Steven Vartabedian: My name is Steven Vartabedian, spelled V-a-r-t-a-b-e-d-i-a-n. And I'm a retired justice of the Court of Appeal, Fifth District.

Rebecca Wiseman: And I am Rebecca Wiseman, W-i-s-e-m-a-n, a member of the Court of Appeal, Fifth District – Associate Justice.

David Knight: Wonderful. And one more adjustment on my focus and we are ready to go.

Rebecca Wiseman: All right. We are privileged to be here today as part of the Appellate Court Legacy Project with Justice Steven Vartabedian, recently retired from the Court of Appeal, Fifth Appellate District. And Justice Vartabedian is here with us. I am Rebecca Wiseman and have the privilege of asking him some questions to hopefully capture some of the wonderful times that he has spent here at the Court of Appeal as well as on the trial bench.

Justice Vartabedian, the Fifth District Court of Appeal is located in Fresno, which is in the central San Joaquin Valley. And you have a very interesting and unique family background. Before we get into your judicial experiences, why don't you tell us a little bit about your family and your background.

Steven Vartabedian: Well, first of all, Becky, let me thank you for conducting this interview, and it's my pleasure to be here. I'm on a different side of the interview today, which is quite exciting for me.

Yes, I am a third-generation American. My heritage: my father Armenian and my mother Lebanese. And the story of those families – what brought them to the United States – I think probably is very similar to many other immigrant stories. I had grandparents coming through Ellis Island, and . . . starting on the East Coast and eventually migrating to the West Coast. My grandfather came from a region of Armenia called Karpert on my father's side, and my grandmother similarly. They both came here before they married. And on my mother's side they came from a region called Baskinta, which is known as the olive oil capital of the world, believe it or not, so as a child I got to eat a lot of food with olive oil! But, you know, these were families, I think, that came here with very little education.

And I typically point to my grandfather, Solomon, as the person that I had the most experience with as a child. My grandfather would tell me stories about what brought him to the United States, about his heritage. And he actually came to the United States when he was 18 years old in 1908, so I'll use him as an example of the family background. And I remember him telling me that he worked for United States Steel. He lived in Manchester, New Hampshire, and his first job was with United States Steel making 19 cents an hour as a laborer. And I think he initially . . . he came to the United States with the idea he would go back to Armenia. The Karpert region was part of what is now eastern Turkey, and unfortunately he was 3:34

caught up in the Armenian genocide during those times. And so, you know, three, four years down the road there was a lot of turmoil in the homeland. He lost all of his family – mother, father, all siblings, and most close relatives. So he was kind of stuck here; he was kind of orphaned as a young man in his early twenties. And eventually he decided he wanted to become a farmer; learned of Fresno, California; and in the . . . late 1918, 1919, maybe . . . possibly 1920 did come to Fresno and eventually bought some farmland here and started farming. But he certainly had a lot of influence on me. But I offer him as an example of the heritage. And my brothers and I spent a lot of time with him when we were young.

Maybe this is a good time to go into that – talking about some of my younger days. He and my grandmother used to take, first, me – because I was the oldest son of Robert and Nancy – he used to take us to a place called California Hot Springs, which is in the Sierra forest beyond Porterville as you go up into the mountains. And in fact, a funny story is that his good friends that ran that place were the John Baxter family, who happened to be cousins of Supreme Court Justice Marvin Baxter. But he had long family ties with the Baxters, so that was somewhere where he would go and vacation. And when I was about five or six years old, he decided to take me for their weekly vacation there. And there I would get these stories about Armenian history. He tried to teach me the Armenian language, unsuccessfully. And he would have object lessons. He would . . . . They were part humor, part ethics, part stories about wisdom of this Armenian legendary fictional character named Hojah. And so we'd have . . . I'd have all these stories about Hojah. I'm sure other ethnic groups have people like that, but he would . . . that would be part of his lesson for the day. But we would go there, and we would hike, and I would swim. I learned to swim there. My grandfather taught me how to swim when we were there. And I'll never forget the time I . . . we were hiking and I fell down the side of the mountain. I think he thought I was dead. He came running down to rescue me, and luckily just my pride was bruised – nothing more. But those were some of the early times I had with my grandfather.

And again as an example of family heritage, he was someone who had no education and in fact very much admired people in the law – had a great admiration for them. His name was Solomon, so there was kind of a . . . . He was looked upon by his friends as kind of the wise individual. I remember sitting at his home, and people would come and talk to Solomon about this business problem they were having, or this farming issue they might have had with their neighbor. And he would offer advice. And although he wasn't wealthy by any means, people would come to him for loans. And I remember now a pretty prominent family here in Fresno where the brothers came to my grandfather for a small loan, and he loaned them some money. And over the years he became known as "Uncle 7:06

Solly," and they were very fond of him and our families intertwined quite a bit. But this was the kind of man that he was, and when I think of my heritage I think of him, because he taught me a lot about my heritage.

Rebecca Wiseman: Well, it sounds like he was a person that really valued education.

Steven Vartabedian: Absolutely.

Rebecca Wiseman: And you've had an interesting educational background. Before telling us about law school, what is your educational background? What did you do?

Steven Vartabedian: Well, you know, I think what's important about my educational background is I had not just this grandfather but other grandparents – none of whom were educated at all – came to the United States in their teens, mostly (most of my four grandparents) and they very much valued education. So whenever my brothers and I had any achievements in school, my grandfather said, "Oh, let me see that certificate. Let me see this." And he would just . . . would encourage us so much. But it wasn't just in terms of education that I received. My grandfather . . . . Neither of my parents went to college. In fact, my mom didn't even graduate from high school. And they, for people lacking in education – I think my dad did take a few business classes from City College, but certainly not pursuing a degree – but their lack . . . with their lack of education, to them it was all the more important to emphasize to myself and my two brothers – two younger brothers – the importance of an education. So this was something that was constantly being emphasized in the family: making sure that we studied as we went through our elementary school, junior high school, and high school years; the value of going to college and possibly getting a higher degree. From people that had no experience with that at all. So I was very lucky to have this foundation. In fact, some of our relatives used to say that my parents spoiled myself and my brothers because we would get out of doing some chores because "Oh, we've got to study, Mom (or Dad). We've got to study!" And it worked pretty well. So we were viewed as being a little spoiled by our parents in that respect.

But I did graduate from Roosevelt High School here locally in Fresno, went on to Fresno State (the local school), and there made a lot of friends, including Chuck Poochigian and a lot of other people that have been lifelong friends of mine. I got involved in student government there – that was something I was active in. I was active in forensics, which ultimately I think had a big impact in me – the public speaking and debate. And from all of those experiences, you know, I ended up going to Santa Clara University Law School and I certainly have never regretted that. 9:58

Rebecca Wiseman: Oh, I can see why not. What is it that . . . . Was there a turning point, something that made you decide to go to law school as opposed to pursuing some other type of professional activity?

Steven Vartabedian: I think the encouragement I got from grandparents. My other grandparent – my grandfather on my mother's side, I always knew him as "Jiddi" because that's the Arabic word for grandfather – he, although he died when I was about six, he thought lawyers and judges were the most important people in the world. I mean, that was something that was so important to him, and it was also important to my grandfather. So I was raised with a great deal of respect for the law and for what lawyers and judges do. I think that when I got involved in public speaking and forensics, that – because debate's the kind of thing that typically leads people into legal careers – that kind of influenced me as well, because I . . . . Although I was a terrible competitor. My brother actually ended up excelling, and that became his area of study. But I enjoyed doing it even though I never got really great results.

Rebecca Wiseman: What do you mean you were a terrible competitor? What's that about?

