David Knight: . . . To get your name and your formal position on tape, so if you could give me your name and spell your last name, please.

Kenneth Andreen: My name is Kenneth Andreen, A-n-d-r-e-e-n. I was formerly an associate justice of the Court of Appeal, Fifth District.

Steven Vartabedian: Good afternoon. It's my pleasure today to be talking with retired Associate Justice Kenneth Andreen, the Court of Appeal, Fifth District. My name is Steve Vartabedian, and I am an associate justice of the same court here in Fresno. As a part of the Centennial of the California Courts of Appeal, the Appellate Court Legacy Project Committee is creating an oral history of our appellate courts and their justices. Ken, thank you so much for chatting with us today.

Kenneth Andreen: It's my pleasure.

Steven Vartabedian: And your career as a judge spans back to the 1950s, including more than 25 years on the bench prior to your retirement in 1985. Yet today you appear to be as active as ever. Let's start out this afternoon with your judicial career, and then we will go back and trace your earlier years, including your education and law practice. We'll then get back up to date with your current endeavors since your retirement, and maybe learn somehow how you continue to maintain such an active schedule.

You were first appointed to a judgeship when appointed to the Fresno Municipal Court by Governor Edmund Pat Brown in 1959. You had been practicing law for about seven years, which wasn't a long time—something like that?

Kenneth Andreen: No, all you needed back in those days was five years, five years in muni. It was 10 if you wanted to go on superior. Now everybody needs 10.

Steven Vartabedian: Now everyone needs 10. Even at seven years . . . and I know that there were a couple of other fairly young judges on the Fresno courts during those days, but quite a few them were gray and a little older in terms of years. I just wonder . . . and with the idea, the overriding image of judges being old and gray, did you sense any speaking going on about who is this new kid on the bench?

Kenneth Andreen: Well, I did get introduced as "our new, young judge." I was 34. Now, I understand the person I'm talking with was 31 when he was first appointed, so I don't claim any record. Although I think 34 may have been the earliest at that time. I was the youngest judge on the bench in the state. I found that by writing out my opinions, I attained some credibility. Just in ordinary opinion, there was a court trial, I wrote out a pretty good opinion, and that way I established myself.

Steven Vartabedian: And certainly over the years that credibility has been further established. But yeah, I know when you start out as a younger judge, sometimes maybe you feel like you need to prove yourself a little bit to the community, the legal community in particular. How did your appointment come about? What was the history behind it? Could you give that?

Kenneth Andreen: I say, in a self-depreciating way, that a judge is a lawyer who knows the Governor. And I did know Pat Brown. And as you know from what you've done, the best time to become a judge is at age 40; but there was this opening when I was 34 and so I took it because I was afraid there would not be something open when I became 40.

Steven Vartabedian: Timing certainly is everything. It may not be exactly with one's own plans, but that certainly is true. Now I understand you went from predominantly a civil practice—and as we know, municipal court was very heavy in terms of the criminal caseload. I know I experienced that myself. Did you also go from primarily a civil practice to the municipal court?

Kenneth Andreen: Yes. I was a civil practitioner. I had a few criminal cases. I was with a firm and our charity was Indians. If an Indian was accused of a crime, we represented that person. I'm talking about American Indians and the Native. So I had some experience, but not very much.

Steven Vartabedian: Did you do anything in particular to adjust? Did you find you needed to brush up on your criminal law, or was it something pretty natural that as the work came through you found yourself able to get up to speed very quickly?

Kenneth Andreen: Well, I don't think it was natural. I would find out what my cases were before. Say I had a preliminary hearing; I'd find out what kind of hearing it was and then I would look up in statutes or in jury instructions what the elements of that crime were.

(00:05:00)

And then I would look to see what the holding order was like. I think it was in 832 of the Penal Code—I've forgotten precisely now. And so I would have those magic words of the holding order, and I would have the elements that had to be proven, and so I felt fairly comfortable very soon.

Steve Vartabedian: So you did your homework. And just knowing you over the years since then, the kind of conscientious person you are, you became very familiar with the work as you approached it, it seems to me.

Kenneth Andreen: Yes, but it was a lot easier back then. We didn't have all these search and seizure rules. Judge Warren hadn't instituted them all.

Steve Vartabedian: That's right. We're talking pre-Miranda when you started in the municipal court.

Kenneth Andreen: That's right, and so things were pretty simple.

Steve Vartabedian: Yes, and that's interesting. I never really thought of that when I think in terms of 1959 and the differences in confessions and searches and seizures, those kinds of issues. Now in 1961, after you had settled in at the municipal court, a new court located itself in downtown Fresno, the very court that I now sit on and you previously sat on. That was a creature that came into being in 1961, the Fifth District Court of Appeal, which was carved out of the Third and Fourth Districts. As a trial judge at the time, did you sense much attention being given to this event, or was it largely an unnoticed change?

Kenneth Andreen: Oh no, we paid attention, and we were very proud that Phil Conley, a superior court judge in Fresno, was appointed presiding justice. And then we didn't know the other two judges. I should be talking about me rather than they. I should say "I" rather than "we." But I didn't know Justice Brown, and I didn't know—my God what's his name now?

Steve Vartabedian: Well, Frederick Stone would be from Tulare County, one of the initial panel; Ralph Brown from, I believe, Stanislaus County, he was a legislator—

Kenneth Andreen: Somewhere north.

