**[Cross Talk – 00:00:00 - 00:00:09]**

Robert Mallano: Robert Mallano, M-A-L-L-A-N-O, Associate Justice, Court of Appeal, Division One, Second Appellate District.

David Knight: Okay, Justice Ortega.

Reuben Ortega: Reuben Ortega, O-R-T-E-G-A, Retired Associate Justice, Division One, Second Appellate District.

David Knight: All right, we are good to go; and Justice Mallano, whenever you're ready.

Robert Mallano: All right. We are here as a part of the Legacy Project, an oral history of the Court of Appeal. I am Robert Mallano, an Associate Justice of the Court of Appeal, Division One, Second Appellate District, and I am introducing a true dinosaur of the Court of Appeal, my former beloved colleague Reuben A. Ortega. Let's begin at the beginning. Where were you born and when and under what circumstances?

Reuben Ortega: Well, I was born December 22, 1941, in Albuquerque at Presbyterian Hospital. That was 15 days after the attack on Pearl Harbor. So my father was immediately off to the war and my mother and I went back to Silver City, New Mexico, to stay with her parents. I was there for the first four years of my life; and then when the war was over, I went back to Albuquerque and grew up there and went to school there.

Robert Mallano: What kind of plumbing did they have in the Silver City house, Grandma's house?

Reuben Ortega: Grandma's house did not have plumbing. Grandma's house did not have indoor plumbing; there was an outhouse. The only water in the house was in the kitchen with one of these pumps that you had to prime, and it was right in the sink. It was a tiny, little house, probably not any bigger than these chambers, and it had a dirt floor. So when Mom and Grandma were getting ready to cook, they would sprinkle water on the floor to keep the dust down. So I lived for four years there.

Robert Mallano: All right, and after that?

Reuben Ortega: I always figured that qualified me for the U.S. Supreme Court, because people seem to get a lot of credit for being brought up in a place like that.

Robert Mallano: That's right. What kind of lighting did you have? Did you have to read by candlelight?

Reuben Ortega: I don't remember the lighting; I think they had electricity. I do remember gas for heating, the little gas stove there in the corner. I used to be fascinated by the blue flame.

Robert Mallano: All right, and on to grammar school—where?

Reuben Ortega: Well, I started in the first grade. There was no kindergarten back then, at least that I was aware of, in Albuquerque. We had moved back to Albuquerque, and my dad built the house that I lived in until I graduated from college and got married.

Robert Mallano: That had plumbing.

Reuben Ortega: That had plumbing. That house wasn't much bigger than the other one, but there were two little bedrooms and one bathroom and eventually six of us living there: my parents, my brother and I . . . I'm the oldest; he is three years younger than I am, and then there's a gap down to my two sisters. I'm 12 years older than the older of the two. And at one time all six of us were living there—the girls in one bedroom; my brother and I in another; and my folks sleeping in the living room on a pullout.

Robert Mallano: High school in Albuquerque?

Reuben Ortega: Valley High School.

Robert Mallano: And then off to college where?

Reuben Ortega: I went to the University of New Mexico.

Robert Mallano: Highlands?

Reuben Ortega: No, no, Highlands is a different place. This is in Albuquerque, the University of New Mexico, and I graduated there in 1963. Let's see—my wife and I got married on Thursday night, I went to the graduation ceremony on Friday, and Saturday we put everything we owned in the car and headed east for Washington, DC.

Robert Mallano: To put it in perspective, you got married June 13, 1963.

Reuben Ortega: Yes.

Robert Mallano: You beat me two days to the altar.

Reuben Ortega: I remember we talked about that.

Robert Mallano: Your wife went off to Washington, DC, and you worked; you had a government job. You went to Georgetown Law School at night?

Reuben Ortega: That's right.

Robert Mallano: What did you do for the government?

Reuben Ortega: For a few months I worked for the National Labor Relations Board and was just kind of a gofer; and then I moved over to the Veterans Administration and I was a claims adjudicator—that was the title they gave, but it was a claims examiner. I would take veterans' claims and go through all the paperwork and the different evaluations that were necessary for disabilities and things like medical reports and all that, and then determine whether the veteran was eligible for a pension or some kind of service-connected disability and write up the award. And then it would go through to be double-checked and it would go into effect. That was a good job, by the way. That was a career job. I could have stayed there as a career and had a very good job.

Robert Mallano: But you went to Georgetown at night, and while you were there, your last year a visitor from Los Angeles came out. Tell us about that.

Reuben Ortega: Buck Compton—he was either the number two or the number three at the time. I think he might have been the number three, the assistant, and eventually became the number two, but anyway—

Robert Mallano: In the DA's office.