Steven Vartabedian: Well, I didn't win a whole lot!

Rebecca Wiseman: Well . . . .

Steven Vartabedian: It seemed like myself and my debate partner ended up on the losing end. I think we enjoyed the talking part; we just didn't enjoy doing the research as much, and that's what got us into trouble.

Rebecca Wiseman: Yeah.

Steven Vartabedian: But it's not that I'm not a competitive person, because I am. It's just that at that time in my life it wasn't a priority; it was something I did for fun rather than as work. But I did enjoy it, and I think that was the important thing. And I think that probably really cinched it for me that I wanted to become a lawyer, because that helped me improve my verbal skills.

Rebecca Wiseman: Well, you mentioned you went to Santa Clara University School of Law. What was your law school experience like?

Steven Vartabedian: You know, to tell you the truth, when I started law school I was totally intimidated. I felt like – although Fresno is by no means a small city or Fresno State a small school – the class I entered into in 1972, law school had become very competitive. And I had classmates from Yale, Harvard, Dartmouth, a lot of the UCs – UCLA and Cal. Because of the proximity of Santa Clara to Stanford, a lot of people were Stanford undergrads; in 12:40

fact, I think that was one of the top feeder schools to Santa Clara Law School. So I was really intimidated. I didn't know if I could cut it. I just didn't know that I would make it. And so I would say for that first semester I was working so hard, just grinding it out, making sure that I briefed every case I heard in law school, that we studied, that I attended every minute of class, paid heed to what the professor had to say, took the Socratic method very seriously. I really . . . . And it's not that I disliked it, but I probably worked much harder than I had ever in my life before, so that it was really a relief when I saw those first-semester grades and I *had* done okay.

Rebecca Wiseman: Yeah.

Steven Vartabedian: And of course at the end of the year, most of the grades for us . . . . At that point most of the classes were year classes, and it was . . . I was still not . . . still doubting myself until those grades got posted. And in those days we didn't have the computerization. You would actually go and look on the professor's door to the professor's office and they'd be posted there with a portion of your social security number, manually written what your grade was. And I was so relieved at the end of that first year. But the law school experience, I probably didn't enjoy it much the first year because I was a bit uptight and serious about it. And with time I loosened up, though.

Rebecca Wiseman: Second year better?

Steven Vartabedian: Second year *was* better, yes; I think that's fair to say.

Rebecca Wiseman: Was this your first experience living away from home?

Steven Vartabedian: You know, actually it wasn't. What I did . . . . My father actually got me my first job. So I didn't even have to go hustle my first job – that's how spoiled I was as a kid. He was a manager of a local paint store, which was kind of a hardware store, the preceding type of store to the Angels and Home Depot and then eventually the Lowe's – those kinds of stores. Standard Brand Paint Company. And he lined me up a job, but I couldn't work in his store because there would be nepotism involved there. So I spent my summers, and . . . . I spent some time in high school doing stock work – just stocking shelves. But I spent time . . . . I spent some summers in Bakersfield, because that was the nearest store at that time to Fresno. In Bakersfield I lived away from home during college during the summers. And then once I went to law school, that helped pay for law school during the summers; I could make more money doing that than law clerking. So during the summers I worked at the San Jose store of Standard Brand Paint Company. So those . . . . But the Bakersfield experience was my first experience living away from home – being on the job, earning money for my education. 15:31

Rebecca Wiseman: Okay. I'm embarrassed I don't know the answer to this question, but you've been married for many years to a *wonderful* woman, Marilyn Vartabedian. When did you and Marilyn meet?

Steven Vartabedian: Marilyn and I met at Fresno State. We met at some social gatherings there. She had gone two years to San Joaquin Delta College in Stockton, which is her home town. And it was 1970 that a whole slough of people from that experience – people from Stockton who had gone to San Joaquin Delta – transferred to Fresno State to continue their education. And she was involved in . . . . Social work was her area of study, and that's where she got her bachelor's degree. But we met at Fresno State. And it just happened to be that I clicked with some of the people from Stockton, and then eventually I met her through some various . . . actually, fraternity brothers that I had that were from Stockton. Eventually I did meet Marilyn. And a funny story is that my roommate, Dave Morelli, and Marilyn's roommate, who was Karen Clement at that time – that was Marilyn's roommate – they got married as well. So we had roommates marrying each other. But Dave Morelli was one of my good friends from Stockton, and then Karen being the roommate of Marilyn, she and Dave ended up getting married as well. So I think that's kind of an interesting story that . . .

Rebecca Wiseman: Oh, yeah.

Steven Vartabedian: . . . we had those lifetime experiences coming from our roommate associations.

Rebecca Wiseman: So Marilyn went to law school, too.

Steven Vartabedian: Yes.

Rebecca Wiseman: In a figurative way.

Steven Vartabedian: Yes, I gave her a degree. What was it? "Putting hubby through Ph.D." I guess was the degree. I don't mean it to sound sexist or anything, but she worked very hard, because with her social work degree, during law school she worked for the Santa Clara County Social Services and had a very instrumental part in my education and certainly was a very major contributor to my law degree.

Rebecca Wiseman: And continues to be, yes?

Steven Vartabedian: She continues to be, very true.

Rebecca Wiseman: When you were a student – and let's stick with student for now – did you have any particular professors or mentors that had a lasting impact on you? 18:01

Steven Vartabedian: Well, you know, let me start with a professor. Actually, I had a number of professors. And what's really interesting: I have two daughters who went to Santa Clara University and had some of the same professors. How many years would that be difference? They had the same professors more than 30 years later.

Rebecca Wiseman: Two daughters that went to law school.

Steven Vartabedian: Two daughters that went to law school at Santa Clara University, and another daughter that went to law school out of state. But actually two instructors that are still there that were very good: Eric Wright, my torts instructor, and Ken Manaster, my land use instructor. And as I say, my daughters had them for instructors as well. They were very instrumental. But the guy that . . . There was a guy that was the associate dean – a guy named George Strong – who would sit there and lecture the Socratic method. And in those days he had a cigarette; he would constantly be smoking, kind of a . . . . I guess the best way . . . . Just a kind of a crusty old guy. Almost kind of a Kingsfield, right out of *Paper Chase* type of guy. And he'd really be tough with the Socratic method, but I learned more from that guy, and he certainly . . . . I got my best grades. He taught diverse subjects. He taught Criminal Procedure and Wills, which I had my two highest scores in. So his method must have been very good, as much as he seemed to be kind of this cantankerous older gentleman using some pretty much old-school methods in teaching those classes.

But the guy that I think impacted me the most – and you mentioned how things maybe got eased up a little bit in my second year of law school . . . . Coming from a debate background, I was very interested in moot court. And we had moot court competition, and one of the people that judged our moot court was Judge – later to become Justice – John Racanelli. He was then a superior court judge in Santa Clara. And coming from my debate background, I was probably feistier than I should have been in dealing with these esteemed moot court judges who were real-life judges as well. And so we did our argument and fortunately the team I was on quote unquote "won," if you can say someone wins in moot court. And as always happens during these law school moot courts, typically you will have the judges give some critiques and comments. And Judge Racanelli made the comment – and I thought, "Uh, oh, I'm getting in trouble here" – he goes, "And Vartabedian was very, very feisty," he goes, "which will serve you well if you're ever on the other side of the case and you're doing what I'm doing." He said, "I think you're very engaging in argument, and that will serve you well." And the funny story of it is that I hit it off with him, and after that point in time I did a judicial externship with him, working on 995 and 1358.5 motions. 20:49

Rebecca Wiseman: Motions to suppress.