Steve Vartabedian: The Brown Act is named after Ralph Brown. Our discussion is a little bit about the history of the court in addition to your biography. You do mention that you did have some familiarity with the initial presiding justice, Philip Conley. Could you tell us a little bit about what you knew about him?

Kenneth Andreen: I respected him more than anybody in the legal business. I'm saying attorneys and judges, professors—I respected him more than anybody else. The beauty of him . . . When he was a trial judge—and I practiced before him before I was appointed judge—I knew when I went down there that he would apply the same law to me as he would anybody else. I felt he was totally neutral. He was very formal, and you better not be late. One time he fined himself for being late. But you learn those rules. This was before 170.6 was available; you just learned the rules of the judge.

Steve Vartabedian: Fining oneself as a judge—that does take a bit of integrity, doesn't it?

Kenneth Andreen: He was a wonderful man and a real scholar. His father was a judge also, in Madera County.

Steve Vartabedian: I didn't know that.

Kenneth Andreen: Yeah.

Steve Vartabedian: It's very interesting. Now, in terms of your service on the municipal court—what did you enjoy the most about the municipal court, which is now no longer in existence, since everything is lumped into the superior court, although that work of course is still done. But what did you enjoy most about it?

Kenneth Andreen: Well, you mentioned the criminal calendar. I had the arraignment calendar for a while. And we used to put people in jail for being drunk, and we would put them in; for three times they had a light sentence and then the fourth time they got 90 days.

And I began to think about this, and I realized that when they got in there and they became acquainted with other persons who were in on the same charge, all they did was pass time until they could get out and go with their newfound friends to find another bottle of wine—and so it was self-defeating. We were not serving the community, and we were certainly not helping them.

So I started what I called a court-order class. I don't take credit for it. Some AA people came to me and they played a tape of a judge from the Midwest—I've forgotten his name now—and he was explaining how he had this court-order class. So I started that. And I got free coffee, and there was a bakery that gave us free doughnuts, and we met every Monday night. And I wrote a letter to everybody who came; whether they were incarcerated or not, they got a letter from me.

(00:10:00)

And we had modest achievements, enough that the lieutenant in the jail became a fan—he would come over. And because some people who were in and in and in got sober. Now, we had a lot of failures too, but these people were accepting of the court-order class. And maybe they weren't accepting of an AA meeting; maybe they were afraid if they went to an AA meeting they'd meet some people they didn't want or something like this. But anyway, I think that's the best thing I did.

Steve Vartabedian: That's truly amazing, because nowadays we read about a lot of these programs—drug court and also various programs like that. So that sounds like it was maybe ahead of its time; but it was certainly a very innovative idea.

Kenneth Andreen: I kept on. We were supposed to change calendars every three months, and I asked the judges if they'd let me stay. And of course they were happy to have me stay, and so I stayed for a

year and three months. But then it failed afterwards; the next judge didn't want to do it.

Steve Vartabedian: Well, that's unfortunate. So we get to 1963 and there is Governor Pat Brown calling you again—this time to name you to the superior court. Which again we've talked about rapid rises; well here again, this comes at a time when you had been admitted to the bar I believe about 11 years?

Kenneth Andreen: It is.

Steve Vartabedian: So you're just beyond the 10 minimum. Is there any one factor that you think most contributed to your quick elevation?

Kenneth Andreen: Well, I had a lot of friends. I was active in the community; I did a lot of charitable work. I believed in being part of the community. I don't think a judge ought to stand off; I think he ought to engage in the community to the extent that he can. So I had a lot of friends and they backed me.

Steve Vartabedian: What were your initial impressions of the differences between municipal court and superior court as you took the bench in superior court?

Kenneth Andreen: When I took the bench in superior court we had seven judges. I was the seventh. There were six until I got there and then there were seven. And it's hard to understand this now, but we had one judge hearing criminal law, one judge hearing juvenile, and five judges in civil.

Steve Vartabedian: Wow!

Kenneth Andreen: Can you imagine that? It was nice. So I got a lot of civil cases and I was totally happy. One year I had criminal and I handled all the arraignments, the pleas, the sentences, and the trials, including jury trials, for a whole year. I think maybe I called on my colleagues for two or three different cases. The rest, I handled the whole calendar. This is how . . . we had less crime in those days.

Steve Vartabedian: I would guess so; I just can't imagine one judge doing all the criminal work of a county this size.

Kenneth Andreen: We didn't have all these procedural issues. We should have the procedural issues now—I'm not griping about those at all; but it was a simpler day.

Steve Vartabedian: This was the day of the one-day jury trial, I suppose. *[laughing]*

Kenneth Andreen: Well, we had a few. *[laughing]*

Steve Vartabedian: A few of those. Now, you've mentioned some of the assignments that there were in superior court. Did you have any particular favorite over the years?

Kenneth Andreen: Civil. I love civil. I like a civil jury trial or a civil court trial if there's something to it, some issues that are interesting.

Steve Vartabedian: I recall a little later you served quite a bit of time on the family law, didn't you, on family law assignment?

Kenneth Andreen: Yes, there was no . . . I said when I got on the bench there were five hearing civil; there was no family law. And all of a sudden I woke up to the fact we would spend between 9:00 and 9:30 or 8:30 and 9:30 on family law and then the rest of the day on civil.

