Larry Rubin: Today is July 20, 2016. I am Justice Larry Rubin at Division Eight of the California Court of Appeal, Second Appellate District, and this is our legacy project in oral history of sitting in retired justices of the Court of Appeal. The project was an outgrowth of the 100th anniversary of the Court of Appeal in 2005. This afternoon I have the distinct honor of interviewing one of my colleagues and a mentor, Presiding Justice Norman Epstein who has been on the Court of Appeal for 26 years, and who is currently the Presiding Justice of Division Four of the Second Appellate District. Our videographer, as he has always been, is David Knight. Good afternoon, Norm.

Norman Epstein: Good afternoon.

Larry Rubin: In looking at sort of the basic biographical information, I see you were born in 1933 in Los Angeles. Your product of the L.A. school system, went to UCLA undergraduate and law school, so you are a full-fledged Angelino, correct?

Norman Epstein: I am indeed.

Larry Rubin: Tell me a little bit about your growing up. Talk about your parents and give us some of that information.

Norman Epstein: All right. I'm an only child. My dad was a pharmacist. He had his first drugstore at age 19 at the corner of Third and Hill Street to Downtown, Los Angeles at the foot of Angels Flight. My mother was a talented amateur pianist and always artistic. In her later years, she took up painting and was quite successful at it. She was a member of the Beverly Hills Art League. They would have an annual show and whatnot. If one of the members sold a painting, during a year, it was quite a thing and mom sold out a one-woman show twice, so she was quite good.

Larry Rubin: What was the name of the pharmacy?

Norman Epstein: I don't know. I do know, it was Efferg Drugs. An amalgam of my dad's name and the name of the owner who was (00:02:17) to the drugstore, a man named Ferguson. It was the Ferguson building. And Ferguson, I understand made his money in the Alaska Gold Rush.

Larry Rubin: Your father had several brothers growing up.

Norman Epstein: Yes.

Larry Rubin: What did they do? What did your uncles do?

Norman Epstein: His older brother was an attorney and there were two other brothers. They went to work for the older brother's wife's company, Abel Brown and Company and then went off on their

own. There was one daughter called, "Sissy" from sister, Edith, and she married George Aniston who was an engineer.

Larry Rubin: Your mother, did she have siblings?

Norman Epstein: Yeah. She had twin brothers, Lionel and Jerry. Lionel passed away a number of years ago and Jerry just shorter than that. They were both jewelers at jewelry stores.

Larry Rubin: Where were your folks from? Were they from Los Angeles or were they from elsewhere?

Norman Epstein: My dad was almost from Los Angeles. He was born in Cincinnati but I think they moved out here when I was something like two. My mother was born in Minneapolis and they moved out when she was a young teenager.

Larry Rubin: You mentioned about your mother's musical prowess. If I understand correctly, the Andre Previn family lived near you growing up?

Norman Epstein: Yes. For a number of years, we lived on Croft Avenue in Los Angeles in a duplex and the Previn's lived across the street. Mr. Previn, they had migrated from Germany. Mr. Previn had been a judge and when Hitler got in at 1933, he realized that it was about time to get out which they shortly did. They moved to Paris where they discovered that their son Andre had perfect pitch, so he was receiving music lessons. And then they moved to United States, again, just ahead of time, 1938 or 1939. Mr. Previn's brother was a music director at Columbia Pictures, so I figured that would probably help him. He could give piano lessons. They moved out to Los Angeles. I think he got a few jobs as a result of the brother but not a lot.

But he gave piano lessons to my mother, who as I indicated was quite talented and he gave piano lessons to me. I have no performing talent, whatever, and here is this great man, a musician through and through, Andre, who by that time was recognized prodigy.

00:05:08

Mr. Previn needed the money, and so he had to teach piano lessons as well. And I recall, there was this show (00:05:18) I was trying to play. And then the geographic middle of the first page was a B flat and I always miss that note. Mr. Previn would be sitting on the piano bench next to me and when I miss the note, he's like -- he slams his hand on the piano and yell, "Nine!" Finally, the day came when I got it right and he slammed his hand on the piano and yell, "Yeah!" It was about that time that I think we gave up the piano.

Larry Rubin: And no effort to undertake art either?

Norman Epstein: No. I have no talent in that direction either.

(Crosstalk)

Larry Rubin: You were asthmatic as a child?

Norman Epstein: Yes. I had asthma and I don't know when it was discovered but very early on. My parents were told that the thing to do is to move in some dry area so then we moved to Topanga(ph). My first recollections are from Topanga. Apparently, that was a disaster.

During my very early childhood, we're moving from place to place trying to find some place that would be healthier for me. I eventually outgrew it but it took all the way through the sixth grade or so to do that.

Larry Rubin: Did it affect the activities you were allowed to engage in or did it cause you to move in certain directions?

Norman Epstein: I think it did affect my activity because I think it affected my breathing and my lung capacity or something in the sort. If I exerted myself a lot, I'd start to wheeze. But again, I gradually outgrew it. Eventually, almost forgot it.

I remember I was taking adrenaline, a medicine with adrenaline in it. Occasionally, they would overdose me with adrenaline. I remember I once passed out in elementary school and they called my mother and said, "Norman is unconscious again. You better come and pick him up." So she did.

Larry Rubin: Eventually, you ended at Fairfax High School. Was education important to your family?

Norman Epstein: It was important to the family. It was very clear to me that I was going to go to college and I was going to go UCLA or else. In the seventh grade, I received a list and distinguished a midterm grade and my parents drove out to UCLA around Westwood Boulevard but on the campus property. We parked there and my dad pointed up to Janss Steps towards the Royce Hall and library and said, "You see that? If you don't get the grades to get in here, you're not going to college at all because we're not paying. So you better get with it." And so, I got with it.

Larry Rubin: Do you remember what class that was? Do you remember what class that was?

Norman Epstein: No, I don't. I've managed to purge it from my mind.

Larry Rubin: I understand. Do you do any public speaking in either junior high or high school? Were you involved in that?

Norman Epstein: I was a class speaker at the elementary school and in junior high and the valedictorian in high school and I was in forensics in high school. That was about it.

Larry Rubin: I'm going to go onto UCLA now, but anything else about your experiences through high school that were particularly memorable that you'd want to share?

Norman Epstein: I was fortunate to have a number of really wonderful teachers. One was the sixth grade teacher in elementary school, Mrs. Colemits(ph) and there were a couple junior high and a couple in high school. They made a difference. They were encouraging. They gave me recognition. I really could not have asked for much better. And it comes to mind one of the things, so I think it has been a driver for my life.

I went to UCLA and at the time, UCLA undergraduate and law school was virtually free. There was no tuition. There was an incidental fee, I think it was $77 a semester, $77 a year or something like that at UCLA. And of course, the public schools were public schools and they were free. It's somewhat changed in terms of higher education now. But I am the recipient of what I still regarded as a phenomenal gift.

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The citizens of Los Angeles and then later the citizens of California provided me with an excellent and free education all the way from the first grade through law school. I'll never forget it. I have not forgotten it. My feeling about public service which is what I've done for a career. STEM(ph), think in large part from that recognition.

Larry Rubin: We're going to get into it a little bit later but you were a onetime vice chancellor of the California State University system. Any thoughts with that experience and you're just in your last comment about what it must be like to have the debt that a lot of our students come out of college with, any thoughts on that as a policy matter?

Norman Epstein: I'm sorry I miss the key word.

Larry Rubin: Any thoughts as to whether that's good policy that we now allowed our education to be so expensive?

Norman Epstein: Oh, the debt? Yes. I think it's unfortunate. One of the things I've always had trouble with is the policy of having these students who can afford it to pay more than their fair share as a student so that there's money available for scholarships for people who cannot afford it. I think that the provision of an education is a public matter. If the government cannot afford to fund it adequately then the students who can pay more can

justifiably pay more. But I think in terms of providing financial assistance for those who can, that ought to be a state obligation not the obligation of the students who can afford to pay their own rate.

Larry Rubin: Let's bring us to UCLA now. You graduated in 1955 if I recall correctly and like you were in high school, you were active in student activities at UCLA. Describe some of the things you did other than going to class.

Norman Epstein: Yeah. Well, I helped in public office who elected the student body offices and I was on the student council. That was a very interesting and exciting period. It was fun to do. Then a number of people who have been life-long friends since then and I was active in the National Student Association. I went to their national meeting and things with that sort and was able to take some leadership role in, let's say, California, the number of California schools.

Larry Rubin: One of your close friends you met there was David Yaffee(ph)?

Norman Epstein: At UCLA, yes. As a matter of fact many of my closest friends, even today are the people that I met in my freshmen and sophomore years at UCLA. We've been friends all over the years.

Larry Rubin: Especially with David Yaffee, he has been your bicycling buddy for how many years?

Norman Epstein: Probably 30. But yes, we still bicycle. Dave lives in Westwood and he would bicycle over to my place, I live in Mar Vista. And we bike over the Hill and have breakfast in the valley and then we bike back.

And then we cut that back a bit and we bike up to (00:13:28). There's a restaurant up there and bike back. Now, he comes over and we bike to the Marina and bike back. But we're still doing it. I'd probably be as big as a house if I didn't do that or something like it.

Larry Rubin: There was one other student you met at UCLA who became very important to you. Who was that?

Norman Epstein: Yes indeed. That's Ann(ph). I married Ann after of my first year of law school and we met at UCLA. I was just becoming a junior, at the beginning of my junior year. We married, have two children. A wonderful, wonderful lady, she was a teacher and I think quite a gifted one. But she gave that up when the kids came along. She was very active in PTA. She and three other women started a children's book fair company and did quite well at that. She was my lifelong companion until she passed away eight years ago.

Larry Rubin: Her last was Snider(ph), correct?

Norman Epstein: That's right.

Larry Rubin: If I recall correctly, your first date with her didn't go so well but you made it up on the second date because you got some special --

Norman Epstein: The first date was a disaster. We went to a movie in Hollywood. It was a first run picture and not a very good picture but it was first run and I was too cheap to get a good parking place so we had to walk half a mile or something and we're standing in line at Grauman's Chinese.

00:15:06

We just missed the first showing so we had to stand in line. We're at the head of the line or just about. We had to stand in line for the entire run of this picture and standing. So we finally got in to see the picture and I understand when Ann got home, she said, "That's the first and last of that."

At the parade, the homecoming day at UCLA, my part of the parade, I held a student body office. I was chairman of the welfare board and the welfare board was made up of a lot of constituents doing this, that and the other and they were all in line going -- stretching down about half a block parading through and I was sitting in an open convertible with my name on the door. So I invited Ann to that and now she's going to be able to ride in this open convertible and she had a group of friends who would be standing on the side and this car would go by, they'd all yell, "Hi, Ann!" it doesn't run ahead and when they'd yell, "Hi, Ann!" again and I think almost nobody recognized me but everybody was yelling for Ann. How did that --

Larry Rubin: But apparently she was much more impressed with that date than the first one?

Norman Epstein: Well I think after that when she's willing to try a third and there you go.

Larry Rubin: Anything else about undergraduate that comes to mind you want to talk about or we'd move on to law school?

Norman Epstein: Well again, there were a number of gifted faculties whom I remember. And some of the programs, some of the courses were exciting. I was helped along the way by the assistant dean of students Barney Atkinson, who was I think one of a quite a number of people that he helped along, recognized something in them, encouraged them and helped them get ahead and become what they were.

It was a wonderful experience. It was a wonderful school. I still love UCLA. I'm still loyal to it. I'm still a Bruin. At the time, they had an organization called the Order of the Golden Bruin and it was a secret society. They have a lapel pin and go like that, to flash it to somebody else who might be a member of the Golden Bruin. We would meet every six weeks or something with the chancellor and major officers of the university. It's now a public organization. They drew out the secrecy. They have the same group with Cal, the Order of the Golden Bear instead of Bruin, but that was an opportunity to meet some people I otherwise probably wouldn't have -- been able to meet like a chancellor.

Larry Rubin: Chancellor then was either Knudsen or Allen or?

Norman Epstein: I was Raymond Allen, an MD.

Larry Rubin: So now, we're talking about the time from undergraduate to law school and what's your thinking about law school? Is that something you decided you want to do for a long time or was it one of several options you were considering?

Norman Epstein: Well, I was trying to decide whether I wanted to enter a doctoral program in either history or political science. I had been encouraged by some faculty people to do that and that would lead to an academic career or to go to law school. I did not know then, as I later learned, how political academic life could be but I did get a dose of it later on, I was the general council for the state university.

My friends, most of them, were going to law school and I decided to do that. I went to UCLA because I could afford to go there. We didn't have the resources to send me to some other schools in state and out of state that had admitted me but I never regretted it.

UCLA was almost (00:19:18) school at that time. But there are some wonderful faculty members. And two of the finest people I've ever known were on of the faculty there. One is Arvo Van Olstein(ph), I took her audited every class he taught at UCLA. And the other was Richard Maxwell. He taught property and then he later became a distinguished dean of law school. Van Olstein was an elder of the Mormon Church and he moved back to Salt Lake where he became an officer in the University of Utah and I think he was on the way to great things and he died very young. It was just tragic.