Steven Vartabedian: Motions to suppress.

Rebecca Wiseman: Evidence, that is.

Steven Vartabedian: Motions to suppress evidence. And he was the judge that I worked under, and developed a relationship with him. And what's so funny, he went from there to the Court of Appeal – it was the First District then, because they did not have a Sixth District at that time – retired, and I think he's now in New York. But I've had just a little bit of contact with him from time to time, and he's also the subject of a Legacy Project. And an interview was done of Justice Racanelli as well. So that was very interesting, how that developed and how career lines tended to cross in some way over the years. But he was a very big influence on me.

Rebecca Wiseman: What a small world. Okay, any law student that's listening to this will probably want to know what it was like studying for the bar then. Tell us about that.

Steven Vartabedian: Studying for the bar. Well, you know, I always commend studying for the bar with a friend. In other words, it's sort of like when you get into an exercise program, and discipline-wise it's good to have two people pushing each other a little bit, because if you're out there running your five miles all alone or if you're attending a spinning class alone, you know, there's no accountability to someone else. Well, the person to whom I was accountable for studying for the bar was Chuck Poochigian. He and I went back to Fresno State; in fact, we knew each other when we were in high school, and of course he eventually went on to serve in the Governor's Office, to serve in the Assembly, Senate, and now is on the Fifth District Court of Appeal.

Rebecca Wiseman: You were a colleague at the Court of Appeal for – what? – several months.

Steven Vartabedian: For several months. And I neglected to say, he and I practiced law together also for a number of years when we first came out of law school. But the point I'm trying to make is – and this is the kind of person Chuck is – he figured out a way that we could get our bar review course free! Because we were going to be the proctors for the bar review course, and it was a BRC course offered by the Josephsons, who . . . . And we went against the grain. The BAR was the big course then, and we took the BRC – the smaller bar review course on the block, so to speak. And so he and I proctored the classes, and that way we also had the advantage of getting as much access to the videotapes as we wanted. And we would study together. So it was an experience, but we kind of made it a fun thing, believe it or not – as hard as that may seem. 23:23

And actually, I've got a funny story that goes even before our experience taking the bar exam. Chuck and I would study during law school as well. And I hope Chuck doesn't mind me saying this, but he didn't take Constitutional Law very seriously. And it came down to it was time for the exam, and I had been taking copious notes during class and been paying attention very closely, and we were getting ready to go study and, you know, he kind of turned to me and said . . . . You know, we had the *Gilbert's Outlines* that we went to look at, and all this stuff – but I had kept a manual outline of it – and, you know, I kind of gave him my executive summary of Constitutional Law, and we bounced it back and forth, and doggone it, he got a better grade in the class than I did, for all my efforts! I don't hold it against Chuck at all, don't get me wrong. But I think that's always a funny story to tell: that I actually tutored him in Con Law and he got a better score than I did on our final.

Rebecca Wiseman: Well, it just means you're a good tutor.

Steven Vartabedian: Well, maybe that's one way I can take some credit for that. But the study for the bar is something you have to go about very arduously. I've had daughters I've talked to about it. And it's just a matter of sticking your nose to the grindstone, studying a lot of things that you may never actually confront during the exam, but you just have to be *so* well prepared. But I encourage people to do something to maybe make it a fun activity. And it became a fun activity because I was studying with Chuck.

Rebecca Wiseman: Okay. How did you find out you passed? What were you doing?

Steven Vartabedian: It . . . . In those days, the exam results . . . . Of course, we didn't have the Internet and computers and all that stuff in those days; this was 1975. And typically you would learn over Thanksgiving weekend. And in fact, Marilyn and I were at her aunt and uncle's in Oakland. And I had to go through a process where you would call in and listen to hear if your name was mentioned! They'd go through it, and you'd wait to see if your name was on the list! So I . . . .

Rebecca Wiseman: And you're Vartabedian with "V."

Steven Vartabedian: And I'm Vartabedian with a "V"! So they'd tend to list them alphabetically. I'd be stuck on the line. So telephonically the law school would put the names on there, and the way we would find out. So I actually called on Thanksgiving Day from her aunt Blanche's home, and there I heard it on the phone. I came out, "Everybody! I passed!" So we made the party all the more a thanksgiving celebration, learning that day, after hearing that . . . my name on the phone message, that I had passed. 26:02

Rebecca Wiseman: All right. You've talked a little bit about your first job, but tell us more about it and the type of law that you practiced.

Steven Vartabedian: Basically any client that would walk through the door! What Chuck and I decided to do . . . . It was during law school, and we had this idea, fairly early on – once we knew we got past the first year – fairly early on, that we wanted to open our own law practice. So each of us took on jobs during the school year with law firms in our second and third year. Small firms, two . . . . I think each of the firms we were with were two-attorney firms. And we learned what it was like to have a small practice. Just . . . . And these were people that pretty much started their own practices without a lot of experience – maybe a little bit of D.A. practice, that kind of thing. But they . . . these lawyers that each of us worked with at different law firms, small two-person law firms, encouraged us: "You guys can go out and do it on your own." In fact, one of them wanted us to be a branch office of that person's San Jose office. But we ended up not doing that.

And so we spent our third year of law school very much studying opening one's own law practice – how that would work. What were the pitfalls, what were the benefits, what were the detriments. And we went ahead and did that without any experience as practicing attorneys.

We . . . . After we got our bar results, within a very short time we went ahead and opened our office. And there are two sides to that. I mean, there are some great things that came out of it, but it was a tough time. Fortunately, when I decided . . . . Marilyn and I, I should say, decided we would move back to Fresno awaiting our bar results, and I went ahead and worked for a large local law firm and did some research, worked for them while I was awaiting the bar results. And once I started practice – like I say, anyone that walks in the door becomes your client – they did not do any family law, so I immediately got a lot of family law. Chuck came back to Fresno, worked as a clerk – law clerk – for a firm that did a lot of transactional work with real estate people. And because of that, we got some real estate litigation and some of the what you might call lower-end real estate work in terms of representing landlords in unlawful detainers. So we got that kind of work. So this work really came from people we had worked with. And in addition to that, when you start out on your own, I got on the panel for criminal indigent cases. We got on the bar referral list to have cases referred to us from people that would go to the local bar association's referral panel – attorney reference panel. And we got a lot of cases that way. And, you know, it was tough for a few months, but we were making a decent living after a few months. 29:03

But the downside was, whatever experiences we got were first-time experiences for us. And we didn't have mentors right there in the office. So that was something that . . . . We had to make contacts in the local bar, learn to get to know some of the judges better – and they were very kind and decent to us, believe me. The first time you'd do any particular procedure, whether it'd be taking a family law default (you know, "How do I do this?" practically), the judges were very good at explaining those kinds of things. So that kind of help was very important. But I think I've described the kinds of cases that we did and how we arrived at doing them. But that lack of a mentor was something that . . . one of the reasons why I would suggest someone to start working somewhere. Most people say trial experience is another reason to work elsewhere, but just from what I've seen of the experience of my daughters, for example, working in large litigation firms, you don't always get trial practice right away, but the trial practice might come more in public defender or D.A. type of work. And as it turned out, I did get . . . put my feet to the fire and I did get quite a bit of trial experience early on, which was . . . just happened that way. It wasn't planned that way; it just happened that way.

Rebecca Wiseman: And was your practice in the Fresno area?

Steven Vartabedian: Yes, it was.

Rebecca Wiseman: And was it helpful, starting a practice in an area where you grew up?

