. He had two sets of trials. I had a series of robbery cases. One of his victims was Burt Reynolds, the actor, who came to court to testify, and that day the court was packed with young ladies from all over. They had all . . . word got out through the court that Burt Reynolds was going to be there. So when I came out on the bench, there were 100 young ladies and Burt Reynolds was sitting there; and I looked out and I said, "Gee, I didn't realize everybody wanted to come see me." *[laughing]* He liked that. But he was a very nice fellow. Then Vaughn Greenwood, he was later convicted of a series of murders that he had committed down in skid row, vicious killings. But I had . . . I guess there's a lot of cases; it's hard sometimes to remember them all, but a number of—

Robert R. Devich: Who appointed you to superior court? Was it—

Jack E. Goertzen: Well, I was appointed by Governor Reagan to the municipal court and elevated by Governor Reagan, and then later when I went to the Court of Appeal, it was Governor Deukmejian.

Robert R. Devich: When you were appointed to the Court of Appeal by Governor Deukmejian, did he call you for your appointment? Did his appointments secretary call you for your appointment?

Jack E. Goertzen: No, he called me.

Robert R. Devich: Did he tell you why he was going to appoint you to the Court of Appeal?

Jack E. Goertzen: Well, he just said he'd heard a lot of nice things about me and was aware of my career on the trial court and he thought that I'd make a good appellate appointment. And I thanked him and that was it.

Robert R. Devich: Any cases . . . who were you appointed with to the Division Four; who did you sit with at that time?

Jack E. Goertzen: Well, I was not appointed with them. I joined the Division. Arleigh Woods was the presiding judge of Division Four and the associate judges who were there before me were Gene McClosky and Ron George, who later went on to become associate justice and then Chief Justice of our State Supreme Court, where he serves today.

Robert R. Devich: Were they the same three with you when you retired?

Jack E. Goertzen: Yeah, they were on that court until I retired. I was retired the same day that Justice George became associate justice to the state Supreme Court.

Robert R. Devich: Do you recall any cases while you were on the Court of Appeal that sort of stood out?

Jack E. Goertzen: Well, I had an interesting tax case, of all things. Tax was never one of my long suits that I was super interested in. It was kind of a boring subject except to somebody that really was into taxes. But I had a wonderful tax case with Paul Newman. It involved his work in a movie called *The Sting*. I believe the state was trying to impose a full 60-day tax, which was his shooting schedule in California. In fact, he only shot about four weeks of that 60 days. We ultimately held, our division—and I wrote the opinion—that he could only be taxed for the time he was actually in California doing the work. It made some . . . it got into the tax books. Here I am, I got some fame as a writer of a tax opinion. But I think I had . . . I'm trying to think; god, it's so many—

Robert R. Devich: Sometimes they sort of run together, the cases; that's why—

Jack E. Goertzen: Yeah, that's exactly right. We had a case with the actor Robert Conrad. I wrote an opinion there where he was . . . again, it was another, ironically, a tax case; but we ruled against him. He wasn't too happy. He actually came to the court and sat in on oral argument, I guess. He had been following the case; he was an appellant. All intendments were against him. The trial court was . . . well, you usually upheld the trial court, most of the time, as you well know. But he was quite unhappy.

Robert R. Devich: Since you sat on the three various courts, which of the three did you enjoy the most?

Jack E. Goertzen: I would say the superior court. I like the idea of working with attorneys face to face. The appellate court was a nice assignment, very pleasant, but you're pretty isolated.

Robert R. Devich: Well, you're a people's person. You're known as a people's person. So I would venture to guess that's where you would—

Jack E. Goertzen: Well, I think that was the feeling. I enjoyed the interaction. You're going to chambers with the lawyers and discuss the case or you make rulings. You're there in court where the battle is going on. When we do appellate work, we're working off a trial record and you've got a couple of—usually got a couple of very brilliant, bookish attorneys doing the appellate work, whereas in trial court you've got the give and take of . . . you made rulings on the spot. In appeals we'd take the case under submission and maybe a month later we would render an opinion. But in the trial court, you had to make your calls, a lot of your calls, right then and there.