Well, between 8:30 and 9:30 we would decide something like a child custody case; and then we'd sit there for three or four days deciding whether or not a whiplash is worth $5,000 or $7,000. Our priorities were wrong. So I tried to get a court started. And of course you have to volunteer if you want help, if you want help from your other judges in getting it started. I don't mean help in civil.

Steve Vartabedian: Once you have an idea they tell you, you can run with it yourself.

Kenneth Andreen: Yeah, so I did. The fun I had there was, we had no way of working towards conciliation and of course I had to go before the board of supervisors and get money for a conciliation court. This was before there was a statute that provided for such. And so I got the whole community behind me. I got all the ministers behind me and social workers and psychiatrists, and we were able to get it done.

(00:15:15)

Steve Vartabedian: That's amazing. Let's talk a little bit about serving as a trial judge during a jury trial. And I think anyone who's been a trial judge has had the situation where you give long, complex jury instructions to the jurors and you look out, and you just get a bunch of blank stares. And as you well know, the AOC has implemented some what are called plain-English jury instructions. But I understand you had some of your own plain-English jury instructions a number of years ago—and in fact that you sometimes used charts, I believe, to illustrate instructions to jurors. Could you tell us a little bit about that?

Kenneth Andreen: I started out a jury trial before the opening statements, even, by giving the jurors the verdict form. So they knew what their job was. And then I would also give them, if I could find one, instruction that kind of summarized the elements of the case; I gave them that and we went over that a little bit.

Then we had the opening statements and of course the trial and then the arguments; and then I would go over very often to a board and I would write down the elements. And I never got appealed on that issue. I don't think it was ever raised on appeal, because I would say to the jurors, "I'm going to be as accurate as I can, but if I say something while I'm doing this, if it seems different from what I say in the written instructions, please be guided by the written instructions." And I think I was accurate, but I put it in words that they could understand.

Steve Vartabedian: Did you have any particular jury trials that were particularly memorable that you recall; if not jury trials, other experiences in superior court?

Kenneth Andreen: That was a quarter of a century ago. There was some kind of a taxpayer suit against the board of supervisors for tearing down the old courthouse, and I had that. There was nothing I could do. It was obviously within the board's power and there was no statute that said they couldn't do it, and so I had to turn it down; but then I did have the fun of representing the court on the building of the new courthouse.

Steve Vartabedian: Yes. During your time on the superior court did you face any contested elections?

Kenneth Andreen: Yes. I can't tell you now whether it was 1970 or 1976. A gentleman attacked me because he thought I was soft on crime, and the ex-DA, the retired district attorney, was his campaign chairman. So I had a fight and was able to squeak through.

Steve Vartabedian: Was there a point in your time on the superior court where you started hearing about the possibility that you would be appointed to the Court of Appeal? Or was there some time when you in particular had some interest in seeking that?

Kenneth Andreen: No. I was a Democrat, and the Governor's Office was populated by Republicans. And then Jerry Brown came along, and of course he was a Democrat, and so I got him after he became judge. But during that other time I was happily a trial court judge. I could still be a trial court judge and be totally happy.

Steve Vartabedian: And in fact you're serving on assignment; you're doing much of that work.

Kenneth Andreen: That's right.

Steve Vartabedian: So again it was a time when the next Governor Brown came along, Jerry Brown, that you were appointed to the Court of Appeal. How did you learn about your appointment? Maybe you don't remember; maybe that's not a fair question.

Kenneth Andreen: Yeah, I do. Tony Kline called me. We were vacationing over in Monterey and he called me over there; it was very good news.

Steve Vartabedian: I bet that was good news—during the course of a vacation and you hear about that. So you took your place on the court in 1980 and at that time you were filling the new sixth position on the court. And if I have it right you joined Presiding Justice George Brown, Associate Justices Don Franson, George Hopper, George Zenovich, and Pauline Hanson, is that correct?

(00:19:56)

Kenneth Andreen: That is correct.

Steve Vartabedian: Tell us about the relationship you had with this group, as you rotated between two sitting panels—four sitting in panels of three. You would be sitting with these fellow justices on the court.

Kenneth Andreen: We got along famously. George Brown was one of the kindest, one of the most intelligent men I've ever worked with. He was totally respectful of other people's positions, even if they were a janitor. He knew the names of the janitors. The secretaries had offices with doors that were often open. Before he would enter a secretary's office he would knock on the doorjamb and get permission. That's the kind of personality he had. And the conferences were fun because we could disagree and often did, but there was no animosity. I really can't remember any animosity. I had fun with Hopper because he felt pretty strongly on submissions and so did I.

Steve Vartabedian: He was really feisty, legendary for his feistiness.

Kenneth Andreen: Yeah, he was. And I remember one case where he wrote the opinion, I wrote a dissent, and then he wrote a footnote in his opinion to answer my dissent, and then I changed my dissent to answer that footnote. And it went back and forth and finally Judge Hopper said, "Are you going to keep changing this?" I said, "Yeah, as long as you do."

Steve Vartabedian: And wonder where that's going to end, huh?

Kenneth Andreen: But we kind of kidded about it.

Steve Vartabedian: That's a good relationship to have, to be able to separate your work and your disagreement with work and still be able to get along with people; that's important.