Steven Vartabedian: I think it was very helpful. But you know, if we had a rainmaker, it was Chuck. Chuck was the more outgoing, I was the more reserved of the two of us. And I've got to give a lot of credit to Chuck. He got us a lot of clients and . . . because of our community contacts. And we had some similar contacts, too. Being raised in the same Armenian community, many of our contacts were the same. But Chuck was the one that brought in the business. I mean, he . . . . Chuck is great in his social skills, obviously; he went on and held a number of political offices. That skill was something that was apparent very early on, and he enjoyed that – more so than I did, but I think being local boys, so to speak, that certainly was very helpful to us.

Rebecca Wiseman: How long was your practice open?

Steven Vartabedian: Well, we started . . . . . We decided we'd start right at the beginning of the year. Although we got our bar results and got sworn in in December of '75, we started January the 2nd, right after New Year's of 1976. And we were partners from then . . . . Actually, 1981 I took a judicial position. But we continued in the partnership after that a little bit – after I had talked to Chuck about my situation with my part-time judgeship. And we continued, actually, until, I believe, early 1983 would be 32:04

when I finally no longer was able to practice and continue my judgeship duties. So . . .

Rebecca Wiseman: But tell us . . . .

Steven Vartabedian: . . . Chuck took it over as a solo practice at that point.

Rebecca Wiseman: Tell us the story of how you first began your judicial career.

Steven Vartabedian: Well, you know, the kind of practice that Chuck and I had meant that we were taking all the cases that came in the door. And a lot of times that meant going out to what were then justice courts, which were basically municipal courts of small . . . in areas and districts of smaller population: Sanger, Selma, Coalinga. These are some of them that are in Fresno County. There were justice courts in smaller communities, where each community felt like, you know, "Hey, you know, I don't have to go to downtown Fresno when I have a case; I just go to my local justice court." And I did some practice there, so I knew a little bit about justice courts from practicing in what were essentially municipal courts but in these smaller communities. And the Sanger Justice Court position opened up because Gene Krum, who had been the judge there for a number of years, was elected to Fresno County Superior Court. And I didn't think of . . . anything of it at first, but what had happened was someone who wanted to apply for the job after the application period had ended complained that inadequate notice was given. The names had been published in the newspaper – who had applied – and then all of a sudden it was a situation where they had to reopen . . . . . The county, which did the appointment process, had to reopen it. And there were 12 or 13 names, and I think eventually 20 to 25 people applied for the job.

But while there were those 12 or 13 names and the articles in the newspaper, I'm sitting at home, and actually Marilyn's reading the newspaper. And she had heard me talk about how I really enjoyed the judges I had worked with, because I had gone to judges to get some help in the mentoring process. Judges were very kind. Judges that immediately come to mind: Hollis Best, Blaine Pettit, Leonard Myers – they were some of the people that helped mentor me. Those are individuals I had trials before in superior court. And I said, "Boy, you know, I'd really like to become a judge someday. I really like what these people do." And so she's looking at the Sanger article – you know, "This is an application period that has reopened." She goes, "All right, Mr. Big Shot, why don't you go apply for this job?" I go, "Well, it's a justice court; it's not really a judicial job." "No, right here, it says, you know, it's a 50 percent time position. You can keep your law practice if it's okay with Chuck, and then you could do this." And I said, "Well, I'll never be appointed among all these people. These people have tons of experience." I had just reached five years of practice at this point; this was 1980. 35:06

Rebecca Wiseman: That would be the minimum, right?

Steven Vartabedian: Yeah, although they might have had some things about justice courts they'd let you slide a little bit. But pretty much . . . . Certainly for municipal court you had to have the minimum five years. Now for any judicial position it's 10 years. But anyway, to really be considered, five was the minimum. And these were people with a lot of experience – people who practiced in Sanger, some of the people who were already judges that were going to be combining another partial justice court position with this to make it a full time . . . . For example, you know, the person could be the judge in Selma and Sanger and make it a full-time job – that kind of thing. So I thought it over, and basically I was being challenged! "Look, it's up to you; you want to try this out." So I went ahead and applied. Didn't think I would get anywhere with it. And as I say, in those days, these were appointed by the county board of supervisors. But first there had to be an evaluation panel. So the evaluation panel for this particular position: Judge Robert Martin, Marvin Baxter, and Carmen Eanni. And I happened to know all three of them in some way. I'm not suggesting that knowing them made any difference in the process; I hope there was some merit to it. But in any event, they . . . this panel would first screen these 20 or 25 applicants and come up with the top three.

And somehow I edged my way into number three. So I definitely wasn't the first choice of the screening panel; one and two were ahead of me, and I was number three. So again I thought, "I really don't have a chance. I really don't have a chance." But the next part of the process was being interviewed during a board of supervisors meeting. And there were five members of the board of supervisors. So we went through the interview process with them – something that was open to the public. We just stood at the podium, they asked the questions, and each of us – each of the three finalists – gave their answers. And I gave my answers. I thought I did pretty well, but again I thought nothing of it.

And so I just kind of went home, and at that point I didn't know if they were going to announce the result right there, go back in their supervisors' chambers and come back and make a decision, or what they would do. And it turned out they were going to defer it to a later day. I didn't even write down the day they were going to consider it. So, as I understand it, later on – in fact, it happened to be my birthday – May the 8th, let me think of the year again, May the 8th, 1981, by the time the board of supervisors eventually made the decision. I didn't even know they were deciding that day, and evidently the other candidates packed the chambers with all of their friends in the legal community. They had all written letters – had their *friends* write letters – of recommendation. They had 37:51

people lobby the board of supervisors. I didn't know this at the time. I didn't do *any* of it. I just walked away, and in fact on that day I had a family law matter in Kern County. And the way I learned I was appointed: I was driving back and on KMJ radio I learned they had appointed me.

But let me tell . . . . I think the . . . . I'm sorry this has been such a long answer to your question, but later on the news there was the story about how this appointment was made. And it got into the newspaper. So this is stuff I got second-hand. I learned that the board members . . . . They actually took the vote out . . . because they want to do everything public there; they didn't want to get into any Brown Act problems. So they're taking the vote in public, and they're going back and forth, as is reported by the news, I later learned. And two members voted for candidate number one, two members voted for candidate number two, and everyone was looking at board of supervisor member number five to ask who he was voting for, to break the tie. And he said, "You know, I kind of like this Vartabedian guy. His approach was really fresh. You know, he didn't lobby us. He didn't put pressure on us." I didn't do it because I didn't know any better. But he said, "It was really refreshing. So my vote's for Vartabedian." So, okay, the board chairman says, "Well, we've got a logjam here. We can't appoint on a two, two, and one vote among three candidates. Someone's going to have to move on this thing." So they went around, evidently, several times, and then eventually . . . . Actually, the supervisor that stood up for me, the guy's name was Harry Huey. I didn't even know the man. But he stood up and, you know, was the one that made it possible that my candidacy would go further. And in the process, three of the others went ahead and said they could go along with Steve Vartabedian. So by a four-to one vote, I ended up being selected. But I was selected because of my naiveté, maybe. I didn't know any better, I didn't lobby, I wasn't anywhere around when they made that decision.

Rebecca Wiseman: Okay. It was meant to be. You then went to the municipal court – is that right?

Steven Vartabedian: Yes, that's right. I continued at my law practice. And by the way, I did check with Chuck, my law partner. I didn't just go, "Hey, I'm going to apply for a judgeship" and want to keep my law practice. And in our law practice we figured it out where we had a formula where I would devote 50 percent of my time to the practice, and in terms of, you know, sharing the profits in the law firm I would take a commensurate amount of profits. And Chuck would get a larger sum because he was devoting 100 percent. So the two-to-one ratio on that. So I continued in that for a while, and, you know, eventually I was getting a lot of calls to come and sit in other courts when judges were away. So it kept getting to be more and more, and it got 40:46

to the point where I was doing the justice court, by early 1983, on a full-time basis.

