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

Robert Devich: Robert R. Devich, D-E-V-I-C-H, Retired Associate Justice of the Court of Appeal. In fact I'm sitting in the same room where I used to sit when I was assigned to this particular division, here with Justice Mallano.

David Knight: All right, we are all set to go, Justice Mallano, whenever you're ready.

Robert Mallano: All right. We're here to interview Robert Devich as part of the Appellate Court Legacy Project, so we can get the benefit of his wisdom and learning and advice.

Robert Devich: And where I was born. *[laughing]*

Robert Mallano: Good, good place to start, Bob. Where were you born and when?

Robert Devich: Well, I was born in Portland, Oregon; and I hate to tell you how many years ago, but it was in 1926, so you do the math. I attended elementary school and high school in Portland, and went to college later on at the University of Portland.

Robert Mallano: And before you went to college you spent some time in the Pacific Ocean, did you, during the war?

Robert Devich: Yes. I was about 17 when enlisted into the U.S. Navy in '44 and was there until '46. I was a radio operator. Fortunately I never was involved in combat, although I was stationed at Manila in the Philippines. When the war ended, my only claim for fame back in the Philippines was that I played basketball with the U.S. Navy basketball team back there, and we won what they called the Philippine Olympics in '45 and '46. And that was made up of all military service teams and military ball players—some of them went to college, and ones that graduated. I remember a couple of names like George Seneski, who was the high scorer in the country in 1943; Angelo Musi, who played for Philadelphia with the Warriors back then.

That's when the pro basketball wasn't on the level that it is today. And we won the championship, so that was quite an accomplishment.

Robert Mallano: So that gave you a leg up when you played college basketball. You went to the University of Portland under the GI plan?

Robert Devich: Yes.

Robert Mallano: You played basketball all four years?

Robert Devich: All four years, and I majored in business administration, and graduated from there in 1950.

Robert Mallano: Well, I saw something about a minor in philosophy; now, you must have thought in the back of your mind you were going to be a judge someday—did you?

Robert Devich: No, not back then; but back then I was thinking about the FBI.

Robert Mallano: Is that right? Okay.

Robert Devich: But they had a priest that was teaching at the University of Portland, Father Delaney, who was so well acclaimed throughout the country; and he taught philosophy, and—

Robert Mallano: So you wanted to take advantage of him?

Robert Devich: Oh, yeah, he was great. He says the only way you're going to fail the course is if he 'throws the papers to the ceiling and they don't stick," he says. But you really learned from him because he was such an excellent teacher.

Robert Mallano: And when you graduated from college you went back to the Pacific?

Robert Devich: Yeah, back in '50 and '52 I went to Hawaii. Again, basketball seemed to be a big part of my life around that particular time. And I went, there was a fellow by the name of Paul Fagan, Jr., who owned Universal Motors, which was a Ford dealership; and he wanted to promote basketball in the islands, and so what he did is he recruited me, and I was the first one.

And he later recruited other stateside ball players, and we played there in Hawaii. And he would have a round robin on the weekends where he would have a military team; University of Hawaii; our team, which was Universal Motors. And he would bring a stateside team like the University of California, Bradley, University of Portland, and other colleges over. And we would have a round robin; and on Saturday after the game we would have a big luau.

Robert Mallano: You were getting paid for this, you were a semipro?

Robert Devich: No, no, I was working for Universal Motors.

Robert Mallano: Okay, you were working, okay. And this was a company team, so you didn't exactly get paid for it, but—

Robert Devich: No, but so—

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Robert Mallano: So, okay now you graduated with learning about philosophy, you go play basketball for two years, and then Hollywood called. Tell us about Hollywood.

Robert Devich: *[Laughing]* It wasn't exactly "called." I was hoping they would, but they never did; so in '53 I decided, I signed for a band up in Portland, which was about a 17-piece band. And I thought I had a decent voice. People, your friends, will always tell you that, and at that particular time, I had hair and I didn't look too bad, and so I—

Robert Mallano: You still look good, Bob.

Robert Devich: Thank you. And so I wanted to come to California and see what I could do and in turn maybe hook up with a big-name band or something of that nature. But I came down here and the competition was just too tough, and so I decided to do other things. That's when I went to the Beverly Hills Police Department.

Robert Mallano: Now, tell us about that. What was the calling to law enforcement?