Kenneth Andreen: There's a difference between those two men. Judge Brown was more conservative. He told me one time . . . he always ate lunch in the cafeteria. He told me he didn't ever want to go out because he was afraid he wouldn't come back. Hopper went out every day, and he would mix with the other lawyers and lower

court judges and he would bring back fresh ideas. And so they both gave a lot to the court.

Steve Vartabedian: That's so true. And I used to remember as a young lawyer I would see Hopper walking out on the streets. He would walk everywhere; that was amazing.

Within the next few years, with new justices filling the vacancies due to a death and the retirement and a continued growth of the court, there was the addition of two more new positions as well that brought on Justices Wickson Woolpert, Charles Hamlin, Robert Martin, and Hollis Best. So this was a time of rapid growth of this court and change of personnel with those additions. Are there any recollections you wish to share, especially concerning you and those that have passed away that I might have mentioned?

Kenneth Andreen: Well, I think I'd like to say something about Pauline Hanson. She was our only woman on the court, and at first I did not see the value of having that. I didn't disagree with it, but I didn't see the value. But yet I would sit through conferences with her. She brought first of all a background from agriculture; she was born and raised on a farm. But she brought a woman's perspective and she never asked for any favors because she was a woman. She never said anything to us about any discrimination that she thought she had, and there might have been—well, I can think of one.

When she retired of course she was asked to give a little talk, and she mentioned the fact that Justice Franson, who had seniority on her, and Justice Brown both started meetings with "Gentlemen." And you know, she never said a word, and the funny part is I didn't hear that. I would sit in those meetings and I would not hear the word "Gentlemen"; it was just like "People.'"

Steve Vartabedian: You wouldn't even think about it.

Kenneth Andreen: No. But the point is we had . . . That was an early day. And now I don't suppose any judge would say anywhere where there are women at the counsel table or women in the conference starting out "Gentlemen." I mean, we're more attuned.

Steve Vartabedian: I was reading some clippings from an old *Daily Journal* profile; this is from 1982. An appellate lawyer commented on you that it was fairly obvious that you find writing easy. Do you particularly enjoy the writing aspect? Or did you, from the time that you were on the appellate court, did you particularly enjoy the writing aspect of the job?

(00:24:59)

Kenneth Andreen: Yes, I like to write. I would write all my own opinions. I don't mean that I wouldn't take the researcher's words; sometimes I'd take a whole paragraph or several paragraphs. But basically I wrote the opinions. I like to write short statements and facts. I don't know why put in all these facts that aren't necessary; they don't have anything to do with the outcome. And I enjoyed writing. I still do.

Steve Vartabedian: Are there any particular opinions that you recall as particular favorites of yours?

Kenneth Andreen: Well, I had the most fun with one, Soldano against Daniels, which is I think in 341 Cal.App.3d. There were two bars in Morro Bay, catty-corner from each other, and there was an altercation in one bar and one person was threatening another to kill him. So the potential victim's friend ran across the catty-corner to the other bar, and he asked to use the telephone. And the bartender said no. He said "Well, would you please call the cops? This man, I'm afraid he's going to be hurt or killed." And bartender said no.

So on a motion for summary judgment that case was knocked out. It was the second cause of action in a complaint against several. And then the victim's family of course had a lawyer, and the lawyer just basically said, hey, this isn't right, but he didn't give me any cases or anything.

I think I did more work on that case than any other, and even my secretary Linda Cotta helped. We cited everything we could to show the importance of laymen helping the courts and the police to stamp out crime. And so she pointed out that there's a statute that says that if somebody is on a party line and asks to use the line for an emergency it's a misdemeanor if you don't get off the line so that that can be done.

So that gives you an idea of the intensity that we worked on that case. We cited extensively. I say "we" because my researcher really worked too. We enjoyed this challenge. We cited the restatement a lot, and it came back to me just very recently from a Court of Appeal justice. And I'll think of his name in a moment—that it was back east somewhere with . . . The American Law Institute was doing a new restatement; I guess it would be restatement third of torts.

Norman Epstein is the judge, and he said that they were going to change sections around 320, 325, or somewhere in there. They were going to change those sections; but based on my case they're going to keep them the same because I've shown that you can expand the common law. You see, the rule was that you could be an athlete swimmer on the side of a pool and you could have a child drowning and the athlete swimmer doesn't—unless there's a relationship or the athlete swimmer has contributed to the child being there—he has no duty to

jump in. And so there was no duty there. And the common law expands by judges. It was started by judges, and it's kept up to date by judges. And so I had the fun of doing that.

Steve Vartabedian: That's really interesting that you speak about that, because here that's a case that—it's a 1983 case, I believe, and here we are 23 years later and it's still something important to the ALI people in looking at the restatement. And we have this whole thing with the Good Samaritan laws and to what extent one does not necessarily have to volunteer to extend oneself in a situation.

But I think the theory that you wrote that case on almost was a matter of "Don't interfere with other people who are trying to do." The example that you gave—talking with your legal assistant about a person not willing to give the line up to someone else trying to use the line, that this was a public establishment and when there's an emergency situation you should allow that other party to come to the aid of someone in peril—I think that really was a very thoughtful extension of the law. That's very interesting.

(00:30:04)

Kenneth Andreen: Thank you.

Steve Vartabedian: How would you describe your judicial philosophy?