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Dick Maxwell, when he left the deanship at UCLA, he became a professor at Duke and he served there for number of years and eventually retired. His wife passed away a couple of years ago

I understand, and he's still living in Durham, I think it is North Carolina.

Larry Rubin: One of the early professors probably before you got there for -- maybe a visiting a year or two as Roscoe Pound. And eventually, there was -- developed the Roscoe Pound Competition. Can you tell me a little bit about that and your involvement?

Norman Epstein: I never met Dean Pound. But he has a title because he was a dean at Harvard Law, quite a man from what I hear but not met him. Yes, my partner and I won that competition that -- we final to the boot court at UCLA. And I still remember in the argument, it was before three real federal judges, a Circuit Judge and Two District Judges. And my partner and I and the two students on the other side really worked their hearts out on this thing. And we had to go through several rounds in order to get to the final round. And the whole competition was about an hour and a half. And one of the District Judges asked one question during the entire period and I'll never forget it. He turned to the Chief Judge and asked the following question, "Isn't it the time for lunch?" And I don't recall the -- question.

Larry Rubin: Yeah, what was the answer? Right. Oh well, I take it, you are more active on the bench than that?

Norman Epstein: I hope so.

Larry Rubin: Between undergraduate in law school, you had interesting job, one that probably did not prepare you for law school. What was that?

Norman Epstein: Oh, between that two?

Larry Rubin: Yeah.

Norman Epstein: Yes, I was delivering notes. I work for Carnation Dairies. And in that summer I was a milkman. My work(ph) was in Westchester. I had to get up at four in the morning and everyone who knew me, family and friends, were positive that I'd be fired within two weeks, that I can never get up that early. But somehow I managed to do it. And I was an apprentice.

So I got the least desirable equipment. I had this Divco Truck that was not refrigerated. So the first thing I had to do is we go down this line, they'd hand down the product, these cases of milk -- two crates at a time. And they wanted to do three, I couldn't lift three from arms' length. But they'd hand down two and you had -- stack and fill up the truck without making a mess of things.

Since it wasn't refrigerated, we had to ice it down. So, we went to the ice house, where I did. And I have to shovel ice into burlap sacks and stack the sacks around the milk and then proceed to the route. But the good thing about that job is that by seven in the morning when people are just getting up, my job was half over.

Larry Rubin: That's good. First job out of law school was clerkship with a legislative counsel. And then you joined the Attorney General's office, correct?

Norman Epstein: Well, the legis(ph) counsel job counsel job was during the summer between my second and third year.

Larry Rubin: I see.

Norman Epstein: At that time, they had a program that each of five law schools can appoint somebody for a position, legislative counsel, the clerkship for the summer. My job as a milkman, I recall paid $75 a week and I've never seen so much money. The job as a student legal assistant for the Legislative Counsel paid -- it's funny I remembered these numbers. If you ask me what I'm paid now, I don't know. But it was $325 a month. And just in time for my wife to find a job up in Sacramento. But it was a wonderful experience for the next summer. I think most of what I learned about legislation and the technicalities of bills and the legislator process, I learned there.

The legislative counsel was Ralph Kleps, founder of the office. And it's been a distinguished office all that time. Kleps by the way was a child prodigy. There are some psychologists who would identify these geniuses and was following in for a career. And Kleps, he was at Cornell and he told me the story, he was president of the Young Democrats at Cornell. And they invited the First Lady of New York, Eleanor Roosevelt, when Franklin Roosevelt was a governor to give a talk.

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So, since Kleps was I think president of the Young Democrats, he had a chance to meet with her before the talk. And he asked her, "Mrs. Roosevelt, what advice would you have for a young man, meaning himself, interested in the career in politics?" And she looked right at him and said, "Be born rich."

Larry Rubin: Now, he later had other positions in the State of California and eventually, there is a judicial counsel award in his name, correct?

Norman Epstein: Yes, that's right.

Larry Rubin: And our court has received at least one that I know of or maybe more. One of which was for the Judicial Externship Program that Paul Boland created.

Norman Epstein: That's right.

Larry Rubin: So, now you're applying for a permanent position and you have your sights set in the direction of the Attorney General. What was your process why you thought that would be a good job?

Norman Epstein: I'm not entirely sure and that was the only job I was interested in. I don't think I interviewed for anything else. I interviewed for County Counsel at Ventura. And they eventually offered me that job but by that time, I'd taken the one I really wanted was -- which was the standard Attorney General.

I was being interviewed by the head of the office in the old state building since tore down on first -- between spring and Broadway. And right behind the head of the office window, was the clock of the LA Times' building. And my interview was at noon, high noon. It's about five minutes after 12, the phone rings. And the head of the office was on the phone. It was obviously (00:26:43) Attorney General, who was running for governor. I think it was a talk for about 15 minutes or so.

By the time -- I've always thought, by the time he hung up, he couldn't afford to let me leave because they were talking about the election and this and that. And it was a wonderful experience. It was the large office even then, although nothing is large as it is now. And I could not have wished for a better experience. I started assigned -- as everyone was to write a Criminal Appellate Briefs.

And then I was assigned to the Public Welfare section which did a lot of things including education and attacks(ph), wonderful people, I had a great experience and it was a great opportunity for growth. When I joined it, I lived in West LA(ph). And I was part of what became the notorious West Los Angeles Carpool. And the other three members of the Carpool, (00:27:50) were Miles Ruben later, a Senior Assistant Attorney General of California. Eddie Belasco(ph) whose uncle I think was the Empresario, David Belasco(ph) and Joan Dempsey Gross, later Joan Dempsey Klein, probably the longest serving Presiding Justice on the California Court of Appeals. If not, I can't imagine who else would hold that record. So, we just had a lot of fun driving from the west side on what part of the 10 freeway then existed there on surface streets and to the office.

Larry Rubin: You told a story of Eddie Belasco and his one time that he appeared in the U.S. Supreme Court kind of interesting results.

Norman Epstein: When he was the Labor Commissioner, he had a case that the stories fell on, certiorari was granted. And the issue was

priority of land between a wage land, which has a very, very high priority in California and internal revenue tax land. And according to the IRS the tax land attached when a District Director opened an envelope or something like that.

So they are back there arguing this and as Eddie told the story Justice Frankfurter were asked, "Counsel, how do you distinguish this from an (00:29:20) land?" And that he said, "Your Honor, I don't know what you're talking about." Which Franklin laid back in his chair and had no more questions. So the ruling went against the State of California. The federal hand was -- came first.

Larry Rubin: Well, you talked about the other members of the Carpool. You then were almost lifelong friends with Joan Klein. Tell me a little bit about her and her role on this court and her significance in the development of law?

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Norman Epstein: Joan is one of the few people who have really made a difference in the general scheme, I think the difference for the good. She was always concerned about discrimination against women overt and covert but very real. She was always active to find things that she could do to address it. At the time we're at an airlines, had this executive flight from Los Angeles to San Francisco. It's a 90-minute flight because it was propellers, not yet.

And they instead of serving a meal, as they normal would on a flight with that length, they served cocktails and (00:30:41). They had these gorgeous stewardesses who were doing this. And as you left the plane, you got a cigar, but only men. All the passengers were said to be men.

So, Joan called them and she wanted to book a ticket. And they asked if she's female. Yes, she is. Well, I'm sorry, but it's against our policy or something like that. So Joan indicated she was about to sue him even then, I think their position was on very thin ice. United Airlines came, that was the last of the executive flight, they abandoned it and now, it is too short of a flight for all that anyway.

Larry Rubin: Or a cigar.

Norman Epstein: But if it weren't for Joan, that thing would've gone for some time to come. She is a founder of the National Association of Women Judges. She was a leader and has been all these many years, just really an outstanding person, a very giving, a very generous person. She has this gruff exterior, but not that she's soft in any way but were fuzzy. But she is very caring and all throughout her life, she's found things to do that haven't been done, that needed doing, that help people that deserve it.

Larry Rubin: As long as we're talking about colleagues, you and Joan and others used to regularly have lunch in the Division Three/Four lunchroom which was the Division Three conference room.

Norman Epstein: And we called it the "Division Four Lunchroom".

Larry Rubin: I see. And one of the people who was a regular there was Walter Croskey. And sadly, Walter died before we could interview him for this project. So, tell me a little bit about your friendship with Walter Croskey.

Norman Epstein: There is one -- most wonderful persons I've ever known, the very modest but always going the extra mile. He was meticulous in his writing. His writing was not difficult, it was easy to read but is very clear and very thorough and very accurate.

Walter was personally conservative, he is politically conservative, but you would know what he was for meeting his opinions, who were straight down the middle. Walter could not stay in puns and I kind of enjoyed them. And so, I kind of diddled from time to time. We're once driving back, he and his wife and I from function in San Diego, we stopped going up the coast. We stopped in one of this open-air market, restaurants and it was kind of pricey.

So, I walk in by and said -- "Look at this Walter, they're selling pirate corn." "What do you mean, pirate corn?" "Well it's a buccaneer." Now, I thought that wasn't so bad. Walter's wife thought it was funny, Walter didn't think it was funny at all. He was just a pleasure to work with and a rock. He is I think one of the most admired Appellate Justices in California, he certainly deserve to be. And of course, he is as you know, he was the founding author of (00:34:24) in California on insurance law.

Larry Rubin: What did you --

(Voice Overlap)

Norman Epstein: He was giving a lecture to an organization of Appellate Judges in New England on insurance. And it was a luncheon lecture and a lot of them are kind of dozing off. Walter was not a electorate speaker but he was very confident. So, he was getting to the -- top of the concept in insurance law of an occurrence.

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While he's doing this, one of the elder judges sitting in the front table was leaning back too far in his chair and it collapsed, with

this big bang. And Walter, without breaking stride, said, "Now that is an occurrence."

Larry Rubin: The conversations in the Division Four lunchroom, were they about law, politics, everything under the sun?

Norman Epstein: Everything under the sun. I do have an anecdote I'd like to share with you going back to the Attorney General's office. I was assigned to write an opinion on whether it -- the action of school district in charging 10 cents aligned for kids who wanted to go down to the bowling and bowling is part of a class. A physical education class, whether the 10 cents a line charge, violated the free speech provision of the state constitution. So, I was assigned to write that formal opinion. My conclusion was that although it was a small amount of money, even then it did violate the free school provision.

So, I get called to the general's office, in the Attorney General's office, the head of the office referred to as general.

Larry Rubin: This is Stanley Mosk?

Norman Epstein: It was Stanley Mosk. And I think met Mosk once at something to sit alone but I didn't know at all. So, I go down there in a big office. And there's the Attorney General sitting in his desk and some gentleman sitting in front of him. I was sitting over the side. And this guy was so obvious, I think the bowling industry. And he is going on about how we missed you and Ed at Palm Springs last weekend and started (00:36:49) drumming his fingers on the desk the whole time says, well finally George(ph) or whomever, what can I do for you? Well, general, it's about this opinion on bowling fees. It is very important to the industry and so on.

So Mosk came to me and said that's -- how are you coming on that? Did you finish it? Yes, I have, general. Well, what does it conclude? Well, I have finished the opinion, recent conclusion. But as you know, it has to be reviewed by the head of the section in Los Angeles and the head of the office and then the head of the section statewide and so on. And it's going through that procedure, so it's not yet final.

Well, I'm sorry. What's your view? Well, I think it's unconstitutional and Mosk came to this guy and said, well, I guess that's it. He threw him out in effect. Here, I was a kid -- year and a half --

Larry Rubin: In your late 20s probably.

Norman Epstein: It's a year and a half or two -- out of the law school.

Larry Rubin: Right.

Norman Epstein: And I was just so impressed and I never forgot that story.

Larry Rubin: When -- you had mentioned that when you left the criminal division, the AG's office, you went into a broader division and had responsibility in a number of areas and one of them was in education, correct?

Norman Epstein: Well, absolutely. There's the umbrella group, public welfare I think included education and a number of these other things. But I was doing that and I was also in the tax section.

Larry Rubin: And that got you involved while in the AG's office with the Cal State System, right?

Norman Epstein: Yes, that's right.

Larry Rubin: Can you give us a brief background up the Cal State System?

Norman Epstein: It was fairly new. There had been state colleges in California. There are number of them by then. And they had involved from state teachers' colleges, and which is involve from the old fridge -- they call the normal(ph) schools.

Larry Rubin: They call them normal schools, right.

Norman Epstein: Normal schools. And the system had just been created, the colleges had been kind of independent and they all reported somehow to the Superintendent of Public Construction who reported to the State Board of Education. So, now they are being upgraded. They have their own leaders, not part of the state Department of Education. And the chief executive of the system would be the chancellor, the local president, so for the first time, where independent had their own board.

The chancellor was (00:39:17) and I was assigned to do some legal work for them while they're trying to find an attorney.

Larry Rubin: While you're still at the AG's office, right?

Norman Epstein: At AG's office. The minimum requirements for the top position, we're five years submission of the bar and some other things. And I've been admitted at the California bar I think barely three years, so I wasn't eligible. But the -- the head of the tax section in LA, his best friend wanted the job.