But by 1983 we had a new Governor, and the Governor was George Deukmejian. And lo and behold, his appointments secretary is Marvin Baxter.

Rebecca Wiseman: That's a name that you've mentioned so far, right?

Steven Vartabedian: And I've mentioned that name a couple of times. So, you know, I'm not suggesting, for people seeking judgeships, that you need to know people in high places, but it . . . I can't deny that it may have helped me. I hope there was some merit to those appointments. But I did apply for Fresno Municipal Court when Governor . . . . I believe he took office the first part of 1983; it was the 1982 election that he became Governor. And by the way, Chuck had worked very hard on his campaign – Deukmejian. He went all the way back to when Deukmejian had run unsuccessfully for Attorney General, successfully for Attorney General, and then successfully for Governor. So I was lucky to have a partner who was very active in Governor Deukmejian's campaign. And so I applied, and by September of '83 I was fortunate enough to get the appointment.

And the way that phone call came . . . . Boy, these phone calls come, and this news comes to me, in very odd ways, because I finished court early in Sanger one day in September – early September was when the phone call came. And my wife and I had just had our twin daughters not long before that, and they were still very young. And I was babysitting them that day. I had finished court and I was babysitting and, you know, just very busy with the two of them. And I get this phone call, and it's the person saying, "This is Governor George Deukmejian." And I said, "Is this some kind of joke?" I'm here babysitting at home. And he goes, "No, I called your Sanger court, and they told me you were at home, and I was just calling you to tell you that you've been appointed to the Fresno Municipal Court." I said, "This is for real, isn't it, Governor Deukmejian?" He says, "Yes it is. Congratulations, Steve! But keep it under your hat; we haven't told anyone yet." So, yeah, Marilyn and I went out and celebrated that night and found a babysitter! But so I was actually babysitting . . . . Or watching the kids. I shouldn't say babysitting. I mean, I'm the father; I should be taking care of my kids. Because Marilyn and Melanie had something they were doing; Melanie had a school activity and Melanie was with her, and I was lucky enough to get off a little early from the Sanger court and that's when I got the call from Governor Deukmejian, not believing it was actually he who was calling.

Rebecca Wiseman: So how long did you serve on the Fresno Municipal Court?

Steven Vartabedian: I started in September of 1983 and continued there until March of 1987. 43:43

Rebecca Wiseman: So that was approximately four . . . .

Steven Vartabedian: Three and a half years, almost four?

Rebecca Wiseman: Three and a half years?

Steven Vartabedian: Yeah, three and a half years.

Rebecca Wiseman: And that was not the end of your judicial career. You were appointed, then, to the Fresno Superior Court. Is that right?

Steven Vartabedian: That's correct, and again . . . .

Rebecca Wiseman: And how did that happen? I'm sensing there's a meteoric rise here.

Steven Vartabedian: Well, you know, after . . . . I guess . . . . I like to act humble, but maybe I was getting a big head, because I got a lot of compliments on my work in municipal court. I was very fortunate. And people said, "You should apply for superior court." And I reached 10 years in December of 1985, so by the end of 1986 I went ahead and put an application in for superior court. It's, you know, a bigger challenge, something . . . . And in those days, you know, we didn't have unified trial courts, so they were separate courts. So I guess I just was flattered by people saying nice things about me, so I went ahead and put an application in. Deukmejian was still the Governor, and at that time Marv Baxter was still the appointments secretary. So I figured my chances might not be too bad. So I did that.

Rebecca Wiseman: And when you were serving on the justice court and the municipal court, what type of assignments did you handle?

Steven Vartabedian: Well, you know – and I'm sorry, I'm getting too long-winded with these stories, but there are just a boatload of stories about experiences, especially in the justice courts. And maybe I'll tell just a few of them. But the kind of practice you have is you are a do-all judge. You do everything in the justice court – everything from traffic court . . . . We were also assigned as juvenile traffic referees out of superior court, so we did the juvenile traffic, and we had some very interesting stories from that, probably too long to mention. Did small claims court. Would do civil trials, you know, up to the jurisdictional limit, which at that time was $25,000. Would do all misdemeanor trials – lot of DUIs and other misdemeanor cases. And would do felony prelims, and we'd even do the murder prelims out in Sanger – homicide cases. And we had quite a run, unfortunately, during those years of serious homicide cases in the Sanger community. And the district that I was in also included the Pine Flat Reservoir area, so it went up into the recreational area. So I would get things like voting violations, I would get illegal-taking-of-bear cases, I would get 46:21

people who didn't have their fishing licenses. Just about every imaginable type of case at that level of jurisdiction seemed to come across my desk.

And when I say it came across my desk, it was a very cozy environment in Sanger Justice Court because the Clerk's Office, where the fines were being taken, was in the courtroom. So people would be coming in and paying their fines while I'm doing a homicide prelim! It was a very cozy environment, to say the least. And it was amazing, you know, the way these things would work. And there would be days when I'd be selecting jurors, and they wouldn't send in enough people from the Jury Commissioner's Office in Fresno. But to give you a little feeling of Mayberry – a small community court – I turned to my clerk, Phyllis Snell, who was just wonderful, what a wonderful lady she was, and she'd go, "Well, gosh, Judge, just tell Brad [who was my bailiff] . . . just have Brad go over to . . . across the street to the grocery store and then to the clothing store and he could round up some potential jurors for you!" So he literally went on the streets of downtown Sanger and got me some potential jurors so that we could complete the case. And sure enough, that's what we did! It may not have been scientific, in terms of jury pool, but that's the way we would do it on that.

And again, this . . . . And by the way, my judicial chambers would be the jury deliberation room. So I'd be kicked out of chambers whenever the jury would deliberate. And I shared the same restroom with the inmates as they would be brought from Fresno, with the jurors, and with all other people that would come, so . . . . They later expanded the space in Sanger, but at that point it was basically two rooms and a hallway that constituted the court.

So a lot of funny stories. I mean, stories like, again, the things you wouldn't see in a larger community. One day I had just sentenced a young man for driving without a . . . actually, driving with a revoked license. And I gave him the typical lecture: "Now, you're not to drive; is someone here to take you home?" and all this, and, you know, I have a courtroom full of people. He goes, "Yes, Your Honor," you know, "Everything's OK"; he walks out of the courtroom; I, you know, I order his fine and his community service and all of that. Then Phyllis Snell, my clerk, yells out at me, she goes, "Judge, Judge, Ralphie just jumped in his car and he's driving away!" So my bailiff calls the Sanger Police Department, they get right on it, and he's back in court. I mean, talk about instant justice, having just been sentenced on his revoked license, jumping into his car, and this storefront courtroom was such that my clerk could see him jump into his car out in the parking lot out front. 49:12

Rebecca Wiseman: Wow. Okay, what about when you're on superior court? What kind of assignments did you have there?

Steven Vartabedian: Well, you know, the . . . my time in superior court, to be very honest about it, was much more mundane than the time I had in the justice court and municipal court. I started out on a general trial assignment. I tried a couple of family law cases. I tried a number of criminal cases, none really of particular note. The one criminal case I'll never forget, because I guess the defendant got the wind that he was losing – it was a child molestation case – he got the wind that he was losing and he decided not to show up for the last day of trial, so we ended up trying him in absentia. And I went through all the proper colloquies and questions and allowing him time to show up and excusing the jury for a couple days, having his attorney try to catch up with him. But the guy just took leg bail, 'cause he thought . . .