Robert Devich: Well, like I said, I was . . . in the back of my mind I was anxious to become an FBI agent, so I knew that you either had to have a law degree or have investigative background. So in '55 I went on the Beverly Hills PD, and I was there from '55 to '65, and I served as a patrolman and as a detective, and I started law school there in '59.

Robert Mallano: What prompted law school?

Robert Devich: Well, because I again I was thinking, I'll go to the law school and then go to the FBI.

Robert Mallano: Still the FBI, okay.

Robert Devich: And fortunately Southwestern, where I went, was great. They allowed people like myself who were anxious to . . . I had gotten married in 1959, and they allowed you to go to school in the daytime or night. And I had some great friends on the police department where we used to shift hours in order so that I could . . . if they (*sic*) had a problem time-wise, they would work with me so that I could attend class. So fortunately I was able to finish law school in '65.

Robert Mallano: All right. You met someone and got married in '59, and that marriage lasted 40 years; say a few words about that.

Robert Devich: Well, she was a beautiful . . . Gloria was a beautiful, movie star–type of a woman. And she was the personal secretary to Congressman Roybal for about five years, and she was of Mexican descent, and because of that . . . She passed in 2000,

but up to that time, we had a lot of activities that we did with the East L.A. and the Latin community, and I would say most of our activities were scheduled around the Latin community.

Robert Mallano: All right. Now, when you graduated from law school, how long did you remain on the police department?

Robert Devich: I left in '65 and then I passed the bar in '65; then I went to work for the DA's office in Los Angeles, and during that time that I was there at the DA's office, I did this . . . Normally you'd do the prelims and then I was . . . they assigned me as head deputy DA in Beverly Hills, which is interesting because I was able to work with the fellows for the police department that I had worked with there, and that was very pleasant. And from there I went on into doing felony trials in the San Fernando Valley for about two years. But in 1968 in East L.A. they had a Latin deputy in charge who was appointed to the bench in Whittier.

Robert Mallano: Who was that, Alfonso Hermo?

Robert Devich: Alfonso Hermo, yeah. And Evelle Younger was the head DA, and he spoke with the community people there and they wanted a head deputy of Latin descent. And he said unfortunately he had no deputy III that was Latin. He said, "But I have somebody that would be second best; I have a deputy who is a grade III and who is married to a Mexican-American lady," and that he was ready to come out to set as the head deputy. So this was okay.

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So I went out to East L.A., and I can truthfully say that was probably the four happiest years I ever had in my law career. It was from '60 to '72, and the people there were very receptive, they were very accommodating. I was fortunate to receive quite a few awards from different organizations. And because I was there was when I got the call for the judgeship by Governor Reagan to the municipal court.

Robert Mallano: That was in Los Angeles Municipal District?

Robert Devich: Yes, I was . . . Although I was in East L.A., I got appointed to the L.A. Municipal Court in 1972, where I served until 1978. I did criminal trials in the municipal court and got to the point where I was handling heavy-duty-assignment arraignment courts in L.A. and in the San Fernando Valley. And we would have cases, case calendars—I would run sometimes 100 cases a day.

Robert Mallano: You have to talk fast, don't you?

Robert Devich: Got to be fast, plus I had the cooperation of the city attorney's office, the DA's office, and the public defender's office. With all of us, we were able to really resolve most of those cases, which have to be resolved when you have that many cases on the calendar.

Robert Mallano: Now the cream rises again.

Robert Devich: Oh, yes.

Robert Mallano: Nineteen seventy-eight; it's by a different Governor, different party.

Robert Devich: Yeah. Went to the superior court in '78 and stayed there until 1985, in L.A. Superior, and I was appointed by Governor Brown. And again I did felony criminal trials and high-volume arraignment cases. And death penalty cases I did while I was there. And it was interesting, and one time . . . shortly after I got appointed I saw Tony Kline, and I know you know Tony Kline.

Robert Mallano: Well, he was the appointments secretary that helped, well, when I was put on the muni court and the superior court.

Robert Devich: I saw him at a function, so I went over there with my wife Gloria and I shook his hand, and I wanted to thank him for being involved in my appointment. And he looked at me and he looked at my wife and he says, "She didn't do you any harm," which means the fact that my association in East L.A. and my association with the Latin community and all of this was made possible through my wife. And so it was very instrumental in my getting appointed to the superior court by Governor Brown.