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So I was trying to help him and there are a couple of other people I know who wanted the job. And I was speaking for them and the chancellor said, "Well and in fact, speak for yourself John, what about you?" And I was just -- on plus and I said, "Well, chancellor, I don't think I qualify because the job specs require five years, admission to the bar and I've not been admitted that long." "Oh we could take care of that."

The Trustees had classification and salary authority independent of the state personnel board. They gave the board about as much power as they could to make it similar to the Board of Regents, which is a constitutional agency. So at the end of the interview, the chancellor offered me the job and this was not a wise move on my part, but I asked for a few days to think about it.

I think if I were the chancellor, that would have been the end of it but I thought about it and I accepted the position. And I remember the week or so after that, I thought, "I made a terrible mistake. I'm going to be sitting here, reading whole harmless clauses and fine print like that and this is going to be one dull job."

The job did have its problem, but dullness was never one of it, it's an exciting job and that's how I came about.

Larry Rubin: Now when you first started, you expected to be the general counselor or something of that nature, but it turned out that just the -- Justice Mosk had a different idea about the title?

Norman Epstein: Oh, yes. The Attorney General's has always been jealous of any agency other than their own, having somebody working for them who has a title "Lawyer," "Attorney" or something that sounds like that. But there are a number of agencies that had legislation that allowed it. And in our case, let's say the principal attorney for the Department of Education was called the Administrative Adviser and that's a euphemism that was in general usage. But we managed to call my job what it was. So the title changed over the years, but General Counsel is what it became, and vice chancellor, general counsel.

Mosk did have some concern about it, the Chairman of the Board went to talk to him and --

Larry Rubin: The Chairman of the Board of Trustees?

Norman Epstein: Chairman of the Board of Trustees, the first Chairman, Louie (00:42:35) another wonderful person. And even somehow it was worked out. I don't know the details, but it was worked out.

Larry Rubin: So you organized the first general counsel's office in the CalState system?

Norman Epstein: I did and it was a wonderful opportunity, although it was never put as plainly. I was given foray(ph) to do it anyway I wanted to do it and so long as we produced results. It doesn't mean I had any money I wanted, but in terms of the organizational stuff, who gets hired, who's assigned to what, that was up to me. So I could create the job in the office in the way I thought

would work the best and that's what I worked at and we did that. When I left the position, I think it's grown to ten attorneys or something like that, ten or twelve.

A few years later -- about eight years later, the Office of General Counsel, the CSU received a recognition -- is I understand this right, it's the best public office in the United States. The General Counsel then was a lady name Chris Helwick, who is terrific.

I was president of the National Association of College and University Attorneys and she was the second Californian -- no, the third to be president of that organization. The first was the General Counsel of the Regents at the time I became the attorney -- Thomas Cunningham.

Larry Rubin: And just long as you mentioned, Cunningham, he was a former L.A. Superior Court judge and if I recall correctly, he was in the midst of the controversy about Angela Davis being fired for being communist in the late '60s. Do you recall anything about that?

Norman Epstein: I know he was, but I don't know much about it. But I do know he felt a little awkward. They had made him Vice President of the university and General Counsel. And he thought there was a conflict. He was general counsel to the Regents. That's a real title and in the event of some disagreement between the president of the university, Clark Kerr at the time and the regents, "On whose side is he on?" And he felt that there should be no ambiguity about that. He was a General Counsel of the Regents.

00:45:07

He owed us for his loyalty, to the University of California acting through the Board of Regents. The president and the other officers were class, but his principal obligation was to the chief executive authority of the institution.

Larry Rubin: My recollection is that on the issue of Angela Davis' firing, Jerry Pacht ruled it unconstitutional, you remember that along?

Norman Epstein: Vaguely.

Larry Rubin: And did you know Jerry Pacht?

Norman Epstein: A little. We shared a courtroom for a while.

Larry Rubin: Okay. And what you and Cunningham generally with him as General Counsel of the Regents and you as General Counsel of CalState, where there joint projects or there --

Norman Epstein: We didn't have any joint projects. But he called me up to Berkeley and we met and sat down and he was very helpful. There was no rivalry or anything like that. He did whatever he could to help. He was president of NACUA and I think it was because of him that I was elected to the first chair. They had a five or six annual chair thing before he became president.

Larry Rubin: NACUA is the National Association of University and College Attorneys?

Norman Epstein: -- College and University Attorneys, yeah.

Larry Rubin: Yeah. And I believe you told me once that actually Tom Cunningham went to high school with your father?

Norman Epstein: I think he was one year ahead of my father and also my uncle.

Larry Rubin: At Emmanuel Arts (ph)?

Norman Epstein: At Emmanuel Hearts and I'll mention Bernie Jefferson admitted who also went to Emmanuel Arts.

Larry Rubin: As did my father.

Norman Epstein: There you go.

Larry Rubin: So, with Bernie Jefferson.

Norman Epstein: Wow.

Larry Rubin: So we've got a little overlap here. One of the attorneys in your Office of General Counsel was a woman named Karen Dorey(ph) and tell me a little bit about her work and what she did for you there?

Norman Epstein: I need to set the scene in terms of what was going on at the time. This was the late '60s and the early '70s which was a period in higher education like no other in the history of the Republic. These were the days of the demonstrations, the burning of buildings and flags and all of these stuff, a general disorder.

There's an awful lot of it at Berkeley. We got some of it and one of the things I did was consider campus legal visit program, the campuses didn't have their own lawyer. But I would assign attorneys in the office, my office to two or three campuses or one or two.

And they would be up there on a regular basis. In an event there's any crisis, they would go there. Karen, who was two years out at UCLA Law, was assigned to CalState Hayward or relatively, a new campus. And there's a formatting

demonstration that they thought was going to get out of order up there, so she goes up and she's meeting with the president.

She said, "Well they're gathering at the men's gym right now. And about twenty minutes, they're going to start to march up the hill to the administration building. And when they get there, they're going to march inside up to the office and they're going to demand to meet with you, the president. They're going to have a list of ten demands of which, seven are the following." She had written the script and that's exactly the way it happened, "And I suggest that you respond in the following way," whatever it was to these demands.

So she was just terrific. Her husband was an MD and a graduate of the Air Force Academy and his first position when he graduated was Chief of Orthopedic Surgery at Clark Air Force Base Hospital in the Philippines. So Karen had a choice of either leaving him or leaving us. So she left us and went with him to Clark. And they're flying in a private plane from Clark to Manila and the weather was bad and the plane went down and Karen was drowned.

Larry Rubin: And her husband as well?

Norman Epstein: No, her husband survived. And I was trying to think of something we could do to honor Karen and recognize her. There's not enough money available to set up a scholarship that would be meaningful. So what I came up with was the Karen Dorey(ph) Book Award that we would ask a UCLA Law to give us the name of the outstanding graduating senior, whose baccalaureate is from one of the CSU campuses. And it was named after Karen, the Karen Dorey Book Award and that's still in existence.

00:50:13

Larry Rubin: And that combined your joint experience in the CalState system and the fact that you both graduated UCLA Law?

Norman Epstein: And also, is that I hope, a subtle way to remind the law school that there's a very fine people coming out of the CSU campuses. They don't all come out of eastern schools in the University of California.

Larry Rubin: And one of our colleagues was a former award winner of that very award.

Norman Epstein: Yes.

Larry Rubin: It's Bryan Hoffstadt(ph).

Norman Epstein: Bryan Hoffstadt. When I first met him, he reminded me that we had met once before and I didn't recall it. He went to Cal

Poly Pomona and when he received the award, there's a little luncheon out there and there's where I met him -- years ago and I didn't recall, but yes, he is one.

Larry Rubin: There's one other incident at -- while you were in general counsel's office that involved what turned out to be three members of the Court of Appeal, you, Fran Rothschild and Coleman Blease and there was some litigation that you and Coleman Blease were on opposite sides?

Norman Epstein: No, it was a lawsuit.

Larry Rubin: In litigation?

Norman Epstein: There was a suit (00:51:25) Sacramental State. One of the university entity or the association -- the associate students I think it was, which ran the cafeteria signed a collective bargaining contract with whatever the local -- the union was. And the trustees took the position that, "You can't do that." And the question was whether that view would prevail if the president of the university or the campus rather approved it.

That was a legal question but the position that trustees were taking as if they could not. So Fran and I, Fran Rothschild and I were in litigation against a firm of Carlton & Blease. Actually all four of the people went on to other things. We won that lawsuit and I remember on the way back from the courthouse, Cole Blease was kind of moderating and he finally says, "This is nothing but a union breaking down or whatever." "You know, Cole, it's a lawsuit. It will work out and so on."

So Fran later became Presiding Justice of Division 1 of this Court. I'm in Division 4. Cole Blease is for many years now, has been a member of the Associate Justice of the Third District. He must be the senior serving Court of Appeal Justice in California now, certainly in the Third District. And Larry Carlton became a United States District Judge, so all four of us went onto something else.

Larry Rubin: And did you develop a friendship with Close Blease when you're both on the court?

Norman Epstein: We did, it took a while. I think it may have taken a while to see me in a somewhat different role that I've been in then. But yeah, I like and admired the guy and when it came time to take a look at Appellate Court staffing, I chaired a special committee made up of one person from each of the six appellate districts. And he was the one from the third and we worked out a formula and everybody agreed to it including Cole. But the Presiding Justice up there, Bob Julio(ph) did not. And what -- so, Cole thought he'd have to write him a minority report.

I did not want a minority report. What I wanted all six of us to agree on something and if it's rejected, whether it's rejected, if you have a minority report, it's almost like a minority opinion. So I talked to Bob and he agreed. Coleman could vote as conscious and he did. So we had a unanimous recommendation. And Bob argued against it at the Appellate Court's meeting, the six presiding Justices and the then Chief Justice who was Lucas. But it was adopted and it's still the formula, I'm told. It's still the staffing formula used.

Larry Rubin: You had mentioned that the disturbance at Cal State Hayward, perhaps during your time, the most famous disturbance in the Cal State system was at San Francisco and that resulted in a strike of about five or six months. What do you remember about that? Did you have responsibilities in that area?

00:55:09

Norman Epstein: Yeah I did have a role. There was a union in AFLCIO, affiliated union of some faculty at San Francisco State, not a majority, but they did have a solid majority of the English Department and one or two others. I'm sure about English. And there are some membership at San Jose State, but not much anywhere else. And they had been picketing the administration building at San Francisco State. And the leaders went to AFL-CIO. "We're members of the AFL-CIO. We need your support. You know this is difficult, you know a state-wide organization and you got to help us."

So there was a meeting called by the top executive of each of the major labor organizations in California. AFL-CIO, the Longshoreman, the team search, I think there's one other. And we were summoned to that meeting. So I was appointed to go to the meeting representing the CSU and they sent a trustee with me to keep an eye on me and it really looked bleak. And I came up with an idea that I thought we'd work it out. But I had to get approval to present and I couldn't do something like this on my own.

So I was playing through time, waiting for the phone to ring. Nobody had cellphones, it didn't exist at the time. So the nearest phone was a pay phone on the corner outside this hotel meeting room. And finally the phone rings and I got approval to do it. So I presented this idea and it stopped the strike. It didn't progress anywhere else, the executive committee, the Statewide Academic Senate were there. They did not want a strike, but they felt pushed. And if the administration could not come up with something and looking back now, I don't remember exactly what it is that I came up with. But if we didn't come up with something, the labor organizations might well authorize a statewide strike and the senate would probably have to back them up at least in some way.

But what happened, when that proposal was presented, they sent out a bulletin to everybody indicating what it is. This is reasonable, we can all live with it and so we did.

Larry Rubin: Going back to the strike at San Francisco State, the president of the -- they call him president of the school? President was S.I. Hayakawa, a rather polarizing figure at the time. What do you remember about him?

Norman Epstein: Well, I remember that before I was appointed, the previous president or I think was acting president had done some things that were very disturbing to the trustees. He was asked to come to a meeting in Los Angeles. He had sent his two vice presidents instead, but he came down and he announced during the lunch that he's resigning. And the chancellor said, "Well I know how you feel Bob. We'll start a search immediately. We should be able to fill the position next 60 days." I said, "No, chancellor, you don't understand. I'm resigning now." And he agreed to stay on until the end of the day.

So the board was meeting now in an executive session, "What are we going to do?" And the chancellor proposed somebody that the system always had a president, say opening somewhere because there are eighteen campuses by then. So there's some distinguished person was being looked at. And by then it was eleven o'clock in the evening in Minnesota or Wisconsin, whoever this person was.

So the chancellor got authority to offer him the position. And we woke him up, the guy wasn't very happy about it, but he said, "Well, I considered, but I've got three conditions." I don't remember what they were, but he wanted a lot of money and one thing or there, it didn't work out. And then the chancellor had another proposal similar to the last, same thing. And then he proposed S.I. Hayakawa, only the two San Francisco trustees and the chancellor knew Hayakawa from the members of the board. And other than the chancellor, I don't think any of them knew him well. Hayakawa was known for his book Language and Thought and Action, which was used all over the United States in first year college English.