Rebecca Wiseman: "Leg bail"?

Steven Vartabedian: . . . it wasn't going too well. And he *was* on bail and just took off. And I don't know whatever happened to him. That was one of the experiences I had in superior court on a child molestation case. But because, I think, because of my justice court experience . . . . Although I really enjoy civil law and trying civil cases. I did have a serious personal injury trial that I did do with really great attorneys. I learned more from the attorneys than, I think . . . than I should admit. But the attorneys were Carmen Eanni and John Chinello. John Chinello was the defense attorney. And they actually ended up settling the case in chambers, just before it went to jury. But it was a long trial and it was really interesting and it, you know, it involved the *Privette* case and some of the issues dealing with those kinds of injuries that come up in . . . where you have the kinds of relationships between parties, and I learned a lot from it.

But primarily, after spending some time with . . . on a general trial assignment, I was pegged to become the criminal presiding judge. Again, because of my experience in the municipal court – I was the presiding judge of the municipal court and did the homicide block of cases there – and my experience in the Sanger Justice Court, I became the criminal presiding judge, where I might do 50 or 60 criminal sentencings in one day. So I got my speed up. And I apologize to the camera here that if I'm talking too fast, it's maybe because of those days doing that master criminal calendar, where I did sentencings, I did criminal motions, I would do some . . . I did arraignments, we did everything. If you can imagine if you have a large county as Fresno County you'd have one judge doing all of those criminal type of functions that aren't going to the trial court. So that . . . I think I ended up spending nearly two years doing that, and I finished my 52:09

time in superior court there. I think I had the more interesting cases, though, probably in municipal court . . .

Rebecca Wiseman: Right.

Steven Vartabedian: . . . because of that two years of assignment.

Rebecca Wiseman: Were you popular with the court reporters?

Steven Vartabedian: They would get on me because I would talk too fast. I tried to speak clear, maybe from the education I'd had, but when you're a debater you speak fast because there's a time clock. You have a timer putting up "You're down to four minutes, you're down to three minutes, you're down to two minutes," and you just start talking very fast. So the people that might transcribe this interview won't appreciate me because I might be elevating my speed and I'll have to remind myself to slow down. It was that thing that debaters develop that is sort of like the more words you get per minute, the more information you get across to the judges.

Rebecca Wiseman: Well, now, this was not the end of your judicial career. How long were you on the superior court before you applied to the Court of Appeal?

Steven Vartabedian: I'm going to have to think about that. I think I got my 10 years in – which was the minimum you needed for superior court – in December of 1985. I would say by late 1986 I probably applied, and I was appointed in March of '87. So it was probably more middle of '86 by the time it would have to go through the JNE Commission process.

Could I just go back to the muni court experience for a while?

Rebecca Wiseman: Sure!

Steven Vartabedian: And I apologize for this . . .

Rebecca Wiseman: No . . . .

Steven Vartabedian: . . . but as I say, I think I had some really interesting experiences with some of the preliminary hearings I had. One of the things I did, actually even before I got on municipal court: A judge was needed in Kings County to try . . . to re-do the Booker Hillery Preliminary Hearing. And the reason this was a re-do was because the matter had been remanded back from the U.S. Supreme Court because Booker Hillery in the early 1960s – about . . . I think it was 1961 – was convicted of rape. And the U.S. Supreme Court . . . . Here it's about 1983, I believe, ruling that the – it was done by grand jury indictment – that there was not a diverse enough grand jury panel. So I had to do a preliminary hearing, pre-*Miranda* rules. So I thought that was an interesting experience I wanted to 54:39

share with people – that it's really something when you go back in history and have to try a case dealing with the way law was at some fixed historical point. Actually doing a case that I think was 1961 – of course, *Miranda* came after that – actually had to make rulings in that preliminary hearing re-do of the grand jury indictment for Booker Hillery in Kings County, applying the law that existed at the time of his indictment.

Rebecca Wiseman: Wow!

Steven Vartabedian: So that was an interesting experience, I thought. And on the homicide block for prelims, I had one of the most intriguing cases, and it was a case that extended from Kings . . . excuse me, Kern County to Fresno County: the case of Steven Catlin. Mr. Catlin was accused of poisoning various family members and the method of the poisoning, as it turned out, was paraquat poisoning. And it was such an interesting case because evidently it was both of his parents – he collected life insurance receipts for that – and his first two wives. Wife number three was on to him and suspected he was trying to poison *her* and reported it to the authorities. So we had cases that went several years back where they actually had to re-do the autopsies of these four . . . the mom and the dad and the two prior wives, and this was all instigated by wife number three. And some of . . . . I think two of the cases might have been in Kern County and two of the cases were in Fresno, and they got consolidated for a prelim before me. And I remember Boyd Stephens, who was the ex-Medical Examiner of San Francisco, was brought in to testify; they brought in all the high guns because it was a difficult case to prove scientifically. And of course today we get that kind of thing with DNA evidence. But it was just an intriguing case. Larry Jones was the D.A. who later became a judge and unfortunately passed long before his time, Larry Jones did. But he presented the case. And this is just the prelim; I mean, it went to trial later on. But it was just a *fascinating* case, the situation that it presented. And it was actually made into a movie. Harry Hamlin played Mr. Catlin; I can't say I recall who played the prelim judge!

Rebecca Wiseman: Well, it should have been you!

Steven Vartabedian: Yeah *[laughs].* But I just offer these 'cause these were the more fascinating experiences I had in the lower court. Those were two cases that I thought were . . .

Rebecca Wiseman: Right.

Steven Vartabedian: . . . of particular interest to me and . . .

Rebecca Wiseman: Any others . . .

Steven Vartabedian: . . . maybe helped me along the way. 57:11

Rebecca Wiseman: . . . that come to mind?

Steven Vartabedian: Well, you know that I did a case for a guy who's still on death row: Wilbur Jennings, who was known as "The Ditchbank Murderer." He would take women who he perceived were prostitutes, and take them out – just awful, awful facts – would take them out to these ditchbank areas and leave the bodies. And I think even years later they determined that he may have killed other people. But I did a prelim of about five of his victims. I think eventually there may have been more than that. It was four or five; I'm not sure of the number. But just a very high-profile case that . . . . Very disturbing, but a significant case, and one that certainly got my attention. That was another case. But I think I've talked maybe enough about . . .

Rebecca Wiseman: All right.

Steven Vartabedian: . . . those experiences. But . . . .

Rebecca Wiseman: Okay. Now let's fast-forward and get you on the . . . .

Steven Vartabedian: I'm sorry. I'm the one that took us back to that point . . . .

Rebecca Wiseman: No. No, no. Let's get us on . . . get you on the Court of Appeal.

Steven Vartabedian: Get me on the Court of Appeal!

Rebecca Wiseman: Yes. And tell us how that came about.

Steven Vartabedian: How did that come about? That's a good question. I'm not so sure I know how that came about. I guess one of the ways it came about is Governor Deukmejian was still Governor in 1989. The way it came about was the Court of Appeal was in pretty rapid expansion mode from . . . . during the '80s. The court's size had increased a lot, you know, from the original three justices to five, then seven, then nine. And then it was a point where there were about maybe one new position and two judges retiring during that point in time. And one of the judges was Justice Hamlin, who had also served in superior court – another judge who mentored me. And I failed to mention him, really, that I had trials before eventual Justice Hamlin when he was a judge. But Justice Hamlin was one of the retirees. Justice Woolpert was another. So there were three vacancies at the beginning of 1989, and those vacancies were eventually assumed by Nick Dibiaso, myself, and Jim Thaxter. And those names will be coming up a little bit later in our discussion, I think, just to say how my path crosses with so many people. But I just applied because I knew there were positions available. There were three positions at about that time available on the Court of Appeal, and maybe my ego got a little bit ahold of me there and thought this would be 59:52

something nice to do, it's viewed as an elevation, and I felt encouraged to do it. So I did it. And it was a Governor who was familiar with me, so I put in my application.