Reuben Ortega: In the district attorney's office, Los Angeles district attorney. Evelle Younger was the district attorney and I was in the placement office. It was my last year of law school and I just happened by there, looked in, and I saw a notice posted that he was coming out to make a presentation.

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So I signed up along with a few other people and he came out. And back in those days, they actually went east recruiting. So he made a presentation. I liked it; I went back and talked to my wife. We had met at the University of New Mexico and gotten married in Albuquerque, but she's a Long Beach girl; she was born and raised in Long Beach. I said, "How about let's go back to California? They're offering jobs in the DA's office." She was fine with that. So I accepted. And the job was as a law clerk—senior law clerk, they called it—and then if you passed the bar, you became a deputy DA. And that worked out.

Robert Mallano: And that started in 1967, did it?

Reuben Ortega: Nineteen sixty-seven. I came out in September and went in as a senior law clerk and then I had just taken the bar. And the bar results came out in December and I passed, and I ran up to San Francisco to get sworn in.

Robert Mallano: Oh, then you had to be sworn in by the Supreme Court.

Reuben Ortega: Well, the reason I did, I said to my wife, "You know, they set the schedule in San Francisco." They were doing it in December of 1967. And in Los Angeles, they were doing it like in January, and that was going to be 1968. I said, "I want the same numbers"—law school, bar admittance. And we made a nice weekend trip out of it and went up there, and then I came back and got sworn in immediately—well, the next day—as a deputy DA and started my career of six years in the district attorney's office.

Robert Mallano: Six years.

Reuben Ortega: Originally.

Robert Mallano: With a break, and tell us about the first six years in the DA's office.

Reuben Ortega: Well, I did the typical thing. Back then everybody was supposed to do child support, and I elected to get that out of the way because people were waiting and going off to do other things, and all of a sudden they have to get yanked.

Robert Mallano: Prosecuting deadbeat fathers.

Reuben Ortega: Deadbeat fathers.

Robert Mallano: Yeah, I did it myself.

Reuben Ortega: Yes, back in the old Hall of Records, I think it was. So I'd volunteered to get that; I wanted it out of the way. So I went and did it. It turned out to be a very good experience, a very valuable experience—served me well later in private practice and all that. I spent three months doing that. Then I spent a few months in the preliminary division, the old preliminary hearing division in the Hall of Justice. And that's where I first ran into Vaino Spencer, because Joan Dempsey Klein was the master calendar; she ran the master calendar Division 40, where they would send up the preliminary hearings, and on occasion one got sent up to Vaino Spencer. So I did a couple of preliminaries in front of her; nothing more than that.

Robert Mallano: She's going to be interviewed for this, I'm sure, but she went on to be the presiding justice of the court where you and I sat.

Reuben Ortega: Yeah, so Division One where I sat; and Joan Dempsey Klein is a presiding justice of Division Three and is the senior presiding justice in the district.

Robert Mallano: You quit the DA's office in 1973 and went into private practice for a while.

Reuben Ortega: Right, but one thing, though, that had a very big impact on my later career in the DA's office: I spent my time in the

preliminary hearing division, then I was sent to Long Beach; I spent a couple of months there. And back in those days at the Bellflower office, municipal court only was under the control of the Long Beach office. And the head deputy of Long Beach sent me to Bellflower, where I spent a few months there trying cases—just trying one jury after another, a lot of drunk drivings and other things, indecent exposure, all kinds of stuff like that. And while I was there, I was assigned to Judge Landis's courtroom, and we worked very well together. He was happy because the cases were moving and were getting tried quickly and all that.

So after I had been there a few months—maybe three, four months at the most—I got the call to go to East L.A. And I didn't want to go. I mean, this was close to home. I was not too happy about that, and Landis didn't want me to leave. He calls McCurdy in the Branch and Area, Mr. McCurdy, who was the head deputy of the Branch and Area there, in the district attorney's office, he says, "I want him to stay here. I don't want him to go." And McCurdy said, "Well, I'm sorry, but he has to go."

Well, of course if Judge Landis had been successful, I would have never met Bob Philibosian, who is the reason I eventually went on the superior court and the Court Of Appeal. And as it was, I went to East L.A., met Bob Philibosian, had a great working relationship with him. Bob Devich was the boss there; he was the deputy in charge. Of course, he ended up in Division One before I did. And when I was appointed to Division One, I was back working with Bob Devich, who is a prince of a fellow. I never enjoyed working with anybody more than Bob Devich, except for Bob Mallano here. *[laughing]* But that's a little aside there that be careful what you wish for. If I'd gotten my wish, I would have stayed in Bellflower, and who knows where I would have ended up?