Robert Mallano: While on the superior court you were sitting as a judge of the criminal division, which is quite a responsible position and quite an honor, sitting in Department 100. Tell us a little bit about that.

Robert Devich: Well, I took over for Chief Justice Ron George when he went over to civil; and believe me, that's a hard act to follow, because he would, he had, a tremendous control on that particular department. And so trying to follow in his footsteps and trying to maintain the volume of cases in that court was extremely difficult. But I did that for about a year.

And so you preside over all the superior court criminal courts in Los Angeles, and so that raises a lot of problems with judges with their particular problems. And you also serve as an assistant to controlling and operating the L.A. County grand jury.

Robert Mallano: Well, other than being presiding judge, it's probably the most responsible position on the whole court, in terms of being the head of the criminal court system.

Robert Devich: Yes, and in that year of '85 then along comes the third Governor.

Robert Mallano: That's right; you were just popular with everybody. *[laughing]*

Robert Devich: Well, that was just the way the chips fell.

Robert Mallano: All right. You went on the Court of Appeal in 1986, appointed by Governor George Deukmejian. How did that come about?

Robert Devich: Well, it's amazing; when he called to let me know that I was being appointed to the Court of Appeal, he said that he read my background and everything else. And the support that I had, fortunately, was from all different avenues—from defense lawyers, from prosecutors, from different type organizations throughout L.A. And so he said that my background was quite well rounded; I think those were his words. And so he said that he thought of me for the Court of Appeals.

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Once I got on there I loved the civil aspects, because everything was always criminal up to that time; I didn't know a summary judgment from a demurrer until I got on the Court of Appeals. I loved the research. And fortunately I was assigned to this particular division with Justice Spencer, who was the presiding judge, and with her . . . She is a very fine, fine lady. And the colleagues that we had on that particular times, Sandy Lucas and Thax Hanson . . . and we had a great time and they really helped me. And we used to have a few squabbles, but as you know, that happens up here.

Robert Mallano: Now, you opened this building, the Ronald Reagan Building, moved over here and were in these chambers, right as we're sitting right now. These are your books right here; they were your books?

Robert Devich: I think some of the furniture that I was involved in when we . . . I know the desk was.

Robert Mallano: Yeah, that's about 100 years old, that's—

Robert Devich: You didn't want to let go of that.

Robert Mallano: No, I didn't, and I think that was here when . . . in 1906 when the Court of Appeal started.

Robert Devich: Well, now I'm not worried about those civil cases; I think I can handle any civil case that comes along.

Robert Mallano: Well, you had Rock Hudson. Roman Polanski.

Robert Devich: Yeah. But two cases that I had on the Court of Appeals that took some doing was *Delaney v. Superior Court*, which involved the shield law, and *No Oil v. the City of Los Angeles*, which had to do with the environmental impact report due on the oil well by the Pacific Palisades.

Those were probably the two most difficult cases that I had up here, because I happened to believe in the shield law; I think under the right circumstances it's necessary. And I'm not a proponent for building oil wells along the coast, but on the shield law, it just happened that that particular information that the reporter and her photographer were holding back would have assisted the defendant in his trial on the search and seizure issue. And the Supreme Court unanimously sustained that.

And on *No Oil v. City of L.A.,* it involved an environmental impact report that myself and the panel just felt was a little defective and had to go back to be redone—but we thought that it didn't and we sustained it and . . . But it was settled, and the oil well was never built, and somehow they worked it out with the—

Robert Mallano: Now, did you get any criticism in the press on these two cases?

Robert Devich: Oh yes, yes. *[laughing]*

Robert Mallano: Well, why don't you say something about that? Tell the future judges about having to take heat sometimes and that being part of the job.

Robert Devich: Well, that's part of the job, and you go along with it. And you know when you do it—like for example, I know when you were on the superior court up here, if you ever had a case involving an animal you would be very cautious as to how you handle that, because I'll tell you—

Robert Mallano: I had a cat-killing case once, and I was very careful on what I said. And a lot of people . . . I mean, I love my dog dearly, and people are attached to pets. That's a good thing to warn judges about: don't make light of a case involving an animal.