Kenneth Andreen: Whether or not a person is an activist is kind of problematic. Scalia says that the word means nothing because it depends upon the issue. I think that maybe I was an activist in modifying the common law in that one case, but I don't think I've ever been activist in knocking down a statute. In fact, most of those cases went up to Sacramento, the Third District; and the United States Supreme Court, they had Chief Justice Marshall, they had the New Deal judges, Warren, Rehnquist. And you could say that all of them were activists, but basically they were doing their job.

The one case that I think maybe you could say activism is *Roe v. Wade*. They found a right of privacy there in the United States Constitution and that was, you can say, activist. But we don't have that problem—it's right in our Constitution, the right of privacy.

I will admit that my researchers, a couple of them have said you have a sense of justice. And I guess if I saw an injustice I would struggle with it. But I'd like to think that I followed the law of higher courts, and I didn't argue with the law of other Courts of Appeal very often.

I can't remember as I sit here now. Yeah, I do remember one. I can't remember the details, but usually we would accommodate

what they had found unless it was clearly wrong. So I don't think I'm activist, but I do have a sense of justice.

Steve Vartabedian: You've spoken here a little bit about your researchers and other staff that have helped in the preparation of cases. A current attorney with our court who started her career working with you as a research attorney advises that when she started she was very concerned, almost to the point of being discouraged, by the extensive comments you would write on memos that she would prepare for you. But now, years later, she tells me she is very grateful that you paid so much attention to detail because that truly improved her as a writer. Do you have any thoughts about that?

Kenneth Andreen: I'm glad she's happy about it. *[laughing]* Yeah, if you have a person who's working with you and you can improve their work that's good. When I was in law school, I had a job with Pan American World Airways. I was in their legal department. I worked 20 hours a week, and I had that kind of training. I had two bosses, both of them sharp, and what I said had to be in the King's English and well reasoned; and so it was great training. *[laughing]*

Steve Vartabedian: You would truly learn. And at the time it may seem that those rigors are, gee, that's an awful lot that I have to do. It certainly pays off later on; it certainly does. In fact, that attorney that I talked about still is very productive with our court more than 20 years later, and I think that in itself is indicative of our court having an obvious preference for having career attorneys as opposed to one-year or two-year clerkships. What are your thoughts about the two different types of attorneys that one has working for them as justices?

Kenneth Andreen: Well, I think if you have a career attorney, the attorney understands the standard of review; a prejudicial error and how that's applied; how the judge wants the facts and how the judge wants citations—do you put in a whole lot or a little bit.

So the career attorney can bring that, and they become very expert at writing and they're a real help. And that permits the appellate judge to have them write tentative opinions. On the other hand—and it's not all black and white—on the other hand the short-term person, he or she brings in new ideas he just got, or she just got out, of law school. They've been talking to professors; they've got energy, new ideas. And they write legal memorandums.

(00:35:04)

They don't write staff opinions or draft opinions. They write memorandums, legal memorandums. And so you can have either one and benefit from either; hopefully you'll have both.

Steve Vartabedian: What did you miss the most when it came time that you retired from the bench? What did you miss most about the job itself?

Kenneth Andreen: I miss being down here—the camaraderie that was here, the fact that we get up in the morning and get down to work. I miss the discipline and the friendship. I enjoyed working with lawyers. And so having the days when the lawyers came in and they argued their cases, I loved that, and so I missed all that.

Steve Vartabedian: Okay. So far I've taken this up to about 1985. Now we're going to take a little reverse and go back to your earlier years to find out a little bit about the background that brought you to this career. And as I understand it, you were born in Sacramento in 1924, and that you grew up in Chico. You've told me that your father was raised as an orphan. How did that affect your upbringing, if it did affect your upbringing? Do you think it did?

Kenneth Andreen: I don't know how it did. And I heard this story from my mother, not my father. But my father was orphaned at either two or three years of age and he was in an orphanage in San Francisco. Christmas was coming, and each person there hung up a stocking. And they got up the next morning and these kids didn't even have an apple in the stocking. It was a tough situation. So I think maybe he was sympathetic with other people's plight, and certainly with my plight as a kid who was trying to grow up.

Steve Vartabedian: Were there any particular persons or experiences that greatly impacted your growing years? Maybe teachers or other people that—?

Kenneth Andreen: No, I look right in my family. I had super parents. One got to the eighth grade, one got to the ninth grade, but they were very intelligent. They were innovative. My father right through the Depression provided for us very well. And they were great people to look at. And the three of us—there were three boys, no girls—we knew we were going to go to college. Now see, these eighth and ninth grade people, they didn't get to go, but they let us know that that was a real privilege.

Steve Vartabedian: Isn't that something, that they impressed that upon you in spite of their lack of that education? And maybe it was in part because of their lack of education?

Kenneth Andreen: It might have been.

Steve Vartabedian: They wanted you to get that.

Kenneth Andreen: Yeah. And my other advisor was my older brother; he was four years older than I and quite concerned and careful and solicitous. And so I had this great family. I was lucky to have a good upbringing.

Steve Vartabedian: Like many of your era, your education was interrupted by World War II when you served stateside, a U.S. Naval reserve. But while this interrupted your education, was there any ultimate benefit of this to your education?