01:00:04

He was head of the American Society of General Somatics(ph) or a term very close to that. So he had a distinguished academic background but never run anything and that anyone knew about. So the chancellor asked for authority for the job to Hayakawa.

And he got the authority. He was gone for some time. He finally tracked down Hayakawa off campus and came back. And well -- "I've talked to Dr. Hayakawa and he's willing to take

the position, but he's got three conditions." Here it is again. First condition is that this campus opens and stays open. The second condition is we identify the troublemakers and get them off campus. And the third condition was something like the other two.

There was a shocked silence for a minute, and the chancellor was authorized to offer the position, so he did. That was on Wednesday. The next day was Thanksgiving. The day after that was the day after Thanksgiving and Hayakawa is to take off the following Monday.

So a number of us flew up to San Francisco and met with Hayakawa in the United(ph) room at the airport. And so, Don(ph), he was -- the people that knew him called him Don. And two campus people met with the chancellor, a couple of vice chancellors and -- I think that was about it, at by at the United room. And the chancellor gave chalk talk on how he saw the situation, what needed to be done. It was brilliant. And Hayakawa listened curiously to everything and then said, "Well, I have a few thoughts of my own." He pulled out this paper.

And I've noticed the rock throwing starts in the (01:02:07) area and I'm going to get my friend, (01:02:10) Jackson to sing there every noon, and then all calmed down. Then he's going to distribute blue armbands on the responsible people and something else, and we're thinking, "Oh my gosh, this is going to be a disaster." So I left one of the attorneys up in San Francisco and we had another campus system officer there. But really, Hayakawa was on his own.

So, he comes to work on Monday, and parked in front -- on the street in front of the administration building and one of classroom building was a sound truck blurring away, and it was being manned by our staff, by a woman who was an English professor at Hayakawa's department. So it was blurring away so he told her that, "Turn it down." And she ignored him. He said, "Please, turn down your -- you're disturbing the classes." And she made some statement that Hayakawa is just one of the pigs like the others.

So what he then did -- and if we're going to recall, this time, it was national coverage on everything. So, all of these is being filmed. So Hayakawa jumps on the sound truck and pulled the wires out. That stopped the speakers. He was an instant national hero.

After that, the leadership, the radical leadership couldn't draw flies. But wherever Hayakawa went, there was this pot of press with the "Boo Mike" overhead and all of that. We had a meeting at the St. Francis, and Hayakawa parked at the Union Square garage. So we're crossing Powell Street. I've never

seen anything like this. We're crossing the middle of the street. Cars stopped in the middle of the road, cab drivers abandoned their cabs, police went and walked off the beat to shake hands with us and say -- well, I was wearing the tam with the blue armband.

Larry Rubin: Tam o' shanter hat?

Norman Epstein: A Tam o' shanter. But Hayakawa's personality was such that he drew all the press and the radicals couldn't drive anything that it broke the strike.

Larry Rubin: And eventually --

Norman Epstein: Well a "strike" is not the right word. There was the faculty picketing, but the real problem was not the faculty. It was the violence of demonstrations.

Larry Rubin: And it catapulted him to a career in the U.S. Senate.

Norman Epstein: Yeah, it eventually led to that.

Larry Rubin: You have mentioned NACUA, the Association of College University Attorneys.

01:05:02

And there's a story about what happened at your first convention that you attended.

Norman Epstein: Well, it was the first one in which I was one of the chairs, so eventually, moved up to the president. The incoming president was the General Counsel of the University of Alabama. And his talk at the dinner, he was talking about how we need to open the organization up wider and encourage minority people to hold positions on the campus or work as a legal officer to come to the main, join the organization and be more open in broader.

So I recalled the delegation from the University of Mississippi got up and walked up. And here's our colleague from the adjoining state, the University of Alabama who's doing this. That all changed over the next few years, but --

Larry Rubin: But that particular conference must have been in sort of the middle of the Civil Rights Movement.

Norman Epstein: Yeah, it was.

Larry Rubin: Last thing on Cal State before we move into your major career. It has to do with Cal State Bakersfield and an interesting meeting you had there. What was that about?

Norman Epstein: It was about Earl Warren. They wanted to get Earl Warren as a commensurate figure at Cal State Bakersfield, and the place was new -- we're now on our new campus. We had the campus but we only had a couple of buildings and it's not a large thing. We did have a lot of land. And how do we get Earl Warren? Well, Earl Warren was a lawyer, was an attorney general (01:06:49). I don't know the Chief Justice -- I think he had to step down from being chief justice about a year before. But let me see what I can do.

So I called a friend of mine who was Kirk Brown(ph). And he said, "Well, I'm not going to try and get the judge for you, but I will give you a tip. Warren is very meticulous about protocol. And there is a unique salutation for that particular office, Chief Justice of the United States." And almost no one knows what it is. So the letters he get all says, "Dear Chief Justice Warren." The salutation is, "My dear Chief Justice." How would you know that? But that's the salutation. If you get the letter right, you'll at least read the letter. That letter was worked on until it just shone. My major contribution was the salution.

Larry Rubin: A.

Norman Epstein: We got that right, and I reviewed the letter. So, the letter was that Warren had grown up in Bakersfield and his father was a union leader, was murdered and some -- some dissident. And then Warren went onto become what he became. So, he accepted. And my reward for this was I was asked to introduce the Chief Justice at the commencement. And I had a little meeting with them while we're waiting for all the things to get done.

And he told the story, there was a bill that --. After the war, there was bill that had passed the legislature to exempt from the bar exam people who had been caught into the service after in the law school but who are not able to sit for the bar because there's a service. That if they went to an accredited law school and their record was decent, they would be admitted to practice without having -- exempted from the bar, just this one-time thing.

And Warren was waited on by a delegation of the California State Bar led by its president asking to veto the bill, that this is going to the basic quality and practice in California and all those stuff. And the president of the bar at the time as Warren told the story was a rather senior and distinguished lawyer. And Warren said, addressing him by his first name, "If I remember correctly, you didn't take a bar exam. You know, the time you would sit before a committee and they ask you a few questions. Unless you did something terribly wrong, you'd be passed." "Well, yes, governor but you know, that was a long time ago," and so on. "Well, you turned out to be pretty good. You're

president of the State Bar of California. I think I'm going to sign this bill." And he did. And, that was the end of that.

Larry Rubin: And also with that meeting with Earl Warren, you brought your son with you as well.

Norman Epstein: Oh yes.

01:10:00

They had a little supper before the meeting. I told my son, Mark on the way up -- Mark was -- I don't know, fifth grade or something like that, that there's going to be a receiving line. And at the end of the line is the Chief Justice, and you'll be able to shake hands with Earl Warren, and you can tell your grandchildren that you met the chief justice. Warren is controversial for those who don't know -- those that don't. But, there's unanimity that he is one of the most important judicial figures in the history of the republic, without a doubt.

So you can say that, "I met Earl Warren and it will be true." So it's just like I said, he goes down the line, he shakes hands with Earl Warren who makes him -- no, no, comments, "How are you young man?" or something, then moved him off to Ms. Warren, shook hands with her and he's off the line, that's it. So that will be it. What I didn't know is the president organizes a little supper after the receiving line and invited about 20 people, and invited my wife, Ann and I and Mark. And the president is sitting at the head of the table.

To his immediate left is the chief justice, to his right is Mrs. Warren. And next to the chief was some matron from the community, and next to that lady was me, and I was blocked off from anything. But Mark was sitting next to Mrs. Warren and had a full range of conversation for the whole supper. So he not only met Earl Warren, but had an opportunity to talk to -- I don't think he remembers what they talked about and it certainly wasn't anything of great moment. But still thanks to that president, Paul Robert, he had that opportunity. I've never forgotten it.

Larry Rubin: Let's talk about your first official appointment to the L.A. Municipal Court. And maybe not today, but people looking at this interview 20, 30 years from now may say, "What was the municipal court? I've never heard of that." Now, we had a long history of unusual courts. We had police courts and county court and district courts.

Norman Epstein: Justice courts.

Larry Rubin: Justice courts, all going back to 1851. But eventually, we get a two-court system. There was the municipal court and the superior court. So tell what is the municipal court.

Norman Epstein: Or some call it the "inferior court and the superior court." Yes, the municipal court had limited jurisdiction, can drive misdemeanors without felonies except doing felony prelims. It could only handle contracts, simple matters, below certain amount could not handle major classifications of cases, injunctive relief and of that sort.

But the municipal court is where it started. And it was fairly unusual to have a direct appointment to the superior court, not that unusual but it was -- the usual pattern was you're appointed to the municipal court. But give to understand that there was a fair chance that I would be appointed to something during the summer, but it turned out that there were almost no vacancies on the L.A. Superior Court that developed during the summer, and they expected quite a number. But there were only a few number on the municipal court. So I received information that the governor might appoint me to the municipal court in Woodyard(ph), in East Los Angeles.

I drove out there with Ann and we looked around. I said, "You know, obviously, we'd have to move. We live in West Los Angeles If I take up the judgeship out here, I'll be knocked off for the next election for sure if we don't move, and even if we do." So I took a pass on that. And time was going on and few appointments were made. And now, it's the end of the term, and obviously, it's not going to happen. Beside, which I was a registered democrat at that time, and the governor was a republican. He had been a democrat, but he used to say, he didn't leave the Democratic Party, it left him.

Larry Rubin: And that was Ronald Reagan.

Norman Epstein: That was Ronald Reagan. So, I get the call on Friday, the last working day of his office. He goes out of office on midnight the following Sunday. So remembering Marbury versus Madison that if I don't pick up the document and it's still sitting there when the next governor comes in, Jerry Brown, they can do just what Madison did with Marbury's appointment, which is to tear it up. So I flew up to Sacramento on Saturday, picked it up, came back and that's how I became a muni (Municipal) judge in L.A.

01:15:06

Larry Rubin: You picked up the patent in the words of Marbury versus Madison.

Norman Epstein: The document.

Larry Rubin: Great!

Norman Epstein: It's on the wall.

Larry Rubin: Now, you had known Reagan when you were General Counsel of the Cal State System because he was President of the Board of Trustees?

Norman Epstein: Yes, and he was President of the Board of Trustee and President of the Board of Regents, but it's really an honorific -- he would -- even now, the governor would typically go to a regents' meeting, trustees' meeting, stay for a half an hour or an hour and annoy, but it would be a ceremonial thing. During that time, the governor would attend the entire meeting, the fall meeting of the regents and the trustees.

Larry Rubin: Is that because so much was going on at the time?

Norman Epstein: Yeah, it was. So he didn't have an opportunity to know.

Larry Rubin: And you talked to him and he knew who you were?

Norman Epstein: Yeah.

Larry Rubin: And how did you go about deciding to apply? Were there people you talked to or what was your process?

Norman Epstein: I don't know that it was it an organized the process. I thought about it and talked to couple of people whom I know. One of our vice chancellors had been the education secretary to Governor Reagan, and some of the trustees in fact by that time, most of them were appointed by Reagan. So I knew Reagan. So, I went so far as to file the application and then got appointed.

Larry Rubin: So you're on the municipal court, the Los Angeles Municipal Court, Harry Pregerson once said that he thought the municipal court was often the court where you could have the biggest impact on people. Any thoughts about that?

Norman Epstein: Yes. I think there is -- I had heard that comment, but I think there's a lot of truth in that. You don't deal usually with the great issues of our legal time or huge cases or you may have a little piece of a big criminal case and not doing the prelim, but you do deal with people. And most people, most of this only in connection with the judicial system is in small claims court or if the happened to served on a jury. But other than that, most people don't have much to do with the courts.

But those windows are very significant. If you have some matter in the municipal court, civil or criminal, or it's a traffic matter, you form impressions for what you see. And if the judge is well for a different arbitrary or mean or any of those things, or if you're treated badly and ignored and the lawyers have interest in you except when it really matters to them, you might be juror, it would be closer to saying to it not to form

some feelings about that that aren't too generous. And the matters that do go there which people are lit against, while they may not be important in the economic system as a whole, they are very important to the people who are in the litigation. That means a lot to them. This is big stuff.

So the impression that you make is this somebody who's trying to get a just results, who is patient. It's not just trying to ram everything through so you can get off the bench or something of that kind, or somebody who does care who explains things, so who is trying to do it right. And it would be more than human not to generalize from a snippet of experience like that.

Larry Rubin: Did those forces contribute to your founding of the landlord/tenant court or why --

Norman Epstein: Yes. At the time landlord and tenant courts so that unlawful detainers where scattered around through our general civil system. And it wasn't my idea, but the thought was that if we had concentrated that at one court, at least downtown, so that landlords could file the case downtown or they could file it at a district if they wanted. But we'd have -- we could develop some expertise and we could organize it, and maybe do some other things that are innovative, and that's what this was. I've tried to find something innovative that I could do, and I think just about every job that I've had after leaving (01:19:43), the -- and I tried to do it with landlord and tenant.

The form of complaint was something of a mess, some are more too long, some have other flaws in it. So with Warren Deering and a couple of other people, Paul Boland who was on the faculty of UCLA, we had a little committee.