Robert R. Devich: Well, from a personal standpoint, I've heard many comments about you were very affable and very pleasant and the attorneys loved to work with you on the superior court; so that probably showed in your feelings towards that court.

Jack E. Goertzen: That was nice. Going back to Justice Fourt, when I got appointed to the municipal court he called me in and he gave me some advice I remembered throughout my career. And I thought it was the sagest thing I had ever heard. He said, "When you go on a court, you've got to take yourself, you've got to take your work, seriously, because what you do affects people's rights, property rights, or in the case of criminal cases it might affect their liberty. So the work is serious work. But don't ever take yourself too seriously." I always remembered that. I've always thought . . . I knew, as I'm sure you did, some very tense, uptight judges that were always on the edge of their seat. That wouldn't be much pleasure. It's better to sit back, enjoy it, make your calls, but you don't have to be so serious that you're tying up your insides and getting uncomfortable, and maybe getting unwell, too.

Robert R. Devich: Sure. Did something interesting happen when you were on the superior court, then you were going to the Court of Appeal, that involved the University of Southern California band?

Jack E. Goertzen: Oh, now that was, what that was, when I was elected to . . . after my two-year stint as assistant PJ of the court, it's pretty automatic that you would be elected then for two years as presiding judge. I had a very good friend that I went to law school with, Irving Feffer, who was a private attorney at the time, and Bill Rutter, who's the author of all the Rutter works

that we all are familiar with in law. They all got together, unbeknownst to me, for the day I was going to be . . . first day on the court after being elected PJ. The calendar was always called by the assistant PJ, so I was back in my office, the PJ office, and I got a call from Skip Byrne, who was the assistant PJ, and he said, "Could you come out here? I've got a problem with one of your cases that you had when you were assistant PJ."

I go out there, and Skip had pulled up a chair, and I'm sitting down there and we're looking at a file; I'm trying to think of what he's talking about. All of a sudden the back door kicked open and about 12 or 14 members of the SC marching band came in and played the SC fight song. Of course it reverberated throughout the . . . as you well know, that court is huge, and the acoustics are phenomenal. I was serenaded by the SC marching band, and it was quite a thrill. It was all engineered by Irv Feffer and Bill Rutter. Of course, Skip was an old UCLA guy. He said, "I don't know what I'm doing out here, listening to this SC serenade." *[laughing]* Yeah, that was quite a kick.

Robert R. Devich: That was well talked about, believe me. When you were on the Court of Appeal, did you have a collegial type of a division?

Jack E. Goertzen: Very much so, very much so. I can remember . . . as you well know, everybody has their ideas about how things should be decided, and you might be at odds philosophically with one of your seatmates, but we always were very affable about everything; and even in dissenting situations there was never any harsh feelings. And I remember particularly one case where I really learned what a neat lady Arleigh Woods was. I knew she was a very neat lady going in, but it was evidenced very much so in a situation where I wrote a dissent to a case. I can't think of the factual situation, but it was a case where I had dissented strongly. Justice Woods had written a majority, so she rewrote her majority opinion to include a pretty good slam at the dissenting judge, me.

So I went in and I said, "Hey, Arleigh, I've got to tell you something. If you're going to put this in the opinion, I'm going to rewrite my dissent and we're going to really have a hullabaloo." She looked up and laughed; she said, "I'll take it out." She said, "It was just a quick reaction." But I mean, that was the nature of our relationship. We all went to lunch after we had sessions, where we discussed the cases coming up. And we would always go to lunch together over at Langer's Delicatessen, which was fairly near the appellate court.

Robert R. Devich: That was Gene McClosky's place.

Jack E. Goertzen: Yeah, he used to kid me, because Gene was a big corned-beef man and I liked turkey with mayonnaise, lettuce, and tomato.

He says, "You don't go to a Jewish delicatessen and order a turkey sandwich, you order corned beef." I drove him nuts.