But anyway, I did that. I went to Norwalk, prosecuted felonies there, and eventually after another brief stint in Long Beach and then back to Norwalk, I left the DA's office after six years and went into private practice.

Robert Mallano: For a cup of coffee or for a year or two?

Reuben Ortega: Four years.

Robert Mallano: Four years.

Reuben Ortega: Four years, yeah. What did they have there?

Robert Mallano: 1973 to 1974.

Reuben Ortega: No, no, 1973 to 1977.

Robert Mallano: 1973 to 1977, I see. Now then, well then, in 1977 you became a superior court referee.

(00:10:03)

Reuben Ortega: I had actually started earlier than that; maybe that's the confusion. The year before, I believe I was sitting part time as a juvenile court referee. What had happened was, as part of my practice I had signed up at the old Eastlake out there to—

Robert Mallano: That's the old juvenile court.

Reuben Ortega: Old juvenile court, and I went out there, and every other week you had a day you'd come out there; they'd assign cases to you. Then they'd set the trials for the same two weeks later, and on that day you'd come pick up new cases, try the old cases and all that. I got to know people like John Creamer and Judge Pete Smith, who was the juvenile court . . . they called it presiding judge, supervising judge of juvenile court. John Creamer was like the executive who coordinated everything.

One day they called me up and said, "We need some referee help for commissioners, judges, referees who are on vacation or sick or whatever." I said, "Sure, why not?" I ended up sitting very much part time—a day here, a day there. But I enjoyed it quite a bit; that's why later on I applied to be a commissioner.

Robert Mallano: Now, when you applied for commissioner, was that with the thought in mind that would be a stepping stone to the bench?

Reuben Ortega: I didn't think that at the time. I never dreamed that I would actually get appointed as a judge at the superior court; certainly not to the Court of Appeal. That was just not in my thinking. I signed up because I thought I would enjoy it; I had enjoyed the refereeing. I enjoyed the private practice very much, but that was a grind; I was out there, I was solo. I thought, I'd like to give this a shot, and if it works out I'll make a career of it.

Robert Mallano: Now, in 1983 you went back to the DA's office. Tell us about that.

Reuben Ortega: Well, can I put that off for one second? I've got a little anecdote here about the commissioner thing and—

Robert Mallano: Of course; oh please, we want anecdotes.

Reuben Ortega: How it led to a practical joke that almost gave me a heart attack. When we had the commissioner exam it was a pretty brutal series of interviews and things they put you through, kind of a trial by ordeal; but when it was all said and done I finished number one. I still have the letter at home, the letter from the superior court saying—

Robert Mallano: Probably the only one you ever got like this. *[laughing]*

Reuben Ortega: That's the only number one I've ever been in my entire life, and I was especially proud of that one. But then I think it was Judge Hogoboom who was the presiding judge, overall presiding judge at the time, and they hired 11 commissioners the same day. They had 11 openings, so boom! Then he gets us in a room and he says, "For purposes of seniority"—and this is to be added to the bottom of the seniority list because we're the brand-new ones—"we are going to draw numbers out of a hat."

I remember thinking, well, why don't we just go the way we were ranked on the exam? That's the easiest thing. But I didn't speak up. I was in the presence of the PJ, and you know how that is back then, a young commissioner—I wasn't going to say anything. So I drew number eight, and I wasn't too happy with that. Hey! I finished number one; I drew number eight.

And then almost immediately Prop 13 passes. All the county departments are crying poverty and that they're going to have to cut back and do some layoffs even. The superior court was saying, "We may have to do some layoffs, including some commissioners."

I remember lamenting with a friend of mine, "Wouldn't that be something if they end up laying off like five people, and I'm number eight? I'm gone. But if they had ranked us according . . . and I'm number one, I'm still here. That would really make me unhappy." It would be bad enough to be laid off, but one of these what-ifs, you know.

So my friend tucked that under his hat, and several weeks or maybe even months later the issue was still percolating; and by now Judge Schauer was the presiding judge.

One day my friend calls my chambers pretending to be Schauer. I'm back there; my bailiff buzzes me and says, "There is a Richard Schauer on the phone." Of course I immediately feel the anxiety, the adrenaline, whatever, because there is no reason for the presiding judge to be calling a juvenile court commissioner—there just isn't. There was nothing going on.