Rebecca Wiseman: And . . . .

David Knight: I'm going to stop you both right here and change tapes.

Rebecca Wiseman: Okay.

David Knight: . . . question whenever you're ready.

Rebecca Wiseman: So, was your application successful?

Steven Vartabedian: By October – actually, I think the word came, it was either late September or October . . . actually it was October, yeah, and . . . September or October, I'm not sure. But the word did come from the Governor's Office about my nomination. So we would have the actual hearing before the Judicial Nominations Committee, consisting of the Chief Justice, the Presiding Justice – then Don Franson of the Court of Appeal – and the Attorney General, who was then John Van De Kamp.

Rebecca Wiseman: Okay. Well, how did it go?

Steven Vartabedian: The . . . . My hearing was scheduled – I believe it was for October the 20th. October the 19th was the San Francisco earthquake. I may have my dates wrong. But it . . . . Maybe my hearing was the 19th and the San Francisco earthquake was either the 17th or the 18th of October. But luckily we had scheduled it in Fresno, not in San Francisco. But Justice Malcolm Lucas, I think he opened the hearing with saying, "This has been an earth-shaking event, your nomination." And it proceeded. Luckily we were doing it in Fresno. And the Supreme Court at that time didn't have a home; their court facility was shut down because of the earthquake. So I wasn't sure it was even going to happen. But Justice Lucas went ahead and had it in Fresno as had already been planned because he tended to do that; he would travel to the location to conduct the hearing. And it went pretty well. The Attorney General threw me a few curveballs and kind of questioned the issue of potential influence I might have had because Chuck Poochigian at that time was the assistant appointments secretary to Marv Baxter. Actually, no – he was the assistant appointments secretary to Terry Flanigan at that point. Terry Flanigan was the appointments secretary because Marv Baxter had already taken the Court of Appeal at that point; Justice Baxter was on the Court of Appeal.

Rebecca Wiseman: Which was the Fifth District Court of Appeal.

Steven Vartabedian: Which was the Fifth District Court of Appeal. So yeah, I got a few curves about, you know, do you think this is right 1:02:29

that you have someone working in the Governor's Office that was your partner, and has this influenced the process? And I dodged around those questions and eventually was confirmed by a three-zero vote.

Rebecca Wiseman: Yeah. Now, you've served at every conceivable judicial level, starting from the justice court, municipal court, superior court, Court of Appeal.

Rebecca Wiseman: I did serve one day on assignment to the Supreme Court.

Rebecca Wiseman: Okay, everyone!

Steven Vartabedian: So we'll just cover that with a minimal bit of experience.

Rebecca Wiseman: Everyone. What differences do you see between serving on a trial court bench as opposed to an appellate bench?

Steven Vartabedian: Well, you know, in the trial court obviously you're closer to the people. You're dealing with them in a very close way, and you're trying to get your message across, in a criminal case, you know, that the person needs to change their life if they have done things that have wronged society. In a family law case, you're trying to assist the parties because the case doesn't end with the family law litigation. Oftentimes there are children, and the people are going to have to have contact with each other. So you're dealing very specifically with people, you're dealing very specifically with attorneys. You're constantly busy; you're trying one case, you've got a jury out on one case, and you're selecting a jury on another. It's not totally devoid of academic exercise, but you don't have a whole lot of time to do the proper research, perhaps, into your cases when you're dealing with jury instructions on a very quick basis and you want to maybe check the cases that are being cited, or a particular instruction to make sure you're getting it right. I mean, you do all that as much as you can. There's a little bit of research attorney assistance, but not much.

And then of course you have the Court of Appeal, the Supreme Court – the appellate courts – where you *do* have some time, you *do* have some assistance with the research. I . . . . You can go . . . . I'm old-fashioned; I would go to the bookshelf and pull that case out and read the case that is being cited to you. And actually be satisfied with what the attorneys are representing to you in an appellate case, for example, where maybe you wouldn't have the time to do that on the trial court. You have less contact with people. Your contact, you know, certainly is with some very fine people – the research attorneys, your fellow associate justices, and the presiding justice. But you're certainly very limited in your public contact. So it's a difference between having the time to study your case and become a little bit more academically specific on getting things right. The writing part of it, with the help of the 1:05:25

research attorneys, is where you're taking time to get the right word in a particular case to make sure it's not misconstrued. Whereas, you know, when I issued opinions in superior court I really didn't have the time to get into that kind of detail. So I would say those differences are between the people contact and the amount that one is able to give to academic excellence in an appellate opinion.

Rebecca Wiseman: Was it hard to make the transition? You had a pretty exciting experience on the trial bench.

Steven Vartabedian: You know, it was pretty easy because at first I really liked getting into the cases, the academic side, talking things out with . . . . Because here you're, you know, a panel of three people, not just one judge making a decision. Being able to talk with other people. I really enjoyed that for a while. But I have to be honest: I would say I kind of hit a wall of sorts after three or four years and saw myself missing what I was doing in the trial court. So those first three or four years I was just taking great delight in being able to dig, dig, dig into cases and author opinions. Really excited. Hey, putting out a published opinion – that was exciting. I mean, I was really into the job and wasn't thinking about what I was missing, but then I did hit a point in time where I started saying, "You know, I really do miss that people contact."

Rebecca Wiseman: All right. Any cases at the Court of Appeal that stand out in particular?

Steven Vartabedian: Oh, wow. Let me try to highlight the ones that stand out. And you know what? I think from the position we have as Court of Appeal justices, sometimes the most significant cases we handle do not end up being our opinions. The case is taken by the Supreme Court. And to me, some of the most significant cases that I had were just that.

I remember one case – *Snyder v. Michael's Stores* – and I think that was, oh, in the mid-1990s, where the question was whether a child who is eventually born, but who was injured in utero while the mother was in the workplace, whether that child is limited to the workers' compensation law and the benefits the mother would receive, because in that particular case the recovery would be zero for the child. Whether there was tort recovery available to the child. And the only existing case at that time that spoke to that issue in California was *Bell v. Macy's,* and it went the way of saying, yes, the mother was limited to the . . . the *child* was limited to the mother's workers' comp benefits; therefore there was no tort recovery available – no tort remedy available to the child. And Mike Campbell, research attorney, worked that case for me, and I said, "Mike, we've got to look at out-of-state cases on this. We've got to find something, 'cause this just doesn't seem right to me. It doesn't seem right." And certainly Mike did an 1:08:46

excellent job; we brought in a lot of out-of-state cases, we cited a Civil Code section, which talks in terms of the rights of an unborn child who eventually *is* born, and we reversed it against the only case that was out there in California. We reversed that judgment and said that the child had a right to a tort remedy. And the Supreme Court affirmed our opinion in that case. So that case meant a lot to me. And my name's not on any case anywhere, but I thought that was a very significant case.