Robert R. Devich: So you never found any lack of collegiality that affected any of the decisions.

Jack E. Goertzen: I can never remember any of the judges ever getting mad at each other.

Robert R. Devich: That's very important, isn't it?

Jack E. Goertzen: Oh, absolutely. You've got to work together for a long time; nobody knows how long you might sitting on that court. And if you have a hostile feeling that crops up, that could be very uncomfortable. We never did. It was always a pleasure to come to work.

Robert R. Devich: Can you tell us, then, why you retired from the Court of Appeal when you did, and when did you do that, Jack?

Jack E. Goertzen: Well, I was appointed to the bench, I believe I was 36; no, I had just turned 37 when I got appointed. As you well know, Bob, we get a fully vested retirement after 20 years. However, to start drawing your retirement you have to be 60.

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Jack E. Goertzen: So I had a fully vested retirement at the age of 57, but they take about 8 to 8.5 percent of your pay per year for the retirement, and that deduction goes on as long as you're on the bench. So from the time I was 57 to 60, I was still contributing to the retirement even though—you know, 8 percent was a substantial chunk—even though I wouldn't benefit any by it, because my 20 years was up. And when I was 57 my percentage was fixed at 75 percent. So I just decided after I'd reached 60 that, you know, I'd enjoyed it very much but there was some financial consideration to be thought of; and plus, and I will be honest, the market at that time was very lucrative for private judges, either working independently or going with one of the groups like JAMS or Var Fox's group.

Robert Devich: Is that what you did after you retired then?

Jack Goertzen: I did, independently, private judging for . . . Oh, no, first of all when I retired I decided, I had been assistant PJ for two years, PJ for almost a year and three-quarters, and then three and a half, almost four years on the appellate court. I hadn't been in a trial court for a long time. So I called up . . . I can't remember who the PJ was when I retired, but I called and he said, "Why don't you come and join us on an assignment?"

They'd opened a court out in the common—what they called the Commonwealth Building, west of the downtown area, and they

assigned me. I sat on assignment for about six months and tried some cases just to get the feel of it again. It was fun; it's like once you learn to ride a bicycle—you know, you don't really forget it. So it came back quick, and I enjoyed that. So for about six months I sat on assignment; then I did some independent private judging and then I joined JAMS for a while, and then I left JAMS and went back to independent judging.

And finally, I know Jim Kolts, the late Jim Kolts, said, "The shelf life of a retired judge is about 10 or 11 years, and after that you kind of got . . . it starts to drop a little, and you've got to decide whether you want to do some advertising or go around and push yourself." And I decided, I let it just sort of taper off. I do still do a little bit now, but not much.

Robert Devich: Do you have any particular feelings or thoughts about the practice of the law today as it pertains to counsel, the courts, the relationship between counsel and the courts and counsel and counsel? Do you have any feelings?

Jack Goertzen: Well, I think, probably . . . I hear a lot of the old-time lawyers talk, the guys we knew when we were practicing in the trial court. They seem to feel that both attorneys and the judges sort of take themselves a little too seriously. It's not as relaxed as when you and I did the trial work. And that's not necessarily a criticism, because a tense judge is not necessarily a bad judge. It's just I don't think—as I told you earlier—I don't think it'd be enjoyable to be sitting there with a great tenseness in the court all the time. But you can still have wonderful judges, but they seem to lack the relaxed atmosphere we had. And I've heard many . . . when I did the private judging, I'd get some of the attorneys I used to have, and they'd comment on it; they'd say, "We miss some of the old guys and the old days."

Robert Devich: Did you . . . I believe you've received quite a few awards for your judicial career. Can you think of any that—

Jack Goertzen: Well, there was a nice award from the then–L.A. Trial Lawyers Association, called LATLA at that time. It's since become . . . they changed their name to the California Consumers Attorneys Group, and I was Trial Judge of the Year one year for that. That was a very nice award; it's a very prestigious and nice group of guys and gals, fine attorneys.