01:20:07

We drew up a model form of complaint for unlawful detainer, and that became what is now the Judicial Council Official Form. We had an education program. We set up a program where lawyers would act as mentors to help ropers and unlawful detainer. Then most of the tenants were not represented even now, probably even more than most, and someone would act as temporary judge. But to do that, they went through this training program we set up for a whole day with an expert on the landlord side and expert on the tenant side and myself as judge of the landlord/tenant court.

It did a lot of good I think for the bar. I think it helped the bar in terms of its public interface and I certainly think it did something for justice. One of the people who is very active in that process along the faculty was Paul Boland.

Larry Rubin: And Paul of course was a colleague of ours on this court and colleague --

Norman Epstein: Yeah, another one of the most wonderful people I've known.

Larry Rubin: You were only on the municipal court for five years which didn't -- which precluded you from gaining a great deal of seniority but that didn't stop you from trying to go up the municipal court leadership. Tell me a little bit about that process.

Norman Epstein: The L.A. Muni court, there's an elected assistant presiding judge. And without exception, the assistant presiding judge would become the presiding judge the next year, so every year and move on. But it was also an unbroken tradition for around 10 years, that the senior judge on the municipal court who had not previously been the presiding judge and who had not taken a pass on it so I just didn't want to do it, would automatically be elected assistant PJ and then become the PJ. It was like a royalty system. Some kings are great, some are terrible, some are mediocre and some of the presiding judges were good, some were anything but good and some were okay. But that's what you get when it's the seniority system. I think most judges realize that it's not a good system.

So there had been several efforts over the year or two for somebody to take a crack at it, and running even though they're not the senior judge. And I was about the fifth one at least to do that, and I was the one that got elected. The reason I got elected is there are so many wax that already had been taken at this tree that one more good whack and it was ready to collapse and this was the last whack.

So I was elected APJ, and I served in that role for about two or three months before I was a part of the superior court and somebody ran against my successor, and he beat him and with that, the system was gone.

Larry Rubin: So you never actually took office as PJ?

Norman Epstein: I never did.

Larry Rubin: You were APJ. So now that there's a nice lead into superior court appointment, Jerry Brown is governor, you're a Reagan appointee to the municipal court. What's the process by which you become appointed to the superior court?

Norman Epstein: Well, you kind of try to do a decent job for a time. In my case, I tried to do some things that were innovative. I got involved in teaching which I adapted before the first program I taught at was. My teaching partner was a young muni judge named Ronald George(ph) and we both spoke at -- it was 1976 at Fresno, in conjunction with what became the California Judge Association which -- meaning, they're in the (01:24:13). And after that, I guess I got addicted to it.

Larry Rubin: Your first assignment was to where on the L.A. Superior Court?

Norman Epstein: Well, the first assignment was in delinquency, juvenile delinquencies downtown. And, I was supposed to move into the presiding justice juvenile, but the leadership had some other thoughts in mind and they wanted me to go to Torrance. And I remember meeting with the PJ and the APJ, and I really didn't want to go to Torrance. I didn't know anybody there and one thing or another.

01:25:00

So they finally said, "All right. If you really don't want to go, we won't assign you there. But we don't want to hear a pip out of you the next time we assign you somewhere." I called them back, "You know, I think I'm going to Torrance." So that's what I did.

Larry Rubin: And how long were you there?

Norman Epstein: Just about a couple of years, a year and something. My first day there, the supervising judge takes me aside and says, "You've got the duty on Friday." "What are you talking about?" "Well, you've got the duty." "What's the duty?" "Well, we've got to have somebody here Friday afternoon because emergency (01:25:39) or something." "Well, of course, I'll be here." It's seems that the tradition was at almost, no judges were there Friday afternoon. I don't know where they were but they weren't there, but they had that one, at least one judge who was there. I was a little surprised to hear that, but there are a lot of local things that happened, and not just in Torrance.

Larry Rubin: And then you left Torrance eventually and went downtown?

Norman Epstein: Yes. I really like Torrance. It was a nice place. They had good South Bay bars and nice interesting bar. I mean, the legal community. The --

Larry Rubin: I thought you're talking about some bar called South Bay.

Norman Epstein: So I got a call from John Cole(ph) who was incoming supervising judge in the law departments which is law and motion and writs on the 84. And, he wanted me to come down and talk to him about joining the 84. Well, I had no intention of doing that, but I knew John from being downtown where I was so I thought I owed him the courtesy. So I went downtown and met with John. I was leaving this chambers house walking out shaking my head. I came all the way down here to decline and I accepted. How did I do that?

But it was a wonderful thing. He was a wonderful man and he ran a tight ship. And at the time the tradition was you serve

one year -- one of the four -- it's one of the four judges. And of the four, two would be selected to serve a year as writ judge or two writ judges. And of those two, one would become the supervising judge for a year and then you move off the sequence and somebody else that had been moving up would follow along. That's not been the system for a number of years, but it was the system now -- or then.

So I served in each of those positions. I don't know if I ever worked so hard in a judicial position. And when I was writs -- one of the writ judges and supervising judge, there were not more than half a dozen days, working days that went by in a year that I didn't have to take home between two and five beacon boxes of stuff. And I tried to do fat first. In preparing, we set three days a week. So to do the larger cases first, so I didn't have that much stuff to let go. Even so, there was a lot.

Larry Rubin: Now again, for the benefit of the people who don't know this system, the law and motion judges handled all the demerge(ph), all the summary judgments, all the discovery motions because trial judges just try the cases, correct?

Norman Epstein: That was the system at the time.

Larry Rubin: David Yaffe, your friend eventually became one of the writs and receivers judges on the court until he retired. Did your time on law and motion, writs, receiver overlap with David Yaffe's?

Norman Epstein: They overlaped with his being a judge, but not with his being on the 84.

Larry Rubin: And at some point, the leadership bug comes up again and you decide to run for assistant PJ at the court, right?

Norman Epstein: I was running for assistant PJ, and the L.A. Superior Court did not have a seniority system. It was wide open. And I think there were four or five -- I think eventually there's four of us who were running, and I sized it up and still sized it up. It was between Bob Milano(ph) and myself. And it's a nice question with one, I think there would have been a runoff between the two of us. But before that could happen, I was appointed to the Court of Appeal.

Larry Rubin: So that's the second time when you're in the leadership position gets yanked out of you because you got appointed to a higher court?

Norman Epstein: Well, I was almost in the leadership position but maybe -- but yes, it's the second time that general phenomena occurred.

01:30:01

Larry Rubin: And the Bob Milano who was presiding justice of division one of our court, did he win the election?

Norman Epstein: Oh, yes. He won. I think he won handily. And there were problems of being the PJ especially during that time and he was -- none of us are making the problems that I'm going to say I was not sorry to avoid.

Larry Rubin: But one of the big issues that started developing then was trial court unification. And as we know now, there is no municipal court, there's this single unified superior court that eventually included all the previous municipal court judges. Any thoughts on how unification has worked looking back on it?

Norman Epstein: I think in general, it's worked reasonably well, and very well in most of the counties. It took some time for it to work out. There were I think understandings reached in a number of counties and all those are going to be one court. The people are now doing muni court work with the main, continue to do it and they just -- that was kind of just what happened in a number of places. But you know gradually, these people moved on or retired or whatever, and the unification became more of a reality. The Los Angeles Court is unique. It's such an enormous operation. It is I think by far, larger than -- other federal system, many other court systems in the country, a single court. New York has it divided in various ways of the Supreme Court, their trial court on a regular term level. And it's certainly I think has created efficiencies as well and a lot of challenges.

Larry Rubin: Anything else about the Superior Court time you want to talk about or any good judge friends that you've met there or anything else?

Norman Epstein: Oh, a lot of friends who remain my friends. I think one of the most interesting and then rewarding things that I did there and after coming out of the Court of Appeal was in judicial education. I love this work. I was dean of the college. When I became dean, the chief justice was Rose Bird, and she was kind of jealous of anything that had authority that wasn't under her authority. So there was an advisory committee that had served like the board of director for the college. She abolished it.

And so, I saw that as an opportunity. So I appointed an informal group of advisors, a dozen or 15 people, judges around the state, and we were going to take a look at the college from top to bottom, rear, front(ph), the whole thing, and that's what we did. We had a series of meetings, came up with a new scheme and we implemented it. And the colleges changed, over the years had changed somewhat from that. But I think, that's a situation where change is healthy in itself.

You don't get stale. Something's new, it's refreshing. We've tried something a little different. But many things that we did that were instituted as a result of that committee are with us yet. One of the things that I did was to reform the course in ethics. The last time I had been there, the person who's teaching it did so by reading the Canons of Ethics in (01:33:48), and word by word, utterly useless. You certainly don't learn anything doing -- I was saying, you actually wouldn't learn while reading them.

So I asked Dave Rothman(ph) to take that on. And with a couple of other people and whom I think he -- they were appointed because he recommended them. So Dave (01:34:11), later dean of the college and (01:34:16) run the ethics course and did a phenomenal job. It was I think the best course of the college at that time, and there were a number of pretty good courses. And it's still I think a highlight of the college, and Rothman gives that experience credit in his book, his book on California Judicial Ethics is the bible on judicial ethics. Nobody becomes a judge in California without looking at that book. And you look at it continually as issues arise that cause you to do so.

Larry Rubin: And it's being revised as we speak?

Norman Epstein: It's being revised now, yes.

Larry Rubin: Well, as long as we're on ethics, you also run the California Judges association. And one of the things you said there was about participation, the ethics committee.

01:35:09

As long -- if you tell a little bit about how that ethics hotline works, because it's of great benefit I think to the judiciary.

Norman Epstein: I was on it for about five years, one of many members. And I don't think there's anything that the California Judges Association does. It is more appreciated by its membership than that. And as a matter of fact, in terms of the ethics community and the hotline, you do not have to be a member of CJA to use it. Any judge in California can call any member of the ethics committee and their identities are publically available and ask an ethics question, "Can I do this?" that sort of thing. This kind of a problem is the reason. And the committee member will give you an almost immediate answer. The answer usually comes out within a day or two days. It's rare that it's held up after that. And the protocol is that the judge who gets the question will write it up and send it to the vice chair of the committee. Once there's some agreement between this person and the vice chair, then the letter -- the ethics letter goes out. In the rare instance where they don't agree,

the letter can still go out, but it should indicate a caution about the disagreement.

So as far as anyone knows, no judge has gotten into difficulty by following the advice in the ethics letter, even if it should later be shown to be erroneous, so long as you're following that end --

Larry Rubin: And difficult, you mean commission on judicial performance?

Norman Epstein: That's the main trouble I had in mind, yes. So the members I think is one of the most impressive committees that I have served on, and the members take it very seriously. There had been people on that committee who served for years and years, and one of them has moved off just for a break but it will be coming back I think (01:37:21), and they do a lot of good. Some of the questions are pretty obvious. Some of the judge well knows the answer but asks anyway. I used to do that. If you're getting an award at a fundraiser, can you accept it and we don't raise money? Yes, you can, because there's a special exception just for that. I always wanted to have a letter at hand if I ever did at times. I had done it a couple of times.

Larry Rubin: There's an educational element and a comfort element to what goes on.

Norman Epstein: Yes, that's right.

Larry Rubin: Right now, we could go sort of back into your judicial career in terms of elevation or we could continue on with education. What do you feel like talking?

Norman Epstein: Well, let's go back a bit. In terms of being appointed to the Court of Appeal, at the time, there were two openings in the second district serving Los Angeles and the three counties, north of here. I got a call from the governor's office to meet with the governor. So I go up there and I was meeting with the appointment secretary, Terry Flanigan and he told me that "Before you meet with the governor as we've mentioned, let me tell you that you're the first of some 10 people he's going to interview. And the way this governor likes to do it, he's going to interview everyone and then he's going to think about it and takes his time. It's a very -- it's an important appointment and then he makes a decision. So don't get worried because you don't hear anything. It's going to -- these things take some time."

So I went and meet the governor, just the three of us, the governor, myself and Terry Flanigan. And he mentioned -- he started by saying, "I know we've met but we don't really know each other," which we didn't, and then he proceeded to ask a number of questions, most of which I've forgotten. But one of them, I do remember particularly. He said, "You're a candidate

for the intermediate court, the Court of Appeal. Now the great issues are decided by the California Supreme. That's the great issues aren't the stuff that you're going to be doing. Why are you interested in doing that?" something to that effect.

And my answer was, it's correct that the great issues are resolved by the high court, but all the interstices still have to be filled in. How does this apply? How does that apply? What about this nuance, and so on. And that's what fills those books for the most part.

01:40:10

So the role that the intermediate courts play is really quite significant. They have another role as well. The intermediate court has to follow what the high court has said. But if the court thinks it's wrong then sometimes it's a proven wrong with the wisdom from passing time?

One of the obligations and opportunities that the intermediate court has is while applying with the Supreme Court as said to suggest that the court reconsider the issue. That's an option rarely used, but occasionally used, and I know of a number of cases including one at ton(ph) where it lead to a total change in the law as particular area.

Anyway, it was a very nice interview and at the end of it, the governor told me he wanted to appoint me. So I did out say 01:41:04)

Larry Rubin: And did Terry Flanagan appear surprised?