So I picked up the phone. And the only words I spoke during the entire thing were, "Yes, yes," because he says, "Commissioner Ortega?" "Yes." I will never forget this. He says, "This is Richard Schauer." "Yes." "I understand you were unlucky enough to draw number eight in the seniority drawing." I said—by now my voice is cracking—"Yes." And he starts laughing; he busts out laughing. I still didn't get it. I thought, this Schauer is really a cruel guy. He's not only putting me on the streets, but he's having a great time doing it.

Finally he 'fesses up to who he is. I'm just sitting there. He could probably hear me hyperventilating. But that was a very bad 60 seconds. *[laughing]*

Robert Mallano: Well, you're a big practical joker yourself. So at least it's good to know that you're on the other end of one once in a while.

Reuben Ortega: Well, not like that; but anyway, I thought that was a pretty funny story. This guy liked to do that sort of thing, and he got me—he got me hook, line, and sinker. So that's my commissioner story.

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Robert Mallano: Right, it's a good story. You left being a commissioner. Tell us about that. That's very interesting.

Reuben Ortega: I got another call. My bailiff—although this time I knew it wasn't a joke—he calls, he says, "There's a Robert Philibosian on the line." So I picked up the line.

Robert Mallano: He is the DA now.

Reuben Ortega: He's the DA now. John Van de Kamp has been elected Attorney General, and the board of supervisors has appointed Philibosian to fill out the remainder of Van de Kamp's term. I hadn't seen or talked to Philibosian in years—actually, probably since I had left East Los Angeles all those years before. But I instantly recognized his voice; he has a very distinctive voice. And he says, "I'd like to talk to you. I'm just new here and getting started on the office, and I'd like to get your perspective." He says, "You've been in the office. You defended criminal cases in private practice. So you've opposed the office, and now you're a commissioner hearing cases with the office involved." He says, "You have a perspective that I'd like to get from you." So I said, "Sure." So he asked me to go downtown. I went downtown. I was never so surprised in my life; he offers me the job of number three in the office, the assistant DA.

Robert Mallano: And that's what Buck Compton was.

Reuben Ortega: That's what Buck Compton had been, but he—

Robert Mallano: Then he became chief deputy.

Reuben Ortega: Then he moved up to number two, Chief Deputy; but that's what he had been, I'm pretty sure, when he went out to Georgetown.

So after some reluctance and some teeth pulling by Philibosian, I went ahead and accepted it. Because I loved . . . I'd been doing the commissioner job for five years now and I absolutely loved it; I was reluctant to give it up. But then I had a

discussion with my wife. After initially saying, "I'm not going to do this," decided, you know, "don't know what opportunities are here. I can probably better do this." And obviously it turned out to be a great thing for me.

I spent two years in that spot. Got a lot of administrative experience, met a lot of people, and from that was appointed to the Los Angeles Superior Court and then three and a half years after that to the Court of Appeal.

Robert Mallano: When you were appointed in the Los Angeles Superior Court, was Philibosian still in the DA's office, or had he joined the Attorney General's Office with Governor Deukmejian?

Reuben Ortega: When I did what, now?

Robert Mallano: When you got appointed the first time.

Reuben Ortega: To the superior court?

Robert Mallano: Right.

Reuben Ortega: No, he had been DA for two years and he had lost the election to Ira Reiner.

Robert Mallano: But he went to work with . . . in the AG's Office, didn't he?

Reuben Ortega: No, when he left the DA's office he went with a private firm.

Robert Mallano: Okay. I thought he worked for Governor Deukmejian for a while.

Reuben Ortega: That was before he was district attorney.

Robert Mallano: Let's put it this way: he had close connections with Governor Deukmejian. Did you give him credit for your appointment—I mean, Bob Philibosian?

Reuben Ortega: Absolutely, Bob Philibosian is the reason I got those appointments. There's no question about that.

Robert Mallano: You got appointed to which court first, directly to the superior court?

Reuben Ortega: Directly to the superior court. I didn't serve on the municipal court. It was just a matter of pure luck that I got assigned to L.A., worked well with him, and these other things fell into place later. I just happened to be in the right place at the right time. But he had been with Deukmejian when Deukmejian was the Attorney General, and Philibosian ended up being his number one assistant. Then Deukmejian became Governor, and it was at the very same moment that Van de Kamp was elected Attorney General and Philibosian became district attorney.

He served there two years, lost the election to Ira Reiner. So he and I actually left on the same day. The day his term expired I was sworn in to the Los Angeles Superior Court. That was in December of 1984.

Robert Mallano: Would you like to tell us about your experiences on the superior court?