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The Lawyers Club honored me as a Judge of the Year; I got an award from the Valley Attorneys Association of the San Fernando Valley Group.

So those were the type of things. They're nice to have because they're from your peers. I mean, well, I'm not a lawyer, I'm a judge; they're still your peers, they're your peers, they're your

fellow practitioners, because you're practicing your judging and they're practicing their lawyering together.

Robert Devich: Well, not only were you a lawyer and a judge, but you were also one who was known to possess a great sense of humor and a great storyteller; and I think you served as emcee for many roasts, functions, bar association things, and that you've worked with some interesting comedians throughout your life. Can you tell us something about those, and who may have been the greatest comedian that you ever worked with and something along that line?

Jack Goertzen: Well, yeah, I got into that. One time when I was still on the muni court they were going to do a little roast of Charlie Hughes, who was the presiding judge of the municipal court at the time; he later was on the superior court with us.

So they needed somebody, they wanted to present something special to him. He loved . . . he had a hobby, saved fireman's hats. He had a collection of fireman's hats, pretty extensive, about 25 or 30. So they secured an L.A. firefighters hat and I was to present it to him; they asked me to present it to him. And so I worked up a little comedy, because I'd known Charlie for a long time. And I said, this gives me a chance to thank him. Because when I went on the municipal court I'd been trying some pretty substantial cases; and Charlie was the PJ when I went on and he welcomed me and he said, "You've got a wonderful reputation—a really good trial lawyer, you're trying complex and serious cases." And he said, "I got just the spot for you in the municipal court," which he promptly assigned me to the drunk tank. So I said, "Now I'm going to get back at him." *[laughing]*

But which, incidentally, was a fun assignment. Three months I was assigned in the drunk tank; and it's a good experience, I can honestly say. I think the municipal court was a great place for judges to start, because first of all, you don't come on the court and you're blessed with superior wisdom; you've got to develop a way of handling trials. And if you give some poor drunk 12 days instead of 10 days, it's not the end of the world, whereas if you give him state prison versus a county jail sentence, that can be a substantial difference.

At any rate, I got into that, and from then on there we had a lot of groups. There were . . . we'd have functions, retirements—judicial retirements—and legal functions; and I started doing some emceeing, and it just—

Robert Devich: It didn't seem like it was a great party unless you were the emcee.

Jack Goertzen: Well, it was fun; I enjoyed the work. And I'd had a chance to emcee a dinner for the great test pilot Chuck Yeager, which was

a big thrill. And I worked with Pat Buttram, who was quite a funny guy, and some of the old-time comedians—Milton Berle was there. He was kind of a pain in the neck; I don't mind saying it. He was a pretty ego guy; he didn't want anybody telling jokes if he didn't know what they were going to be telling, because it might be something he wanted to tell, and stuff like that.

But I think the most fun fellow I worked with . . . I did a retirement, an LAPD fellow who'd been an Attorney General investigator after he retired from the PD but was . . . And his son was retiring, Lou McClary. Among the fellow roasters were Bob Newhart, who was just a super fellow to work with and a lot of fun, and he had a great sense of humor. So I was lucky to be exposed to those guys.

Robert Devich: Well, as you look back now on your career, do you feel that your legal and judicial career had any sort of rewarding effect upon you and your family? And on the converse, did it create any hardships for you and your family?

(00:39:52)

Jack Goertzen: No, I think it was a very rewarding thing. I know there's a lot of people who felt judges weren't being paid enough. I never felt too bad about it; I thought the pay was pretty adequate. And I always enjoyed the raises when they came, but the work itself was rewarding. You felt you were doing something for your community; you were serving the people of California as a judge, so—

Robert Devich: Has the attitude of society made a change towards the feeling towards judges and lawyers?