Norman Epstein: I think he was surprised. He was sitting there and somewhat surprised.

Larry Rubin: And then what happens when you go back to Superior Court knowing you're going to be appointed?

Norman Epstein: I'm still running for APJ at the time. Well, I was told that I cannot reveal this until the governor issues a press release, and I found out when that was going to be.

Since I was running for APJ, I was dealing with candidates until I have to do you. You got to get out to each of the districts and meet with the judge of the district and tell him, protect(ph) your position, answer questions and so on.

So I was meeting with the judges in my old stopping ground torrents(ph) which was also Bob Mano's(ph) area. It's now 20 minutes to two and the press release is due to being issued at two. So it's only 20 minutes. So I figured, "Well I guess I can tell him."

Larry Rubin: You're getting a little giddy?

Norman Epstein: So I said, "Since a week ago, at this point I would conclude but asking for your consideration for the position of assistant preceding judge. However, I have to tell you that I've withdrawn from the race." And they're all this long faces around the round the table, and then I explained why.

And when I was looking over here somebody gets out the chair over there, and called a buddy, so somebody else knew about it probably about 10 minutes to two, close enough.

Larry Rubin: But no effort to recall the appointment.

Norman Epstein: No.

Larry Rubin: Now, you have had experience on the Court of Appeal before you had pro tem in divisions one and five. Any experiences as a pro tem that is particularly memorable?

Norman Epstein: Well, I remember once the justice came in with her assistant and that his beacon boxes of stuff of this huge case that I was going to get, and there were only two sitting justices at the time. So I got that. That was a huge amount of work, and we ended up with this long opinions, Supreme Court took it over, and came out the same way as I did, but in about half the space.

Larry Rubin: Any professional relationship or friendships developed during the pro tem period that you were able to rekindle later on?

Norman Epstein: Yeah. There are a number of them. One of them was Tim(ph) McCloskey, who's position I filled when he retired. One of the really good people, but there are so many.

Larry Rubin: Justice McCloskey sadly died before we even started this legacy project, so there's not a whole lot on him that we've recorded. I'd love to spend a minute or so. I remember him as a big man, was he a big presence?

Norman Epstein: Well he was overweight quite a bit. He used to say that the instead of going to where you usually go to get your robe as new a new judge, he went to Los Angeles, (01:44:30) to offer his. But he lost a lot of weight, and some -- a huge amount of weight. You'd suspect there's something else going on. Although he never confided in me, and I didn't ask, I suspect that there was with Tim a very warm person, outgoing, he and the PJ were very close, just really wonderful people.

01:45:04

Larry Rubin: You spoke at his funeral?

Norman Epstein: I did.

Larry Rubin: So you joined division four, and Arly Woods(ph) is the PJ, Ron George and Jack Gerdson(ph) are --

Norman Epstein: And Arly would have spoken in the funeral except she had laryngitis at the time, and that's why I filled in.

Larry Rubin: Obviously, you knew Ron George because you mentioned back from the municipal court days. Did you know Arly Woods or Jack Gerdson?

Norman Epstein: Not well. I knew Jack the AG's office. And then he was PJ when I was on the court, so I know them all.

Larry Rubin: And what was Arly Woods like as a Preceding Justice?

Norman Epstein: Arly was wonderful. I never saw her utter an angry word from the bench. In fact, I'm trying to remember if I've ever seen her utter an angry word at all. But she had a code, a very ethical code, very careful, and she saw her job as a fundamentally trying to get it right which is what every decent appellate judge and every judge does or ought to do. Sometimes when there's a policy choice that might influence what you're doing, but she was interested in following the law, and she was just wonderful to work with. Everybody loved Arly.

Larry Rubin: You were appointed in 1990.

Norman Epstein: Yes.

Larry Rubin: And by the end of '91, Ron George becomes Chief Justice and Jack Gerdson retires, so you've got two judges. What did that entail?

Norman Epstein: Well, as opportunity to shake things up a little bit around here, and we had a work with pro tem but everybody goes through that. We're going through it now and parts of the courts particularly division three and division five.

You get by it, and hopefully we don't have a lot to say as to who our colleagues are going to be, but not knock on wood, I don't think that this division will end probably most of as ever had a situation where somebody was appointed who just couldn't get the work out or just couldn't get their arms around what it is or who was dishonest. I'm going to affirm this thing no matter what. We'll find a way or reverse it or perhaps worst of all, it doesn't get along.

Larry Rubin: With the two regularly assigned justices with two pro tems, if one of the regularly assigned justices disqualifies himself or herself, you can't have two pro tems on a case, if I recall. Did

that happen very often where you have to send cases out the division?

Norman Epstein: Very rare, it does happen, but i can recall a few instances of it since I've been here.

Larry Rubin: So eventually, Chuck Vogel is appointed and then Gary Hastings and you're now the full complement of the four.

Norman Epstein: And I hope it's stays that way for a while.

Larry Rubin: Tell me a little bit about Chuck Vogel and then Gary Hastings.

Norman Epstein: I knew Chuck. He was president of the UCLA Law Alumni Association, and I was the president just before, just after he was. So I knew him somewhat then. All I know and I had one another connection with him. I was on a project that leads to what happened to do with the discovery act that was now the Civil Discovery Act. Chuck had just come off a long pro tem assignment, one of the -- an infield case. He did that and another (01:49:07) celebrating case, both of which were affirmed.

Larry Rubin: I think he did Manson.

Norman Epstein: I think he did.

Larry Rubin: The Manson case or the other one.

Norman Epstein: Very bright guy, very energetic, and he's one of these people if he joins in an organization, you can almost set your watch by it. In some of the years he's going to be the president of the organization. And that has been true with the L.A. County Bar, State Bar of California, and I'm not sure what else.

Larry Rubin: I think he probably was the head of the Sidley and Austin out here when he was at that firm.

Norman Epstein: I don't remember if he was with it, but certainly it wouldn't be surprising.

Larry Rubin: And then Gary Hastings' father, Jim, had been a judge on --.

Norman Epstein: Yes, I approached him with Jim in division five.

01:50:01

Both of his parents were just wonderful people, and Gary is really a pleasure to work with this. He's such a genuinely nice person. And like the others, what's driving him is to get it right. And sometimes, that's a little elusive or the issues are closed or there are other problems. But that's certainly what a

decent judge tries to do and he was dedicated to do that. Well, we disagree once or twice, nothing fundamental.

Larry Rubin: Chuck Vogel was appointed PJ in 1996 shortly after Arly Woods retired. Did you notice much of a change in how the division was run with the change of presiding justices?

Norman Epstein: Yeah. Chuck had a somewhat less relaxed management style than Arly did. And he was an administrator of presiding justice of the district. Certainly, he was different that what it had been before in that role.

Larry Rubin: He succeeded as Administrator Preceding Justice, Mildred Lily(ph), I believe.

Norman Epstein: Yes.

Larry Rubin: She was an institution for many, many, many years in the Appellate and trial court system. What do you recall of her?

Norman Epstein: I worked with her when I pro temed in division one, and it was -- the big case I had involved agriculture labor relations. So she regaled me with her early days on a farm in, I think, Stanislaus County. She was a legend around here. She had been appointed by Goody Night(ph) in 1949 or something like that and had been a judge all this years. I remember when she received an award for being a judge for 50 years, 5-0, and just a wonderful person. You'd have to really make an effort not to like here, and I don't know that anyone ever succeeded.

Larry Rubin: Chuck Vogel eventually retires, you became PJ in 2004 and that makes your appointment by four different governors, you got Reagan, Brown, George Deukmejian, and Schwarzenegger.

Norman Epstein: Correct.

Larry Rubin: Did that seems remarkable to you, that four different governors would appoint one person?

Norman Epstein: Well I've been here for a lot of years and the governors don't serve for quite that many years.

Larry Rubin: Anything remarkable about the appointment process with Governor Schwarzenegger? Did you meet with him or?

Norman Epstein: No, I never did. I don't recall meeting with anybody in the governor's office, I talked to its appointment secretary, but all he wants when he called to tell me I was being appointed.

Larry Rubin: That's a good conversation.

Norman Epstein: Yeah it was. I said, "Yes."

Larry Rubin: Good. And you didn't say, "I need a week to think about it."

Norman Epstein: No, I didn't have to think about it.

Larry Rubin: Good. Going back a little bit, when you are appointed at The Court of Appeal, you hired two research attorneys who stayed with you for a good 25 years.

Norman Epstein: That's right.

Larry Rubin: Tell me a little bit about the two of them and how they came to your attention.

Norman Epstein: (01:53:53) had been a research attorney for Sandy Lucas(ph) who had been the Administrator Presiding Justice for the second district and the Presiding Justice of his division. And he called me and said that he's going to be retiring, the word isn't out yet but he has the best research attorney in the district and he's recommending her to me and meet her. So we interviewed each other and the rest is history.

Aurora(ph), who retired just a couple years ago was just super and she's doing pro tem work here now. And so Charlotte Ashman(ph) was a result of Paul Bowens' calling and the same with Charlotte, who also retired just a short time ago. And I should add my secretary was, Betty Wilkins, who has been Judge McCloskey's secretary in private practice. Then when he went to trial court, he didn't have a secretary, but we gone to Appellate Court, then he did, so she came back and worked for Jean(ph), and worked for me until she retired.

01:55:00

Her daughter is a physician practicing in New Jersey and they only have one child and that was just too much of a magnet. So Betty has moved back to -- actually, Delaware next to New Jersey.

I had thought that if I had a third research attorney, I would like to try and experiment. I would like the person to be an annual. And what I proposed to my alma mater, you say like, "I will promise to appoint at UCLA person for a year for this annual position. If you will present somebody who is first grade but if you do that, I'll do that. And the first time you failed to do it is the end of the program at least as far as UCLA is concerned."

Well the first year, I got into the market kind a late and there was seller's market at that time, and the person they came up with didn't look so good, and I was checking him out. He had court(ph) to the big from for the summer and I called. I didn't know the people ha have been n working with, but I called a

friend of mine who was a partner there and he checked the balance there.

We judge people by three things here, the quality of their work, the amount of their work, and how well they get along, so and so, gets along fine.

Let me go over that again, I said you heard me. So I took a pass on that one. Instead, I was judging the finals of a mood court at Davies. And the one of the four oralist(ph) gave the best boot court argument I had ever heard, one of the best arguments I've ever heard.

So I asked what are her plans, well if she court with Downey firm, the big firm in Sacramento, and she'd probably going to go with him, but her fiancé is moving here. So either she has to move and leave him or leave the firm. So she stayed with him and cane down here. Her name was Jennifer Novac(ph). And all the agile sense that have been informally called by some of the others Jennifer two, Jennifer three, I think we're on Jennifer 20 or 21 or something by now.

Larry Rubin: So your UCLA annual clerk program started out with someone from UC Davies?

Norman Epstein: That's right, named Jennifer.

Larry Rubin: By my count you have 2073 opinions, 130 the dissents and 20 concurring opinions. Assuming I'm accurate or close to that sort, on our work, you have a couple of opinions that stand out for whatever reason that you might want to talk about?

Norman Epstein: In case of thought to that, and it's hard to pick, there are so many. None comes to mind that are earthshaking important, but there's some that I particularly enjoyed doing.

One of them is a little known case called, "Alvarez versus Jack Mar Pacific." And it's a case were somebody was insulted in a pizza place, he was there with his family, and it was kind of a gang thing. There are threats made, and words exchange and he apparently punched somebody in this gang who's threatening him. Well, they indicated they're going to be back. He was with his family, he thought he wanted to leave and he talked to somebody at the restaurant, and they said, "Don't worry. Everything is fine." But somebody in the restaurant called the police, and the police came out and the person from the restaurant said, "Everything's fine. They're not coming back." Well, they did come back and they killed this guy. So there's a civil sued against the restaurant and that's what the case was about.

I wrote a dissent, you're little freer in what you say and how say it if your writing in a dissent because you're only speaking

for your and on (01:59:28) because there are only three than you otherwise would be.

And so, going back on to the some other stuff that I wrote, I particularly -- it was a difficult case in terms of the emotional side of the issues but in terms of handling of the legal material, I still think that my position was right, but it was a minority position and it's a published case.

02:00:00

The police came out and the restaurant person didn't tell that these people have said they would come back. The evidence was disputed but the case went off on a summary judgment. So, at the end -- the last paragraph says that -- of course they might not have left and the officers might not have warned and one of the officers might have actually talked to the Alvarez groups, the ones who left. And perhaps all the (02:00:26) said was something like, "See you," with no sinister connotation rather than we'll be back.

There are other possibilities as well on the case. It's full credibility issues. But all these things were for the jury to decide. Plaintiffs were entitled to have it do so. It was erred, to deprive them of that right by non-suit. We should reverse.

Larry Rubin: It was a cadence.

Norman Epstein: I started writing. It's a fun thing to do. I don't like to do it under pressure where we just got to get it out although sometimes that's the case. And one of the great benefits of our particular job, the Court of Appeal, is that there's such a variety of material. We see every kind of case there is in California jurisprudence except a death penalty case where that penalty is actually imposed and bar disciplines. I don't miss that.