Robert Devich: Never. I had a cat case where a guy put a cat in the mailbox and lit a piece of paper and threw it in. And it didn't burn the cat, it just singed his whiskers. And so it came back and there was a probation report; it came back, it said "probation." I says, "Oh, no. Five days." So he did five days. And that was amazing, the good PR; but it isn't so much the PR, it's just the fact that you have to be cautious of what you do regardless of

what your particular case is and look at all the aspects of the case.

Robert Mallano: Any other cases that stick out in your mind in your Court of Appeal career that you would like to—

Robert Devich: Well, I had one case, the *California Restaurant Association v. City of Los Angeles*. That's a case that had to do with posting a sign in a liquor establishment relative to the fact that liquor could be harmful to women who were pregnant.

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Robert Mallano: Prop 65.

Robert Devich: Yeah, and so that's still, you go in any liquor store, you're going to see that there, and so we had something to do with that. And then Rock Hudson; and I had the Roman Polanski case that we wrote an appeal on it. He wanted to . . . he was in Europe and they wanted a deposition of him, and they wanted him here for the deposition, and they wanted the case dismissed if he didn't come. And the panel and I felt that no, he could take a video depo; and so that was necessary, so—

Robert Mallano: You have any thoughts about the trial court and compared to the appellate court you'd like to comment on?

Robert Devich: Yeah, I think that the appellate court is probably the prestigious job of the court. You get involved in so many issues and you get involved with attorneys that are very well familiar with their case. And we're almost like the court of last resort, because the Supreme Court just doesn't have the opportunity to take all the cases that they would like to take, so I think . . . It's something like 3 or 4 percent; I may be wrong, but it's very low as to what they can take. So we're like the court of last resort, so we have a very strong impact on the public in the Court of Appeals.

And again, the cases are interesting, but there's a little . . . at a point, they get a little staid; and then you don't have the fun and the harmony that you have on the superior court. The superior court is more fun. And you're, you're . . . you can't run into your chambers and look up every issue that pops up, and you have to have some common sense and shoot from the hips and take a chance on things. And when you do that, the lawyers may get an attitude; but as a rule I've been able to maintain stability in my courtroom, so I had no problem with that.

Robert Mallano: You have any heroes on the court that you care to tell us about?

Robert Devich: Well, Justice Spencer is . . . she is one of the first judges I ever went in front of when I was a young deputy DA. And she treated me royally, like a lady then.

Robert Mallano: Me too. I appeared in front of her in the ’60s doing preliminary hearings—very gracious, polite.

Robert Devich: I could, like, tell you stories about things about how she handled her courtroom. And I just adored her for that. And then she was up here. I came up here and like I said, when I found I was going to be assigned to her court, I was tickled pink and happy. Then there was Justice Thax Hanson, who . . . he was on the other side. He was like a conservative justice, but a gentleman to the core.

And he and Justice Spencer adored one another. They were very fond of one another; there was never any bitterness, even in the opinions that they would disagree on. There was never any disagreement. There was never a situation where he would have to say something like, "I concur on the opinion, but I don’t want to take part of it really, other than I just concur.”

But they paved a way for me to continue, trying to say, “You’ve got to be able to get along with the people that you work . . .” Then finally a gentleman who I always felt should be on the state Supreme Court is Justice Walter Croskey. He probably knows more about insurance law than anybody in the state of California, any case involves—and you know how many cases we have involve insurance law. And he . . . but hard worker; the public is really getting their money’s worth when Justice Croskey is working on their cases. And he works hard.

Robert Mallano: The best advice received as an appellate court justice.

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Robert Devich: Well, I think is to not to get yourself stuck in a mold that this is the way something is going to be and that this is what I think of this, and that's the way it’s going to be, no ifs, ands, or buts. I think you have to listen to your other colleagues and talk about each and every case that you have and say whatever your points are.

And I remember one case I had where I had a young extern from Pepperdine, and we had a criminal case and she came in and I assigned this criminal case to her. She read the briefs, I read the briefs, and I indicated to her the way I think that her memorandum opinion should go. And she said, “Justice, could I maybe take the other view and write up an opinion and see what you think that way?” And I said, "Sure, go ahead.” And she did.

And she did, she did a great job. She wrote . . . she convinced me and I changed my viewpoint, and it wound up that the opinion was published.

Robert Mallano: Oh, how about that?