Jack Goertzen: Well, there always has been . . . there was an old joke I remember. It said, the joke said, "You know what they call a busload of lawyers going over a cliff with one empty seat? A tremendous waste of space." And there was a rash of jokes. In fact, in the State Bar at the time, a fellow was speaking out; he said, "We shouldn't have these kinds of jokes." Well, a lot of us felt that's crazy to try; you know, you're not going to get rid of humor, and the best way is to slide with it and accept it. There were a lot of people that feel . . . they were down on attorneys, just like there are a lot of people who get down on doctors when you start reading all the malpractice cases that crop up.

So it's always good to know that there are a lot of attorneys that take their work seriously. And they're not out to drub the public; they're out do them good and serve them well. And I think that's the answer to any hostile feeling. But I mean, you know, anybody that has a bad experience and they feel that the attorney caused it, they're going to be yelling about the lawyers and the judges and—

Robert Devich: Do you think the media has had any effect?

Jack Goertzen: The what?

Robert Devich: The media? Has it affected the—

Jack Goertzen: Well, I suppose the media, they can get on a judge in a case, an attorney, and they're not always accurate in the reporting. They may feel that something was caused by a judge. Those cases where sometimes there's a fellow that commits, it usually involves in the sex crime area or pedophile cases, if the judge gives him too light a sentence, the media really roars, and sometimes maybe with justification. Maybe the judge really didn't think it out, and that he is somewhat remiss; but a lot of times, too, there may be good reason.

So I always thought it's up to the judge, if he's rendering a decision, a sentencing or a decision in a case, that he's deciding the rights of some people, he should spell it out real carefully and clearly so that those people . . . a good reporter will pick it up and have the wording there, and it'll be out there, and the public can understand what he has done.

But some judges will just say, "You go to state prison" or "You go to county jail" and don't talk. They don't say, "Well, you know, this crime is going to give you a break here because you did this, that, and the other thing," or "I'm not giving you a break because of the nature of your offense," that type of thing. So it should be spelled out by the—

Robert Devich: Okay. Looking back at your career again, can you think of any outstanding individuals that you would call heroes that influenced you throughout your legal and judicial career?

Jack Goertzen: You mean people that I . . . well, I always had a great admiration for Malcolm Lucas, who was the Chief Justice prior to Ron George. I have a lot of admiration for Ron George; he's a very bright, intelligent fellow who's running a tough court and running it with, I think, great ability. And the same with Malcolm Lucas; he always had a great judicial temperament, the way he carried himself. He made wonderful appearances in public. These guys, when they go into public and they're good and handle themselves well, that's what the public takes away—that's a judge's judge. And it's doing other judges good to have people like that.

I can't think of . . . I mean, I had a lot of judges, individual people I had a great fondness for, both ladies and gentlemen judges, and not too many of them that . . . I mean, there was obviously judges that weren't all that great at the job, and we all know that, but—

(00:44:58)

Robert Devich: Is there anything that maybe you can add, as far as what your vision is for the future as far as the court system is concerned, that you would maybe like to see happen in the future to enhance the courts?

Jack Goertzen: Well, I would just hope that anybody that goes on the bench would remember the responsibility it carries both in the way they carry out their job . . . As Justice Fourt said to me, "Do it seriously, because what you do affects people and affects their freedom and affects their property rights."

But also be more aware of the public that what you're doing . . . A majority of our cases the public doesn't even follow because they're just . . . we've got a bunch of cases still moving through, a plumber suing another guy for the plumbing job he did and stuff that doesn't make the paper. But do it well. Do it, try to do it to the extent you can make both sides reasonably happy; the loser is always going to feel bad, but I think . . . But as you get in the cases that might get picked up by the press, be aware of that.

And as I said earlier, elucidate when you make rulings, or when you make final rulings especially, and let the public know what your thinking is. And then if they disagree with you, so be it, but you at least let the public know. But if you don't do that and they just feel that you've done the wrong thing, they can go nuts with it because you've said nothing that really defends your position.

Not that you have to defend your position, but you certainly . . . I would say this: I have always felt that if you can't articulate in some fashion the reasons for a decision, then maybe that decision has problems with it. In other words, if it's a good decision you ought to be able to state why. And if you feel like you just don't want to say anything about it then it might look like you're stonewalling or something.