But just about you're -- not just about everything else, it's subject to California judicial review we see and so while the job had some pressure of a kind, it's never boring.

Larry Rubin: Some people say that judicial writing is just good writing. In other words, there's nothing magical about judicial writing.

Norman Epstein: I agree.

Larry Rubin: Any thoughts on that?

Norman Epstein: No, that sounds right.

Larry Rubin: Do you try to avoid some of the historical legal jargon of henceforth and aforementioned and stuff like that?

Norman Epstein: Oh, yeah. You know, that's one of the instructions I give to some more experienced people like that that, here and above, there and before and all that, avoid Latin phrases and let's say, they've graduated, the point is they're actually part of the English language like res judicata, something like that. Avoid compound sentences. Leave some space. There is no price to be won by cramming as much as possible and to a sentence or even a paragraph, things like that.

Larry Rubin: Any other cases you feel like talking about?

Norman Epstein: Oh, you know Larry, there are so many of them. I look at them and there is a summary that exist that give a little summary of what the case is about and the material, it's available there. It's a wide variety. I've enjoyed that it's been so. But there's no one case that I think of as that's the one I want. That's my monument.

Larry Rubin: Got it.

Norman Epstein: Or not monumental.

Larry Rubin: Before we go back into education because we have some subjects to cover in that, judicial education. Let me ask you about all notions of judicial activism, judicial restraint, those terms are banded about, are they particularly helpful in describing what typically happens in an Appellate Court?

Norman Epstein: I don't know if they are. I think that what we're really talking about is common sense. There are obviously some things that even though it's not illegal to do them, you don't do -- that you exercise restraint to tell you otherwise you might do or if you were not a judge, you would -- that you have to remember who you are and what you're doing and retaining the dignity of the office and not getting rise, at least unduly to questions about bias by being influenced by anything other than the merits of the case you have.

Larry Rubin: I believe it was Gerry Uelmen(ph), former Dean of Sta. Clara Law School and a regular commentator on Supreme Court, our Supreme Court once said that it seems that C of A which should be Court of Appeal should sometimes stands for Court of Affirmance. Any sense that you feel the Court of Appeal affirms too many cases or not it's too differential to the trial court with our standards of review?

Norman Epstein: I don't have a feeling that we are. I have deliberately stayed away from even attempting to find out the cases that I am on or that I author.

02:05:04

How many affirmances, how many reversals, how many are mixed or how many are these or how many are there, I don't want to be in a situation where even in the back of my mind that I'm thinking that we've affirmed -- we've got to reverse something or something like that. Each case deserves to be -- in fact, we have an obligation that it be decided on a tone of particular merits. I suppose you could construct the situation where the court has never reverses any conviction or almost never. And if the showing is that strong, never almost never -- maybe there is a basis for some inference. But I don't think that describes our system.

Larry Rubin: Okay. Last question on specific to the Court of Appeal, we have rules on publishing cases, not publishing cases, a brand new rule on the -- what happens when the Supreme Court takes over one of our cases, any views on this that you feel strongly about?

Norman Epstein: None that I feel that strongly about but I will say that I think the desertification authority is a legitimate part of the Supreme Court's authority with respect to the development of the common law or the development of the law in California. So I think it's appropriate that the Court have that power. There have been times where it has done things that I might not have done were I in their place but I wasn't in their place. But in terms of the generality whether it's a legitimate thing to do or as legitimate that the court have that authority, I think it is.

Larry Rubin: Let's go back into the area of teaching and other legal activities. You have said that there were two Bernies in your life. There was a Bernie of the north and a Bernie of the south. What do you mean by that?

Norman Epstein: Well, I was referring to Bernie Witkin and Bernie Jefferson and those are the two Bernies, two outstanding great persons, perhaps the greatest in our legal education and in the history of California. Witkin was a phenomenon. He couldn't stand law school. Didn't get along -- there were some faculty members that didn't want him to graduate because he had his own ideas and stuff. He didn't believe in hiding the ball kind of instruction. And he became disenchanted with the law school but that all came back together over time and he did a lot for the school, it both -- they authored him.

Bernie had an ability to write virtually over the entire scope of the law and no one else that I know of in California has had that broad a scope and Bernie has said he didn't think it could be done again. It has just become too vast, too hard to get your arms around all of it. But his works, I'm beginning with the treatises on civil procedure and then California subsequently law evidence and criminal remain major works and the style that he used in preparing them, I think is hopefully has remained.

There isn't a single footnote in any of those treatises, not a one. He doesn't use compound terms or (02:08:58) verbiage. His discussion is plain. It's sometimes entertaining. He was not above using a nice term of phrase here and there but above all, it's clear and it does not reflect any bias that he might have had about one thing or another. He had, I'm sure feelings about quality of this or that. But, you read his material and it's straight there. Occasionally, where there are questions about a ruling, our case would say something that legitimately raises it.

Seth Hufstedler had said at the memorial for Bernie out in Berkeley. He never argued a case to an Appellate Court but no Appellate case is decided without him. That may overstate it by a tad but not by a lot.

Bernie Jefferson is a --

Larry Rubin: Can we stay with Bernie Witkin for a moment?

Norman Epstein: Okay.

02:10:00

Larry Rubin: How did you get to know Bernie Witkin?

Norman Epstein: Bernie had decided that handling all four treatise just gotten beyond him, of what he is able to do. And the criminal treatise had gotten out of date, so he is looking for someone who can help him with that. And he talked to Paul Lee who is a director of (02:10:25), the judicial education entity. Somehow, between the two of them, they came up with my name. I got a call from Bernie Witkin. I've been warned that I would received a call by Paul and Bernie said, "I'm going to talk for 20 minutes, do not interrupt then you can say anything you want." He talked for exactly 20 minutes and proposing that I largely take over the criminal treatise. And at the end of 20 minutes with my turn, "I like to come up to Berkley and then sit down with you Bernie so we can talk about this some more."

So Anne and I did go up and spent the weekend with the Witkin's and I did it, I accepted the position. It had somebody also who tried this for a time and this guy without Bernie's knowledge simply rewrote a whole bunch of stuff and handed them a totally re-done format. And Bernie was not pleased and that didn't worked out at all. I guess Bernie found what I did was okay and that was the beginning of that relationship.

Larry Rubin: When was this about? What year are we talking?

Norman Epstein: We're talking about 1979, '80, something like that.

Larry Rubin: Bernie Witkin was a bit of a firebrand, is that a fair word?

Norman Epstein: No I don't think he was firebrand.

Larry Rubin: Firebrand?

Norman Epstein: He was certainly his own man.

Larry Rubin: Okay.

Norman Epstein: You're talking about Witkin?

Larry Rubin: Witkin, yes.

Norman Epstein: Yeah.

Larry Rubin: I mean he was direct and --

Norman Epstein: Oh, yes.

Larry Rubin: Yes.

Norman Epstein: Yes, he was direct. We're not at doubt of his views.

Larry Rubin: Right! And how was it to work with him?

Norman Epstein: It was fine. I never had any problems. I would write material, he would usually -- I don't recall him editing it, but there's a staff that would look at it and they'd have some edits and we would agree or disagree. But I'm certainly willingly to take criticism, I can use it. That was a good professional relationship. I had a very high regard for Bernie and apparently, he was satisfied with what I was doing. It was the only occasion which anyone else's name went on the spine of the book and that was entirely his decision, I have nothing to do with it.

Larry Rubin: Which is now Witkin and Epstein on the Criminal Law.

Norman Epstein: On the criminal treatise, yeah.

Larry Rubin: In the beginning, were you on the spine from the very beginning or --

Norman Epstein: No.

Larry Rubin: And eventually, as he got older and less active you took over it on your own?

Norman Epstein: Yeah. Well, there is staff of people at the publisher, but yeah.

Larry Rubin: All right! Now, I interrupted you when you want to talk about Bernie Jefferson but --

Norman Epstein: The other Bernie, the Bernie of the south.

Larry Rubin: Right.

Norman Epstein: Bernie Jefferson also went to Manual Arts High. The story is, they told a friend of mine, I didn't hear it directly from him. But they came out here from some place in Northern Mississippi, next to nothing.

Larry Rubin: Mississippi, yeah.

Norman Epstein: And settled in an area where the school he went to was Manual Arts. So, his mother and Bernie met with the councilor and his mother wanted Bernard put in the academic program, the academic track. And the councilor is explaining to Mrs. Jefferson that the academic program is not for Bernie's kinds.

Larry Rubin: Meaning African-American?

Norman Epstein: That's what he meant. What Bernie needs to do is learn to trade. The name of our school is Manual Arts, he needs to learn the manual art. And she really was pushing this, Bernie is entitled to his chance and he added, "If he doesn't work out in your program, then he doesn't but I think he will." So they reluctantly put him in their academic track program. He went to UCLA, graduated Phi Beta Kappa. The only award or decoration he ever did anything to call attention to is a little Thai class with Phi Beta Kappa key on it that he always wore. From there, he went to Harvard Law School and then received a doctorate at Harvard. The degree that lawyers now get is called the JD, Doctor of Jurisprudence.

02:15:02

It is not a doctorate in the sense that most doctorates are other than medicine where you have to write a thesis, but there is a real doctorate in law, it's the Doctor of Juridical Science, JSD. Even now, it's rarely awarded. When Bernie received his at Harvard in 1932 I think it was, it was extremely rare. I don't know this, but I would be surprised if there is any other African-American who received that degree before he did.

When we were teaching Evidence, he gave me at the college a declaration against interest, that hearsay exception. So I'm working it up, I'm sitting in the library at Boalt, and he's got this hypothetical in there and the result is totally wrong, that's not correct. So I'm looking at it and we saw its case. So I go to the stacks and pulled out the case, "Oh, it's a California Supreme Court case. My God, it said what Bernie did." We don't know what -- there is a footnote it sights Jefferson, a declarations against interest, 50 Harvard law reviews, such and such. Oh, that is a coincidence. So I went on the stacks and pulled 50 Harvard law review, and there it is.

Here was this kid at the time, 1932 who decided that Wigmore and Morgan and the Gods of Evidence were all wrong at this point, and this is what the law really is on declarations against interest. And events essentially proved him right, but what a remarkable thing. The law review article was an excerpt from this doctoral thesis. He was the second African-American to be an appellate judge in California. His brother, Edwin was the first also on our division. He was very concerned about discrimination against African-Americans. And as the subject came up, he would let you know about his concern.

I heard him giving a lecture to the Langston Law Society, which is centrally an African-American law organization. So these are -- the people there, all of them were African-American and he was talking to them about the problems and the challenges they are going to have in the law. What you need to do and the way to succeed is you simply have to out lawyer the other side. That means you work harder, that you thoroughly have a command of your case and what you've got and what law is going to apply. You think through every reasonable possibility, every nuance, how the matter may go. You out lawyer the other side, you do better and that's how you'll make. It's not that somebody is going to give you with something or you get so many points because of your race or one thing or another. You've got to do it on merit and you can do it on merit. I've never forgotten that lecture.

He is a very generous person. When the college was setup, he was a dean of the college at one point and he donated a substantial part of his royalties from his book on Evidence to college. He sponsored the Jefferson dinner, paid for it. Nobody or almost nobody knew about that. There are things like these that he did, he was a generous person, a kind person, a bright person and a person dedicated to getting it right as Witkin. So one of the great experience that I've had in my legal life was an opportunity to get to know and to meet and to actually work with the two great Bernies.

Larry Rubin: One last question on Bernie Jefferson. Did you know his brother, Edwin? Did you ever deal with him?

Norman Epstein: I did not. I only talked to him once, I don't remember what it was about, so I didn't.

Larry Rubin: He was older by several years.

Norman Epstein: Yeah. I knew Betty reasonably well, his wife.

Larry Rubin: The couple of the other organizations that you've been involved in as a judge come to mind, one is the American Law Institute and tell me a little bit about that.

Norman Epstein: Those are the folks that give you the restatement and I've been a member. John -- got me into that and I've been active in it ever since. It's a fun organization. We deal with stuff -- Chuck Bogle who got me into it.

02:20:03

I even tried it, I was adviser and what is now the Restatement Third on Torts of physical and emotional stress. And I have been active in some other parts of the organization. It's like a National Congress on the common law.

Larry Rubin: Where people get together to talk about it and then vote on --?

Norman Epstein: And they vote on things and they operate and when there is a project, there's a group of advisers. And then any member if there are like -- was interested could join the members consultative group and be involved, see all the drafts, give comments, go to meetings and the rest.

Larry Rubin: There is a story you've told about a suggestion by a former Oregon Supreme Court Justice to do away with duty.

Norman Epstein: Oh, yes. We're working on what became the Restatement Third in that area. And he proposed the limiting duty as one of the elements of negligence and I was a guest. But the reporter was inclined to do it and the argument was a little bit, the concept is really subsumed and others of the elements, we don't really need duty. In a way I was arguing against it, then somebody pointed out that the proposal came from Professor Hans Linde, who is a dean of the law school at Oregon and member of the Oregon Supreme Court and was sitting three feet from me at the time I was arguing against this. I was taking it back, so I said, "I was unaware of the providence of this idea," but nevertheless. And what happened, was the reporter -- the way it worked, the advisers don't vote, they advise, the reporter does what he or she wants to do. And then the proposal goes to the ALI Council. Carolyn Kuhl from the LA Court is on the council and then it goes to the full membership and only if both approved (02:22:01).