Reuben Ortega: Oh, I loved every minute of it. I was going to be perfectly happy to be there for the rest of my career. I was out in Norwalk working with a great bunch of people. I sat in a criminal court for year and a half, two years. It was direct calendar out of the municipal courts, so you handled your own caseload. And I enjoyed that. We did a lot of jury trials. We were trying cases—settling a lot of cases, of course, which you have to do. But I was very happy with the experience.

I then did another year and a half or two years there at Norwalk of civil; I went into a civil trial court. Those cases came out of master calendar. That was a really great time there, because that's a lot easier in the sense that you don't have to manage a huge calendar like you did in the criminal court. There they sent you a trial, you swore in your jury, you tried your case; and when you were done you called open and they sent you another one. You did mandatory settlement conferences, but that was it—try cases, mandatory settlement conferences. And the supervising judge was the one who had to worry about the caseload and where it was going. You just had your courtroom and you did you work. I enjoyed the heck out of that.

Robert Mallano: You were in Norwalk the whole—

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Reuben Ortega: I was in Norwalk the entire three and a half years, and here comes Bob Philibosian again. And he asks me, "Have you applied to the Court of Appeal?" Well, I had never—that was the farthest thing from my mind—I had never dreamed of applying for the Court of Appeal. I thought I'd just be there on the superior court forever, assuming I didn't get challenged and knocked off. And I said, "No, I haven't." He says, "Well, get your papers in." I said, "Okay." And there it was; I got my papers in and I was lucky enough to get appointed. And that was June of 1988 I went into Division One.

Robert Mallano: Having worked with you, I know that you have certain interests and passions, and you've managed to work them in your cases. Now, one thing you had a passion about was zombies.

Reuben Ortega: I see this coming. *[laughing]*

Robert Mallano: Well, I read it, and that got a lot of press too. I mean you weren't out for the press; but anyway, tell us about your fascination with zombies and how it was that you wrote about zombies.

Reuben Ortega: Well, I wouldn't call it a fascination with zombies, but I do go see a lot of those movies—you know, *Dawn of the Dead*, *Shaun of the Dead*, and that kind of stuff. And I like vampire movies too; I'm a Dracula fan, if you will. But it's funny: of all the work I did there in 16 and a half years on that court, probably involving—if you include writs and all the other stuff we do—probably thousands of cases, the one that got me in the *New York Times* and on Reuters and all of that was the zombie dissent. And I can thank you and Vaino Spencer for that. *[laughing]* That was a class action lawsuit where the fellow working for—was it Sony Pictures?—I think it was. You were on the case too.

Robert Mallano: Well, I remember the case—something about theater tickets or something.

Reuben Ortega: No, it was Sony Pictures. And what they do, you get the big full-page ad when a movie comes out, and they have, "Ebert says greatest movie of all time"; all this thing.

Robert Mallano: Oh, that's right; that's why I think—

Reuben Ortega: This fellow that was working for Sony, he would put four or five up there.

Robert Mallano: Yeah.

Reuben Ortega: All but one would be legitimate, and the fifth one he created his own critic and put things like "best special effects of the year."

Robert Mallano: So a moviegoer sued.

Reuben Ortega: It wasn't a moviegoer.

Robert Mallano: I thought it was a moviegoer.

Reuben Ortega: No, it was a class action lawyer.

Robert Mallano: It was, on behalf of moviegoers that read the blurb and decided that they'd go see the movie.

Reuben Ortega: Found out that it was a phony critic; saw a way to grab some money by doing a class action. You know class action—I don't know how big the class is, if you get a million people, they all get a check for $1.25 and the lawyer gets millions. And that's exactly what was at play here. He actually got a plaintiff to say "I wouldn't have bought tickets to see this particular movie if I

had known that critic in the newspaper ad was a phony." Notwithstanding that the rest of them were real.

So I don't remember how that case went on; I think it may have been my case in the first place. And I circulated a thing saying, "No, this is a frivolous lawsuit. We are going to dump it." And you and Vain took it over—you took it over or whoever—wrote the majority, and let this guy go to court. *[laughing]* And I still have to laugh. And that's way when I wrote the zombie dissent. And I made a single reference to zombies in it. I was being very sarcastic—pointed out the great service that your majority opinion letting this case go to trial was performing for the public; that no longer would people be defrauded into buying tickets for movies that they wouldn't have otherwise seen.

Robert Mallano: Like zombies, they would read the—

Reuben Ortega: I said, "No longer would they be seen lurching towards the movie theater like zombies, like mindless zombies," I think, or something like that—like zombies.

Robert Mallano: You got big press on that.