Kenneth Andreen: Oh, yeah, the GI Bill of Rights. I had one semester before World War II and then I was in the Navy. And then afterwards I went to UC Berkeley and was able to get help with the GI Bill. Now, it wasn't a lot of help. I was married then, and my wife went to college too, and we would cook a can of Spam. First we would dice it and put brown sugar and stuff and bake it, and that Spam would last three days. And then we'd get another can of Spam and do the same thing, and then my parents had us over for Sunday dinner. *[laughing]* We got some decent food, and then we went back to Spam again. I haven't had Spam since I graduated from college. *[laughing]* But it sure took us through.

Steve Vartabedian: Isn't that amazing?

Kenneth Andreen: Yeah.

Steve Vartabedian: What we can get by on in those times. That's a tremendous story. So as you've indicated, you did go on to attend UC Berkeley after spending part of your educational time at Chico State.

(00:39:58)

And then moved on to obtain your law degree at Hastings, where you were Order of the Coif. Looking back at college and your law school experiences, were any particular activities that you engaged in during those times that had an impact on you?

Kenneth Andreen: Just the work at Pan American Airways.

Steve Vartabedian: Okay.

Kenneth Andreen: But I enjoyed the professors. At Hastings we had the 65-year club; and they were qualified, and so you could learn a lot from them. And I've got to admit that we didn't spend a lot of time in college. You could get into Hastings then with 60 units, and of course you get through college in three years. So I've only had five years of college.

Steve Vartabedian: I never really thought about that.

Kenneth Andreen: Yeah. And I would have liked to have had more, but you're married and you spent some time in the service and it's time to get on—and so we took advantage of it.

Steve Vartabedian: After being admitted to the bar of the State of California in 1952, you landed with a small firm in Fresno. Tell us how that

happened. Someone coming from your background in Chico and then being in the Bay Area during the law school, how did you end up in Fresno with this firm?

Kenneth Andreen: I traveled the state. As you say, I was Order of the Coif, and so I had something to offer; and I had the experience at Pan American Airways. So I had a lot of offers, but there was one firm here in town where the personality of the participants, they both . . . the Peckinpahs—one became a superior court judge of Madera and one here. They were wonderful people. And I came to Fresno not because of anything other than I liked the personality of these two people. And it sure wasn't a mistake. It was a wonderful place to be.

Steve Vartabedian: In fact, I think the son of the person you worked for—was it David Peckinpah?

Kenneth Andreen: Dave and Denver. Denver was a—

Steve Vartabedian: And Sam was a movie director, is that correct? In Hollywood.

Kenneth Andreen: Yes, yes. Yeah, yeah.

Steve Vartabedian: And was quite renowned too, to speak of.

Kenneth Andreen: Right.

Steve Vartabedian: So by 1956, after you had worked in the Peckinpah firm, you went out and set up your own law practice with the county's Central Labor Council as one of your first clients. But I understand you did do work on both the management and the labor side, and that you also developed quite a work comp practice. What kind of cases did you most enjoy?

Kenneth Andreen: Perhaps I said something wrong someplace along the line. When I worked for the Central Labor Council I was in the Peckinpah firm.

Steve Vartabedian: Oh, you were still in the Peckinpah firm.

Kenneth Andreen: And when I went out, I just happened to be in the second floor of the Crocker Anglo Bank Building. And there were some labor unions there and I knew the business agents because of my community activities. And one of them brought me a problem, and I had it solved in four days—and they were used to maybe a year.

So pretty soon I had most of the unions and the business agents, whenever they had a problem they came to me. But also when they had a member with a problem, a worker's comp problem or a personal injury problem, they would bring him in or her in and ask that I help them.

And I never had any one of them ask for any special favor because they gave me all this business. I soon had more workers' comp than anybody else in the San Joaquin Valley, according to the referees that were there. And I had a wonderful personal injury practice.

Steve Vartabedian: And all this kind of developed by word of mouth. You had a lot of these clients in labor from your own practice.

Kenneth Andreen: Yeah.

Steve Vartabedian: And—

Kenneth Andreen: And they had members and they brought the members in and they asked for nothing back.

Steve Vartabedian: That's an amazing way to develop a law practice.

Kenneth Andreen: Yeah.

Steve Vartabedian: Looking back at that law practice, what do you think in your practice best prepared you to become a judge?

Kenneth Andreen: I think losing cases and winning cases. You know, you understand that there two sides of a case. I think that's basically it.

Steve Vartabedian: Understanding the adversary system.

Kenneth Andreen: Yes, and then of course you would watch judges work, and if you saw one that wasn't completely efficient or maybe open-minded, you would keep that in mind and try to be different.

Steve Vartabedian: I completely understand it, because I can think of judges I went before that I try to model myself after—those that I thought did a particularly good job. And you were one of them.

Kenneth Andreen: Thank you.

(00:44:58)

Steve Vartabedian: So I think certainly other judges can serve as role models as we practice law; and some of us eventually become judges ourselves.

Kenneth Andreen: Yeah.

Steve Vartabedian: Now, we've gone all the way through your time on the bench up to 1985; and so let's go now back from the time after your judicial career that you retired in 1985. And I understand you were a partner in the firm of Blumberg, Kerkorian, Andreen, Seng & Ikeda until 1990 and then later associated with the firm

of Lozano Smith. During this period of time what was the nature of your practice like?