So the council bought this idea and the full meeting at the national meeting, that was just too much. They were arguing that it rarely comes up as an issue, so it comes up all the time in California. I don't know about in the other states.

Larry Rubin: It didn't pass?

Norman Epstein: It was rejected.

Larry Rubin: Two other organizations in which you've been involved have been the ADL, the Anti-Defamation League and Latino-Jewish Roundtable.

Norman Epstein: The roundtable is a part of a function of -- a part of the Anti-Defamation League, ADL. And yeah, I've been a member of that for a number of years. I was regional board chair and member of the National Executive Committee. I'm not an honorary member for the National Executive Committee. My wife and I and our daughter were on a mission to Israel, we were there for 10 days about 1991 or '92. It does a lot of good work and I'm very pleased as a part of ADL.

Larry Rubin: You once mentioned that why you don't want to reinvent the wheel everytime you join an organization, you want to leave your mark and we discussed that a little bit. A couple of other areas come to mind in that context, one is mandatory judicial education, which I knew you were involved in for a number of years. Tell me a little bit about that.

Norman Epstein: I personally have some reservations about the mandatory aspect of it. I am a strong believer and supporter of judicial education and done what I can to participate in it. We had an interesting problem though at one point. There was a proposal to adapt either a mandatory scheme or something like it. And CJA and the Judicial Council were larger heads on this. At the CJA annual meeting, I picked up some stuff that indicated there was actually an overlap, that all the CJA people were willing to agree to something that was little less than what the Judicial Council is trying to do. So there was an area of compromise that I saw so I asked, "I want to talk to Ryan George." Well first, I want to meet with the CJA board, which I did the next morning and presented what I had in mind and thought that this is an area of commonality that will work.

And then I met with the chief and was about to give the State of the Judiciary Address that I strongly suggest that he stay away from this topic right at the moment, which he did. That did work out.

02:25:01

It's not mandatory except for appellate judges, where it is. However, a judge who doesn't participate in the minimum involved in this is really doing himself or herself and disservice. And I don't think they were very many in that category.

Larry Rubin: Unrelated to that, you had been a member of the Cal State Dominguez Hills Advisory Board. Tell me a little bit about that and what has come out of that.

Norman Epstein: Well, the Advisory Board has been abolished at Cal State Dominguez, they existed most of the other CSU campuses as a matter of local option. But since I was general council and vice chancellor, I've always been interested in what they do. In programs, one of the things that I did was to set up a kind of

judicial apprentice program. Where some students from a CSU campus would be sort of apprentice to a judge for a year and would spend 8, 10 hours maybe more a week sitting in the judges courtroom, watching everything going on, sit in chambers except the most sensitive kinds of stuff where you couldn't do it.

The idea was not to teach them law because it's a hit or miss way to do it, but to give them a feeling about the law, about how the law is administered, what judges do, what lawyers do. And what are the things that we'll do for somebody from a disadvantage background, where they offered the first member of the family to get to college, go to law school. Give them some more confidence. Law school is a competitive place, people don't overtly tell you how good they are, but there are all kinds of subtle ways to convey the idea. And you imagine in civil procedure, they're out in the court, they're just talking, even studying the concept of damer(ph).

Somebody has been through this program says, "I know this thing is six pages in the textbook, but you know, this probably represented about 10 minutes, maybe five before the court." "Oh, how did you know?" "Well, I've seen about 30. Here's what really happens," that sort of thing. So that program has been -- it's now in place in every one of the CSU campuses in LA County and in Sacramento and I think in some other places as well. What I am trying to do wherever I've been if I can is to try to find something that I could do to if I could make it better or to innovate or to fill a void if there is one or something of this kind. And sometimes it works, sometimes it does not. That one has and others have. I think part of what we ought to be doing if we can.

Larry Rubin: We talked a little bit about awards, this internship is in the nature of award, the Karen Dorey(ph) Award. You have received a number of awards. When we were meeting earlier, you had this wonderful sort of Washington monument type award from the Los Angeles County Library Beacon of Justice. And we see behind you, there are many honors and many awards. I counted some two dozen and I'm not going to ask about each of them, because I think that would not go well with you. But talk a bit about maybe the Witkin medal and what that is and what it meant to you.

Norman Epstein: The State Bar wanted to do something to recognize Bernie Witkin. What they had in mind is commissioning an oral history project, they would retain a professional historian who'd spend -- I don't know how much time interviewing Bernie and write up this big book about Bernie Witkin. Bernie refused to have anything to do with it. And a number of us who are working on him, trying to change his mind. I talked to Elma about it, his wife number of time and Bernie would just not budge, he wouldn't have anything to do it. He said, "All the good stories,

I can't publish," although we talked about it at lectures much of the time. So anyway, he just wouldn't do it. And I'm trying to think of what could -- is there something that could be done. So I came up with the idea of the State Bar through its Board of Governors awarding a medal to an academic or a jurist or a practicing attorney to recognize a body of distinguished service, occupying essentially a career. And it would be a physical metal and a citation that goes with it.

02:30:20

So I presented that idea to the -- then president of the State Bar and he accepted it. The State Bar Board of Governors voted it. The first metal was bestowed on Bernie. And at the occasion, they had me sitting on the dais and I wasn't sure why. I took the president and said, "You know, Bernie has no idea I had anything to do with this. And its very important that he'd never know that I had anything to do with it. Please don't say anything that connects me with it." I think he was going to, but he didn't. Bernie was so taken by that, I think he went to bed wearing the medal that night and it's been awarded over the years. And I soon will be awarded at the State Bar meeting coming up.

Larry Rubin: And you received the medal a number of years after Bernie did?

Norman Epstein: Yeah.

Larry Rubin: You also speaking of two Bernies received the Bernie Jefferson Award for Distinguished Contribution to Judicial Education. I think you also received the Jurist of the Year Award from the Judicial Council. Any thoughts about those too?

Norman Epstein: Those people have been very nice.

Larry Rubin: Speaking of the Judicial Council, you have been on the council. Some people say it may be the hardest job in the judiciary. What was your experience?

Norman Epstein: Oh, I didn't think of that.

Larry Rubin: Oh, okay.

Norman Epstein: There were a couple assignments if you're a chair or one of the committees. That is hard and it takes a lot of time and a lot of diplomacy, but it certainly an important job. And I think at least from my experience in working with the council and being on it, that the members take it very seriously and it has a quite a bit of authority.

Larry Rubin: Well, anything -- I'd like to sort of end with more on your family.

Norman Epstein: Yes.

Larry Rubin: Anything that you can think if you want to cover other than going back to your family and your kids?

Norman Epstein: No, I think that's where we ought to go.

Larry Rubin: Okay. So, you married Anne in 1955 and you had two children, have two children --

Norman Epstein: Yeah, '56.

Larry Rubin: Fifty-six, okay, good. Your daughter Carol and she lives in Arizona. What does she do?

Norman Epstein: She works for a large company there, Aetna and she's able to handle the hot weather. She did one thing in particular that's outstanding, her mother had a kidney problem and one of her kidney -- she actually lost the use of one of her kidneys then the other. So she was on dialysis. I've know a few people who've been on dialysis, it's a very difficult regime. I've known any number who just can't do it after some period of time, months often. Carol donated a kidney to her mother. It's one thing to donate some time or some money or something like that, but to donate a kidney, an organ is something else. You can live with one kidney. If something goes wrong with that one, then you're gone unless you go on dialysis, and that's the only choice that you have, which is I say is a very hard regime, and Carol did that.

I remembered when she and Ann were about to go down in the surgery, talking to Carol and asked if she was scared, she said a little, I was. And then they wheeled her off and then it turned out there are some complication. Ann came out fine. But there are some complications, something didn't work right with Carol and I was doing a rotary program with some others and I get word, I've got to talk to my son, he's on the telephone. And he told me, you better get down here. So I just scooped up my papers, tossed it in a bag and left the podium and got down there. And the problem managed to resolve itself somehow.

Larry Rubin: Good.

Norman Epstein: But it was really quite an outstanding thing that she did.

Larry Rubin: Unremarkable. Your son Mark is a lawyer at Munger, Tolles.

02:35:00

Norman Epstein: Right.

Larry Rubin: Tell me a little bit about him.

Norman Epstein: Well, Mark went to Boalt, as it was then called. It was a good thing he didn't go to UCLA or I would have been going to law school with him again, and he did it to get away from me. So he did it and he did very well at Boalt, then he clerked for Stan Wigle on the U.S. District Court, and for Ed Panelli on the California Supreme Court and then for Justice Brennan of the United States Supreme Court. And I remember we're back there and he was talking about a clerkship that had come up in The Hague. I said, "For God's sakes, Mark, it's time that you join the world of work," so he did.

Larry Rubin: So he did not do The Hague?

Norman Epstein: He did not do The Hague.

Larry Rubin: And he went directly to Munger, Tolles where he's been?

Norman Epstein: Well actually, he accepted the position with Munger before and they kept it open while he was doing the clerkships.

Larry Rubin: Now, I think that you disqualify yourself from all Munger, Tolles cases?

Norman Epstein: Oh, yeah. In fact, I get off the bench if there is a Munger case.

Larry Rubin: So that means you've been deprived of seeing him in action.

Norman Epstein: Well, not entirely. He was handling a very big case involving Disney, representing Ovitz. This would be for a Delaware chancellery and the cases tried to the chief councilor of the Delaware Court and was on NPR, one of those channels, so I was able to watch him. They had gavel-to-gavel coverage and there was my son doing his thing in that court.

Larry Rubin: And what does his father think of his son's performance?

Norman Epstein: Well, he won that he's deserved to do. It was just fine.

Larry Rubin: He has a reputation of being a superb lawyer in town.

Norman Epstein: And he is good guy. And through him, I have three granddaughters. The eldest spent a year teaching in China after graduating back East, it's a good work. Now she's getting her teaching credential and a master's degree at USC, so I expect she'll be teaching here. And the middle one Madeline(ph). The eldest one was Rebecca. The middle one, Madeline went to the University of Washington Seattle where she graduated Phi Beta Kappa and a summa cum laude and things like that, and she is working in Seattle. I'm not entirely clear exactly what she is doing, but I know she's working there. And the baby just completed her first year at the University of

Texas Austin and did very well there and we'll be going back there very soon. So, they are the apples of my eye.

Larry Rubin: After -- your first wife died, after a few years, you remarried.

Norman Epstein: I did.

Larry Rubin: And that was to Ann Rutherford, a Superior Court Judge in Butte County.

Norman Epstein: That's right

Larry Rubin: Tell me a little bit about her.

Norman Epstein: Okay, Annie taught Evidence with Bernie Jefferson for about seven years. The three of us taught the course.

Larry Rubin: Did she have a better understanding of declarations against interest than you did?

Norman Epstein: Somebody put something on her chambers door that -- so when we've been with the college that Justice Jefferson, Justine Epstein seemed to know more about Evidence than Judge Rutherford or something like that, and she kept it up on her door. After my wife had passed away, some of my friends were trying to fix me up. "There is this one and that one." "I don't want to do that." The only person I could think of that I might want to see was Ann, but Ann -- so I only thing about Ann, she's retired by then and she lives 500 miles away. At any event, -- oh yeah, we were supposed to have dinner. I was on a site visit that included Butte County and my wife got -- and I couldn't go so I ordered a dinner and called her said, "Maybe we could have lunch in Berkley." She was flying east through Oakland, so we did and there it is, the rest is history.

She sits as a retired judge at Butte County and in Sutter County and a number of other counties, which people down here have not heard of Tehama, Glenn, Siskiyou and so on.

Larry Rubin: My recollection was that the week before you got married, she was involved in a very high powered murder trial and it was touch and go whether she was going to be able to make it down to the wedding.

Norman Epstein: Yeah, that is right. It was, but she did.

Larry Rubin: And the final point on the wedding, David Yaffe your old friend from UCLA performed the service, right?

Norman Epstein: He performed the ceremony.

Larry Rubin: Anything else you want to talk about? It's been a remarkable career.

Norman Epstein: Oh, I think we covered a lot and we talked about the things that I've noted. Just a couple of things that I kind of conclude with. The collegiality here particularly is especially important. If you have panel where it doesn't exist, it kind of takes what I think is the best legal job in the world. And Poissen(ph) said, "I've never experienced that and I don't expect that I shall." This has been a wonderful job and I all the legal jobs I've held, I've been very fortunate. They've been good to me. That summer with the alleged council, with the attorney general, with the CSU and with the courts and the organs of the judicial administration. I loved it. I want to be able to make a contribution. I've always tried to find some way to do something that hadn't quite been done before, but I've never lost my enthusiasm about the job.

One of the ingredients that's -- it's not given everybody but it's a great blessing if it is, is if you are doing something and it's fun to do it and you love what you are doing and I've been blessed with that.

02:41:39