Reuben Ortega: Yeah; and lured by this phony critic. And yeah, that one struck a chord. Joe Levine, one of your research attorneys coming back from New York with the *New York Times*, saw my name in the paper there. *[laughing]*

Robert Mallano: You also had another zombie case, which the defendants claim was somebody said he was acting like a zombie, and he was claiming some kind of fugue state as a defense. And you described all the different types of zombies.

Reuben Ortega: Well, it was funny because coincidentally the *Los Angeles Times* had come out in the calendar section with an article. There were a bunch of zombie movies out, and they were talking about different kinds of zombies, and they broke them down like orthodox and conservative, like the Jewish religion; I forget what the other one is. And they had the zombie groups broken down like that, and it was very funny.

Robert Mallano: Some were flesh eating.

Reuben Ortega: Some were fast, some run very fast, some lurked very slowly. And this defendant was claiming that—I don't remember now if it was a man or a woman—but anyway, claiming that he deserved a new trial because the judge had erroneously prevented him from presenting evidence that he had been acting like a zombie; because one of the witnesses said he was acting like a zombie when he did this.

Robert Mallano: Yeah, the word was in the record, "zombie."

Reuben Ortega: The word was in the record, "zombie," and he wanted to bring in an expert on zombies for the jury to see if that meant that he was off the hook because his intent was negated by the zombiehood. *[laughing]*

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So in denying his claim on appeal and affirming the judgment, I went through all these different categories of zombies that had been in the *Los Angeles Times* and indicated that . . . and you went along with this one.

Robert Mallano: Oh, I did, I did.

Reuben Ortega: I mean, you signed off on this one, and said that the trial court properly denied him the right to call an expert because he never determined, he never gave us on appeal or told the trial court what kind of zombie he had been acting like, and so it wasn't specific enough. *[laughing]* Yeah, we had some fun with zombies.

Robert Mallano: Well, how does it feel in this oral history that people watching you are going to remember you as the judge who wrote about zombies? Is that—

Reuben Ortega: I don't know.

Robert Mallano: What kind of legacy is that?

Reuben Ortega: Well, I probably should have come in with a fake tongue that I could hang out to one side for the interview, or maybe the vampire teeth. But it's funny. Like I said, you work all those years, and I wasn't planning on doing anything for the history books, but the zombie thing is what survives after all those years.

Robert Mallano: Any other cases stick out in your mind on the superior court that you would like to mention?

Reuben Ortega: On the superior court?

Robert Mallano: I'm sorry. I mean the Court of Appeal.

Reuben Ortega: I don't think so. I had my share go up to the California Supreme Court. I was the king of the seven-to-nothing reversals, if you remember that. *[laughing]* But some of them were cases where I think if you read my opinion, read theirs, they both made sense, it's just what direction you chose to take.

Robert Mallano: I don't remember you getting reversed that much.

Reuben Ortega: Well, no more than . . . I got my share, I'm sure, but some of the cases come up that are tough. I did get reversed, I think seven to nothing, on the gang-mom statute where the DA's office could prosecute you as a parent if your kid turned out to be a gangster—remember that?—and for not raising him properly. And that's the only time in my career I think I sided with the ACLU, because they came in and they said that this thing is vague and ambiguous, and I agreed. How do you set a standard to actually convict someone for not properly raising the kid just because the kid turns out bad? Some very good parents end up with some bad kids. It's just—

Robert Mallano: Yeah, unfortunately that's true.

Reuben Ortega: They reversed that seven to nothing on that one. But the funny part about that is, I don't think that's ever gone anywhere. For all of that, have you ever heard of one of these prosecutions?

Robert Mallano: Say something about your writing style, because I thought it was pithy, which is very good. Direct, to the point, sometimes a little biting, if you say, describe it, as biting—not to colleagues. I'm just talking about if you perceived an argument as being fallacious, you didn't mince your words. Would you say that's true?

Reuben Ortega: Well, I guess so. It's hard to dissent, for example.

Robert Mallano: I wasn't talking about vis-à-vis the colleagues; I'm just talking about your regular writing style.

Reuben Ortega: Well, just the regular writing style. I think it depends on what you're doing. Some cases just don't lend themselves to trying to be cute or funny or anything like that. Being cute actually never works. There are times when you can inject some humor in there and it works and it's appropriate, like the zombie thing. We did that tongue in cheek. I remember a case that I did with Charles Lindner once. He had the case on appeal, and I forget one of the claims, but I dismissed the claim on appeal with some humor and he wrote me a letter. He said, "I appreciated the humor." He says, "How come you can't go my way with it once in a while?" I bumped into him somewhere later and we had a good laugh over that.