So I just think that in the future the judges should be constantly aware that we are in a media society now. And I think when you and I first started on the court we didn't have too many cases like O. J. and these cases that are, you know, they're just being followed—the *Enron* case and things like that. The press is on cases all over now; they're a real media event. You didn't have programs like *Court TV* in those days. And so it's a media world. So I think you as a lawyer and a judge have to be aware of that and conduct yourself accordingly.

Robert Devich: Well, I can say, Jack, from a personal standpoint, that I know you have the reputation for having conducted yourself in a very highly dignified and honorable way throughout your whole judicial and legal career. And California should be thankful that

they had somebody like you as part of their court system. But I have to ask you one thing before we close, unless there is something else that you want to add after I ask this one question.

I remember that you had an old-time Porsche. Do you still have it?

Jack Goertzen: I do; it's downstairs in the garage right now.

Robert Devich: What year is it?

Jack Goertzen: Nineteen sixty-five, before I went on the bench.

Robert Devich: How tall are you?

Jack Goertzen: Well, I'm about 6'1½" , but I've shrunken since I first went on the bench.

Robert Devich: Because I've been in that car with you, and I always wondered how you ever got in and out of that car.

Jack Goertzen: Well, ironically, the headroom in the German cars was a lot better in those days than the Japanese cars. I know my wife had a Nissan and my head was right up against the ceiling, but in that Porsche my head doesn't hit the ceiling at all. You have to learn how to slide in rear end first and swing your legs in.

Robert Devich: What did you use for air conditioning in that car?

Jack Goertzen: Well, we used to kid around, we called it the 2-80 air conditioning. You've got two wind wings; you open them and drive 80 and that's your air conditioning. *[laughing]*

Robert Devich: Okay, Jack, well, we want to thank you on one hand and then again offer our condolences.

Jack Goertzen: Okay, well, thank you very much.

Robert Devich: So if there's anything more that you—

Jack Goertzen: I would only offer that for highlight cases, I'm sorry I couldn't remember more of the cases; but maybe that's a fact that a lot of the cases were just regular cases, they weren't O. J. cases and they weren't *Enron* cases.

(00:49:55)

But I was involved in two pieces of litigation after I retired as a judge. I was on a panel of three settlement judges for Michael Jackson when he had a problem involving allegations against a young boy. And we settled that case for a substantial amount of money. I worked with at the time Jack Tenner and Bill

Schoettler, and we settled that case and worked with the late Johnnie Cochran, who represented Michael Jackson, who was a delightful person to work with, a very, very fine trial judge—I mean, yeah, excuse me, a very fine trial lawyer. He was outstanding.

And then the other case that I had spent over a year on was a case involving PG&E in alleged toxic exposure to a number of people who lived in a town called Hinkley. And I worked on that case with Jack Tenner and Harry Peetris. And that was a delightful case to work on; it later became famed for Erin Brockovich, the young lady who worked for Ed Masry, who the case started with. The actual trial judges on that were two of the best I ever tried a case with: Tom Girardi and Walter Lack. And then, of course, Julia Roberts played Erin Brockovich, so the fame came from that, not from us. But we had a lot of fun trying that lawsuit, and it was a very complex suit, but it was very enjoyable.

Robert Devich: There were some good names in there.

Jack Goertzen: That was a real highlight. And I did find this—one thing I found as I went through, when I went in and actually left the bench and got into the private judging, I really learned why they call what we do a "practice." Because you do get better at it, you get more confident in what you do, and you feel stronger about things that you do as you go along. It's just the way it is, I guess, and I assume doctors feel that way too. So that's about it.

Robert Devich: There's nothing like experience.

Jack Goertzen: Right, exactly.

Robert Devich: Use it in the right direction.

Jack Goertzen: Exactly.

Robert Devich: Okay, Jack, enjoy it, and god bless you.

Jack Goertzen: All right, thanks a lot, Bob. It was a pleasure.

Duration: 52 minutes
October 18, 2007