Kenneth Andreen: Well, with the first firm all of a sudden I had status when I got off the court. I probably wasn't near the attorney I was before I got on the court, but I had some pretty good clients—you know, big banks, including the Bank of America and Wells Fargo; and big cases, lender liability cases, not little slip and fall in a bank. And so I basically had that. And then when I went over to Lozano, they represented a lot of school districts and governmental agencies, and so I had the fun of doing that too.

Steve Vartabedian: Okay, so you've had little different types of practices at those two different law firms that you were with.

Kenneth Andreen: Yeah. I did the bank work also in the second.

Steve Vartabedian: Okay, with Lozano you continued with some of that.

Kenneth Andreen: Yeah, but I could remember representing the State of California in a real nice case—nice meaning hotly fought, with plenty of facts and a lot of law. *[laughing]* It was fun.

Steve Vartabedian: Going back to the practice of law at this point in time in the late 1980s, how had the practice of law changed since the 1950s when you had previously practiced?

Kenneth Andreen: There were a lot of changes. I think the biggest change in the civil practice is discovery. About 20 years ago in 1986 the discovery statute was put in; and until then, I remember we would just basically try the case or try to settle it, but there wasn't a lot of discovery. You couldn't even ask the other side if they knew of any witnesses to the case. I mean, this is how limited the discovery was, and then all of a sudden in 1986 we had this new statute and now discovery is a big deal and you spend a lot of time on discovery and a lot of the client's money.

Steve Vartabedian: You think discovery is better now than it used to be when you just tried the cases on a shoestring, basically?

Kenneth Andreen: Well, I wish there were some kind of compromise between the two, because now the big firms are . . . they're really putting pressure on the small firms, with discovery that's not at all necessary. So that's the big change there.

Also there's a change as to helping pro per litigants. Chief Justice Ron George has really done a difference there. I remember when a judge—I'm not going to mention the judge's name—had a calendar involving divorces, and if a person were pro per the judge would just say "proceed." And here you'd be saying "proceed" to a layman.

Now, you know, we kind of lead them through. We're worried that we're going to miss some assets, because very often both sides are pro per. And it's a terrible responsibility, but we owe that to the litigants. The court should not run for the attorneys; the court should run for the people. And so now what else could . . .

We've already mentioned the changes in the criminal court law. I guess that's about it. Well, another thing in divorces is that it started in 1970. We no longer looked at fault—just whether or not there were irreconcilable differences that are causing a breakdown in the marriage. Before that you tried to prove the other person was worse than you and the judge would actually say 60 percent of the community property goes to one person and 40 percent to the other, or two-thirds and one-third. It sounds ridiculous now, but that's the way it was until that statute came through. And the child custody . . . we didn't have modern views on people.

(00:49:51)

And I can remember judges deciding child custody based upon what some . . . which of the two parties had an extramarital affair after the separation and outside the presence of the children; and that was enough to give the custody of the children to the other side, irrespective of whether that other side was a better parent or warm. And we finally realize that adults do have sexual needs and they're going to meet them, and as long as the kids aren't involved there's no reason to decide a child custody issue on that basis.

Steve Vartabedian: We're talking about family law, and there certainly has been a sea change in the area of family law. And I don't even think about it because I started practicing . . . I was admitted in 1975, and it was all the no-fault dissolution and all these things that you bring up. My, there certainly has been a change for the better—not a lot of time spent in court on items that are totally unnecessary.

Kenneth Andreen: Yeah. And the big change has been we used to have investigators. An investigator would try to find one of the people in bed with somebody else; and now you have accountants and they're trying to determine the value of the business or a pension plan or something like that. So it's entirely different.

Steve Vartabedian: So, let's go on to about 1993. And at this time, as I understand it, that's about the time you made the move from the valley over to the central coast, if I'm correct.

Kenneth Andreen: Yes.

Steve Vartabedian: But before anyone assumes that you were ready to leave the law for a life of pure leisure, you took judicial assignment in San Luis Obispo County Superior Court. Now, tell us a little bit about that period of your time.

Kenneth Andreen: We moved over there basically for a change from the valley. I really enjoyed the valley; the valley treated me very well. But we decided to move over to the coast; and they were short a judge in San Luis Obispo County. And so I have forgotten how long now, but about seven years, I had continuous assignments there. I would get a six-month assignment, and then when that one ran out they would give another six-month assignment. And of course I would take a vacation in that time. But I had my own courtroom, my own staff, and a lot of fun.

It was a trial court judge, superior court. And the attorneys over there are competent, and so I enjoyed it very much. Later, the Legislature created a new judgeship and a judge was appointed by the Governor and then I was out of a job. *[laughing]* So then I started moving around the state taking assignments.

Steve Vartabedian: Presently I understand you're living in the state of Maryland, but coming back to California on your judicial assignments; as you say, you continue with those. How is that working out for you? That's a lot of travel, isn't it?

Kenneth Andreen: Yes it is, but another judge and I who is also retired and from San Luis Obispo County, we share a court in San Bernardino County. We have the same courtroom, the same staff. And he's there two months and then I'm there for two months, and then he's there for two months and then I; and so we trade off. And I don't know whether that will continue. They seem to like us, and if the Chief Justice keeps appointing us, we're ready to do that for a long time.

Steve Vartabedian: It sounds like you have the energy to continue; that's tremendous.

Kenneth Andreen: I do have the energy. I love it.

Steve Vartabedian: Over the years—and I think you just briefly touched upon this, but I think it's important to talk about it a little bit more—that you have been an active volunteer with community organizations. In your earlier years, you served on the Fresno biracial committee and also—

Kenneth Andreen: Can I stop about that?