But you have to be careful of the type of case. Some cases just don't lend themselves—they're too tragic or whatever. In some cases the briefs that you get practically provoke you into having a little fun with it, because you know that some of the claims we get in briefs are a little bit far out, a little bit strange. So I was always willing to inject a little humor if I could get away with it. Don't forget that by the time it got past my staff, who vetted all my cases once I wrote them—they were very protective of me—and my two colleagues on the case, if there was anything in there that was really too far out it came out.

Robert Mallano: You're really lucky, because you had this penchant—you'd like to put things in to kind of see if your colleagues would catch them, which you intended to take out which should not be publicized.

Reuben Ortega: Right.

Robert Mallano: I told you that sooner or later there was going to be a slip-up and you'd be embarrassed before you retired, and there was never a slip-up.

Reuben Ortega: They always came off. I did; I'd stick little bombs in there, here and there, just to see if anybody would pick them out.

Robert Mallano: It's kind of like, where's Waldo? I'd circle it and say tsk-tsk or something, and you'd know I read it, or assigned it.

(00:29:56)

Reuben Ortega: Yeah, but I stuck stuff in the captions too. Typically nobody would pick that up; the secretaries would pick that up. But my colleagues . . . I'm the same way; I didn't go through the captions. I'd read the opinion. But we were having fun. There's a lot of heavy work you do there; you spend a lot of time with your face in a book. I think a little gallows humor to break it up once in a while, as long as you don't get embarrassed like that . . .

Robert Mallano: Because it always came out; you had a very good staff. All right, anything else about your experience on the Court of Appeal you'd like to tell us about?

Reuben Ortega: I enjoyed greatly working there. Of course when I first went on it was Vaino Spencer, and Thax Hanson was there, and Bob Devich. I was just delighted when I found that I was going to be working side by side with Bob Devich again after . . . well, I'd worked with him in like 1969, and now it was 1988, almost 20 years, and I was going to get to work with him again.

I'd never met Thax Hanson before, but he was a prince of a fellow. He was there for two years after I came on, and he was just an absolute delight to work with. I loved working in that atmosphere. He retired, and I'm sure he would not have otherwise, because of that 70 rule. Do you remember the age 70 rule? If you didn't retire by your 70th birthday, your pension got cut way back.

Robert Mallano: Cut in half, and I think they took away your widow's benefits—

Reuben Ortega: Something like that. So he was forced into retirement because he was coming up on 70. I'm positive he would not have retired but for that. And you know, that eventually went away in

stages. First they said, you'll be okay if you turn 70 during your term; you're okay until the end of your term. And finally they eliminated it whatsoever.

Robert Mallano: I think our colleague Vaino Spencer got that eliminated.

Reuben Ortega: She was instrumental in working on that. But anyway, those were two very, very excellent years. I hated to see Thax go. And then eventually Bob Devich retired. He retired in 1993, so I got to work with him for five years. I hated to see him go. I was really sorry that he retired, but he did.

I enjoyed working with Bill Masterson greatly, and then when you came on to replace Bill Masterson, then it was like the Devich thing, where you and I had gone way back. We had been in Long Beach together when I was a commissioner and you were assigned out there as a superior court judge. So I went way back with you, and I enjoyed greatly seeing you come on. And we worked . . . Let's see, you came on in 2000, didn't you?

Robert Mallano: Correct.

Reuben Ortega: And so a little more than four years we worked together. That was a great four years. I enjoyed the heck out of that.

Robert Mallano: Now, tell us about your retirement—reasons for retiring, if you'd care to share with us?

Reuben Ortega: I had thought about serving out the last two years in my term. I had never thought about running again, because I just wanted to get out and see the rest of the world. I wanted to spend more time with my wife, which has been wonderful. We spend all our time together now. All those years of commuting, first from Huntington Beach to Los Angeles . . . and then eventually I took the apartment downtown and commuted once a week from where I live now, out here in the boondocks up in the mountains.

Robert Mallano: Tell us now—it's interesting, because you grew up in a house without plumbing and dirt floors and now you're back up in the mountains, but—

Reuben Ortega: We do have plumbing.

Robert Mallano: I know you've got creature comforts, and creatures. Tell us a little bit about your present living situation, you and your wife.

Reuben Ortega: Well, I have 10 acres up there, have a nice little house. It's nothing spectacular; it's a modest house that I'm very fond of. We have a barn; we have three horses. My wife loves horses.