Robert Devich: I wish . . . I don't know where she is; I wish I had her name. But I'm sure she remembers that.

Robert Mallano: What's your most proud achievement of your judicial career?

Robert Devich: I think first of all is getting to the level that I did. When I was a policeman I never thought I'd ever get to the level where I'd be sitting on the Court of Appeals. I'm sure you probably felt the same way, that this is a nice place to be.

Robert Mallano: A wonderful place.

Robert Devich: Yes, yeah. And but as you know, it takes a lot of people along the way to help you to get here. And but my wife was wise enough to tell me when I first started . . . She was the one in fact that convinced me to go into governmental service for the DA's, and then afterwards, of course, going on into the court up to the judiciary, which I never would have done, I don't think, had I not gone into governmental service. And I think that I could have made a lot more money; I think I could have done well financially. But you know, that isn't the final end, is making a lot of money.

Robert Mallano: Now, you retired in 1996; tell us the reasons that you retired and then what you did after that.

Robert Devich: Why I retired? I think it's very simple: it's an issue of money. It's unfortunate, but you, when you reach your 60th birthday and you've got your 20 years in and you look at it, you see that you're making but 25 cents on the dollar, and you realize that you've got to, you owe something to your family. And so it was money plus the opportunity to go out and spend more time and maybe take more vacations and things with your family.

Robert Mallano: You are private judging now; are you taking enough time to enjoy life?

Robert Devich: Yes, very much so. And so I'm doing arbitrations, mediations, and the whole gamut of business law—medical malpractice, legal malpractice, employment. And so it's another learning experience and I enjoy it very, very much.

Robert Mallano: Tell us about your views on the challenges facing the judicial system today.

Robert Devich: That's sort of ironic, because the other day—and I think I have it right here too—there was an article that appeared on June

the 16th relative to the Riverside County and the problem they were having with the courts and the need for more courts, more judges. And that's the problem: there are just not enough courts and judges to handle the volume that they're faced with.

And in order to do that, I think you're going to have to pay them a little bit more money. And again, it's ironic. I don't know if you watch *The Sopranos*, but I did; and there was one scene in there where the daughter Meadow, who was going to think about going to a law school, was with her boyfriend—

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Robert Mallano: She used to—I'm not saying I watch it, but she used to want to be a doctor, and she changed to law. *[laughing]*

Robert Devich: Now she wants to change the world, yeah. And so her boyfriend who was there with her is with a law firm and he was indicating to her that, yeah, that his firm is thinking of hiring her when she becomes a lawyer, and that they want to pay her $170,000. And I just sat there and I laughed because $170,000, they don't make that kind of money on the state Supreme Court. So that tells you . . .

And that's always been that way. It was sort of a laughing type thing, because we used to sit on the bench, and you'd have deputy DAs who were making more money than the judges, and first-time lawyers that were making more. So if you want to get the quality . . . and believe me, you compare California judges with rest of the world and you're going to find out that we're blessed with having the quality of judges that we have here in California.

Robert Mallano: As a part of this Legacy process, we need you to give us words of advice based on your 35 years. You were on the bench in 1972; you've seen a lot. So, for prosperity (*sic*), please, wisdom, and guidance of all ourselves and all the future judges, words of advice.

Robert Devich: Well, as I look back, I recall that one of the things I've always been sorry about is the fact that when I was going to law school I was studying all the time; and when I became a DA I was studying all the time; and the same way when I went on the bench. You do, you get a lot of demands, both socially and as far as work is concerned; and I found as I look back on my life and my career that the one thing I wish I could have done was devote more time and enjoyment with my family.

My daughter and son and my wife, we went on vacations and things like that during the summer, so . . . But as I look at it now, I see families with little tiny kids going to church and hugging the kids and everything else; and I look back, and I said, "Did I do that?" I don't think I did, because I was studying

on weekends; I would study. So all I can say to judges is that, make the time, and you overcome that, and you'll be very, very happy in your professional career as a judge, a judicial officer.

Robert Mallano: Bob, you've had a real fascinating, interesting career—from a singer, basketball player, to a Court of Appeal justice. So you're part of our American, our Californian, legacy.

Robert Devich: Well, thank you, Robert. Thank you for the interview and hope I have many, many more years.

Robert Mallano: I hope you do too.

Robert Devich: Okay, thank you.

Duration: 33 minutes
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