Steve Vartabedian: Let's stop right there at the biracial committee. Tell us about that.

Kenneth Andreen: The mayor appointed us and at that time—

Steve Vartabedian: About what year was this?

Kenneth Andreen: That was—I can think of it. It was the year that Kennedy was killed.

Steve Vartabedian: So, 1962 or '63?

Kenneth Andreen: Somewhere around there. Yeah, '62 or '63. At that time, in all of downtown Fresno, there was one black who was employed. He was employed in a cigar shop, tobacco shop. Everybody else was white or Hispanic. And we had the opportunity to change that. I called a big meeting. Hugh Goodman, a black lawyer, a very excellent lawyer, was my co-chairman. And I had this group together and we talked about it and some of them agreed that we ought to do something. And so I said okay, then, let's have a meeting next week, just at this time. And some of the people there, these were businesspeople, see: Next week? Next year! *[laughing]*

(00:55:13)

But the ones who were eager, the ones who saw that we ought to be changing this, they said "sure." And so we developed a system where we would interview—we would have the labor department interview—people, and we would make sure that the people were qualified for a particular job. We would get from the employer, well, we want this; so the employer didn't have to go through a lot of people. And we changed the face of downtown Fresno. So I'm kind of proud of that.

Steve Vartabedian: That's something to be very proud of, you know. And there were other areas that I know that you have served more recently: mental health, substance abuse, and neglected children causes. Any of these others that you'd like to talk about or that have made a particular impression upon you?

Kenneth Andreen: No, there were a lot, and I enjoyed it. Some of it I did as a lawyer in court; and especially the mental retardation aspect of it, I did as a lawyer. Some I did as a judge. You have an obligation to your family, and I wanted to be home with my family; but at the same time I did make a lot of meetings and I did a lot of things.

Well, for instance, North Avenue Community Center was . . . they asked for an evaluation and I was appointed the chief of that. We ended up getting a new building. I found an architect who would design the building; I was then a judge. The labor unions would put all this stuff together; they put the bricks there and the electricity and the plumbing. The sheriff's office prepared the bricks. We had that building for residents.

Steve Vartabedian: This North Avenue community, tell us a little bit about that.

Kenneth Andreen: It was just there to help a very impoverished area. And a religious group would send in volunteers and they would do what they could to help with learning disabilities. We actually got buses down there. It was a lot of fun. And so that building I'm talking about is still there, and it's a rather effective building, I think.

Steve Vartabedian: Your wife Patricia, herself a lawyer, likewise has been deeply involved in community activities and public service. Could you tell us a little bit about her?

Kenneth Andreen: She's a wonderful gal. She used to work in this court; she worked for Justice Franson. And she came just to work a year, but Franson had three separate bypass operations and so she stayed for three and a half years because they were getting in new judges all the time to take his place. And that was before I came on the court. When I came on the court, she was living in San Francisco. And we have a child who now is in UCLA. And people asked me, "Well, why do you want to get involved with her—she is younger—and have a child?" But it's been so wonderful. I'm very, very happy.

Steve Vartabedian: It looks to me like it's keeping you young, is what the effect is.

Kenneth Andreen: It might!

Steve Vartabedian: Any comments about any of the rest of your family? I know you have one other daughter; can you tell us a little about her?

Kenneth Andreen: She's on the faculty of Fresno Community College.

Steve Vartabedian: And what does she teach?

Kenneth Andreen: She teaches respiratory therapy; she's the director of clinical teaching of that. And I spent last night at her house. She's a wonderful person.

Steve Vartabedian: I have talked to her; she is a wonderful person. What bit of advice would you give to someone starting out as a lawyer?

Kenneth Andreen: Not to cut corners. If you're going to take a case, do it like you were being paid by the hour and you have lots of money. I think a case worth trying is worth trying well, and I hate to see a lawyer come in and face the reality of not being able to afford a lot of time and then just not putting in that time. I think that the case shows it. Say you're a personal injury attorney on the plaintiff's side. If you get in and do a good job, pretty soon the insurance companies will know that hey, this person is somebody to work on and somebody to respect, and to settle with.

(00:59:56)

And so I think that, as impractical as that sounds, I think that it's a very practical idea. I never had a practice where basically writing contracts and things like that, so I really can't help there.

Steve Vartabedian: Any additional advice that you would give to, say, a new judge? Or would it be the same advice?

Kenneth Andreen: I think it's good if you can put yourself in the position of both sides. That way, you get to know, you get to understand and tolerate, the actions of the lawyers. If you understand where they're coming from, it's easier to understand why they're doing something and to accept it. So I think if you can put yourself in the shoes of both sides and not to be a protagonist for either side, but to understand where they're coming from and what's important to them and how they see the evidence.

Steve Vartabedian: As you sit here today, what would you most like the general community and the legal community to remember about you and your work as a judge?

Kenneth Andreen: Oh, I don't know. I guess that "he tried to be fair." I'd be happy with that.

Steve Vartabedian: Well, Justice Andreen, I want to thank you so much for your time and sharing with us your thoughts, and for your many years of dedicated and conscientious public service. It really has been my privilege to visit with you today.

Kenneth Andreen: Thank you.

Duration: 62 minutes
October 26, 2006