Robert Mallano: Where are you? I know it's near Idyllwild, but—

Reuben Ortega: It's called Garner Valley. A lot of people have never heard of it, but it's about 15 miles down the road from Garner Valley and about 500 feet lower in elevation than Idyllwild, in Idyllwild.

Robert Mallano: You're above Palm Desert, in effect up in those mountains.

Reuben Ortega: Palm Springs sits at the foot of the San Jacinto Mountains and behind that there is the plateau called Garner Valley. It's behind that, and that's where I am. So yeah, I'm up there living the rural life. We're surrounded by the San Bernardino National Forest. So there's no development coming unless the government starts selling off the national forest. Like I say, it's a rural life; we're 35 minutes down to Palm Desert or 35 minutes from Hemet, either one if you need to go to town for things.

Coming here today I came through Hemet. So going home I'll go to Hemet. I don't know if you are familiar with that; I'll go up the mountain. Instead of turning left three miles to go to Idyllwild, I'll turn right to go 11 miles to where I live.

Robert Mallano: Doing any law at all?

Reuben Ortega: No, I decided that 37 years is not enough for a lot of people, but I decided that I wanted to get out and just do something completely different. So I didn't sign up for private judging, I didn't sign up for assignment. I just wanted to see what this phase of my life would be like, and I'm enjoying it greatly. Not that I was anxious to leave the Court of Appeal; if circumstances had dictated that I was to spend the rest of my life there I would have been perfectly happy with that. It's a great job. I loved every minute of it.

(00:35:03)

But I just thought once I reached the retirement eligibility that it was time to close that curtain, close out that phase of my life and move on to the next one to see what it's like. And it's been very enjoyable. I don't have a single regret; like I say, I look back fondly on every minute of it. But I'm enjoying what I'm doing now. That involves a lot of traveling and a lot of it with the horses. My wife likes to go out on these organized rides.

Robert Mallano: Are you the driver and the wrangler?

Reuben Ortega: I drive the truck with a big trailer—the back half is for the horse and the . . . actually you can hold three horses, and the front half is a regular RV with all the comforts.

Robert Mallano: You've got a big 254?

Reuben Ortega: 350.

Robert Mallano: 350, wow!

Reuben Ortega: 350, yeah. We just got back in early August from Wyoming; we hauled a horse up there. She did a ride up there. And then we just did one in New Mexico. We got back from that just this week.

Robert Mallano: So you're traveling a lot. You go back to Albuquerque a lot. Do you have a home there?

Reuben Ortega: I don't have a home there. My brother and my two sisters still live there, as does the younger of my two daughters. She's a lawyer in Albuquerque.

Robert Mallano: She's still in the DA's office there?

Reuben Ortega: No, she moved over to the city attorney's office. So she spent some time in the district attorney's office. Then this opportunity came up and she wanted to do some civil work and all that, so she's over at the city attorney's office. She is very happy. She's enjoying her life.

My other daughter is in Sacramento and she works for an Assemblyman; she's his chief of staff. And she was once upon a time our Riverside County District Attorney Rod Pacheco's chief of staff when he was in the Assembly. Then when he termed out, she went to work for Assemblyman Russ Bogh as his chief of staff. Then when he termed out she's now with Assemblyman Berryman *[sic: Berryhill]*.

Robert Mallano: So you've got your two daughters, and basically one is in the law, so Laura, the other one, works for a lawmaker?

Reuben Ortega: Yeah, Laura is the older one. She works for the lawmaker. Franzi is the younger one; she's the lawyer. They're both doing very well, and I'm very grateful for that.

Robert Mallano: Okay, what else would you like to reminisce about?

Reuben Ortega: Well, I don't know. Maybe I'll interview you when it's your time. No, I don't have anything else unless if you have any other questions. I think we've covered it in terms of a good overview of my career, for which I am eternally grateful. I enjoyed the variety in my career: DA's office, private practice, commissioner, assistant DA, administrative, and all that. It's been a very varied career, a lot of variety in it. I've enjoyed it. I never dreamed coming out of law school that I'd have this interesting a career, but it worked out and I'm very happy for it.

Robert Mallano: I think your enthusiasm for the job has always been there, whatever job it is, as long as I've known you. So it makes . . . I

guess that's a big legacy to people: be happy in your work, and it's a wonderful job on the Court of Appeal. And I really enjoyed working with you.

Reuben Ortega: Well, same here. I found one thing, that if you treat people right, especially your staff—

Robert Mallano: Oh, your staff loves you; your staff misses you.

Reuben Ortega: It all comes back for sure.

Robert Mallano: They're very loyal, and they asked me to send you regards.

*Duration: 38 minutes*
*September 21, 2007*