Another significant case – actually cases that I spent . . . there were a series of cases, and these would be the punitive damage cases that were assigned to me. And by the way, I think these cases are assigned . . . got assigned to me, and I like to always joke, when people look at me and say, "During a certain period of time, Steve Vartabedian had more grants of review than any other judge in the state." Well, it was true there were some very challenging cases, and I relished those cases, and I probably got them because I was fortunate to have very good research attorneys. And anyway, the punitive damage cases started with *Romo v. Ford Motor Company,* in which a trial judge granted a motion for a new trial on a $290 million punitive damage award in a case of product defect for a . . . what the jury found to be a defective Ford Bronco – early days of the Ford Bronco where it was essentially a shell mounted to a pickup truck and they made it into an SUV. And it didn't have protection – at least the jury found that – the adequate protection in terms of the roof of the vehicle. The Ford argument . . . . I mean, Ford obviously argued against the finding of liability, but liability was found. But the judge did grant a motion for a new trial on the punitive damage award on the issue of jury misconduct. And for that part of the case we found juror self-correction – that the jury in fact corrected itself.

It's really tough when you get cases . . . . And I had many more cases of juror misconduct, and I just feel really strongly, you have to be very careful before you take a case out of the hands of a jury that's decided a case, that has heard all of the evidence. And in this case actually the judge had ruled differently. But many times you have a judge that does not find, on a motion for a new trial, that there was jury misconduct. This one, the judge happened to find. But that case was very important for that aspect, of where a jury . . . where you have evidence that the jurors did self-correct, that any misstatements they made were later corrected before they actually came to their decision. You can't always get that information because of various things that you cannot get into the record on an issue of jury misconduct. But there was enough here for us to decide that. So we affirmed it, but the . . . another issue . . . . We affirmed that part of it. Another issue in the case, by the way, was the issue of corporate malice, and . . . . Where you have a lot of individuals following a 1:12:06

corporate policy, can you really pin it down on one person acting maliciously? So I believe we wrote some law on corporate malice that is used by – and attorneys tell me this now – that they use the corporate malice and the juror correction from the case. And we're lucky the case didn't get depublished along the way, because what happened was . . . . And I've been told that that $290 million decision that we made going back to the jury verdict and restoring that was at that time the largest punitive damage award ever affirmed by an appellate court in the United States. Something may have come up more recently – maybe not, in light of the way the law has gone. But I'm sorry, again, I'm getting very lengthy in my explanation, but the critical issue in that case eventually boiled down to the punitive damage award.

And the U.S. Supreme Court . . . . The primary case at that time was *Gore v. BMW*. *Gore v. BMW* was a case where, along with another group of cases, the U.S. Supreme Court was basically drawing the line, perhaps to where there might be a due process violation of the rights of a corporate entity that gets large punitive damage awards against it. And that was a case that, you know, weighed very heavily on it. But this was a case where two people died. It was a serious product defect. The Romo family members were seriously injured in the case. There were significant general and special damages. I think the ratio was maybe 50 to 1 from the award of compensatory damages to the punitives. And just in looking at *Gore v. BMW,* one of the members of the U.S. Supreme Court said, "This was hardly a noticeable flaw on the paint job that punitive damages were awarded upon." I said, "You know, this case is really different. This is not a matter of cosmetics of one's vehicle, where punitive damage awards were made against BMW. This is, you know, fairly high on the reprehensibility scale and seriousness scale, in terms of the many factors that are looked at as stated by the U.S. Supreme Court." Well, so we passed muster with the California Supreme Court. California Supreme Court said, "Fine." They did not take the case for review. Ford appeals to the U.S. Supreme Court, cert is granted.

In the meantime, the case of *State Farm v. Campbell* is decided and the Supreme Court gets a little broader, although *State Farm v. Campbell* is essentially a bad faith case, not injury. And the Supreme Court starts talking numbers and saying, "Well, you know, maybe we'd better . . . we'd better have better scrutiny if anything is double digit; anything more than 10 to 1 should be scrutinized more." And a whole group of cases, from all over the United Sates, went to the U.S. Supreme Court. U.S. Supreme Court sent those cases back and said, "Reconsider in light of *State Farm v. Campbell.*" So we got it back. We did *Romo* Two. And we reduced the amount. But still a substantial punitive damage award. 1:15:25

But one thing that struck me – and the reason I mentioned those other elements of the *Romo* case – that I didn't know before this, that when the U.S. Supreme Court grants cert in a case, it does not depublish the state court opinion. The Court of Appeal opinion remained published. Whereas if that was a grant of review by the California Supreme Court, it's automatically depublished; it's no longer law. But here we didn't have that. So elements of *Rom*o continued to . . . *Romo* One continue to be viable, citeable propositions, although much of the discussion on punitive damages in *Romo* One got discarded. The case remained public, which was something I learned from that U.S. Supreme Court grant of cert.

Rebecca Wiseman: Very interesting. Now, you've had many attorneys appear before you, both at the trial level as well as at the appellate level. In your view, what qualities does a good lawyer possess?

Steven Vartabedian: Well, I think a good lawyer needs to understand the importance of preparation. It's . . . . These kinds of jobs are not jobs for people who want to take shortcuts. And if a person has developed good habits . . . . I think habits are very important, in terms of any lawyer, for that matter, but certainly for someone who's, say, a research attorney at the Court of Appeal, or even a research attorney in the trial court, or a research attorney in the Supreme Court. Obviously, one needs to have great analytical skills. One has to be an excellent reader of records and be able to digest a lot of material. But I think it takes an ability to do that, and it takes an ability . . . . In large part, one gets instruction from – if it's a research attorney in a court – from the judge with whom the person is working. But I think it also takes the kind of personality of someone who's willing to make a decision on their own, so that they can provide to the judge or justice a sounding board, and maybe disagree if the judge wants to go one direction, so at least it can be discussed. Obviously the judge or justice is the ultimate decider, but someone who's willing to be an independent thinker I think is important. But at the same time, not being so inflexible that you can't say . . . understand that after an open discussion of the issue, if this is the way the case is going to go, I'm going to write it . . . write a case that way. So I think those are some of the characteristics that are important of the research attorney in particular.

Rebecca Wiseman: All right. I mean, you've done a lot of things at the Fifth District – a lot of wonderful things, even outside of the many opinions that you produced. And one of those things is being involved at the ground level with community outreach: riding the circuit. Tell us what you remember about that.

Steven Vartabedian: Well – and I'm not doing this just to give credit to my interviewer – but Rebecca Wiseman, Becky, you were the one that really got our court started on this, and I think this court is greatly indebted to you for what you did. But it was 1:18:31

something where we basically had this outreach. It's something that the Supreme Court has certainly become very involved with. But I honestly think that this Fifth District court was the first one – the Court of Appeal here was the first court to do an extensive outreach. And I know on one of the occasions that we went back in 1997 or '98 – I think it was '98 – that we went to Kern County. You and I sat down with the Superintendent of Schools there; I believe his name was Kelly Blanton?

Rebecca Wiseman: Yes.

Steven Vartabedian: Did I have the name right? I think it was correct.

Rebecca Wiseman: Yes, you did.

Steven Vartabedian: He was the superintendent of the county schools there. And we developed . . . . I shouldn't say "we," but I helped . . . you and I helped . . . developed a program of students in their curriculum – social studies and the like – studying what the Court of Appeal and appellate courts do. Which is something that I think is very much absent, or has been absent, from that education curriculum. We brought children into the courtroom – older students, too, as some of these outreaches went on. For one case, we actually did a video reproduction of the facts of a case for students to watch in the classroom before they came and watched the oral argument. It was a wonderful thing that was opened up, and now it has expanded where I think all of the Courts of Appeal do it. The Supreme Court is very active in it. It's something I think that here at this court we had a large part in initiating, and it just brings such enjoyment to someone in our position, seeing young people learning what we're about. Because in the past, there wasn't much known. We were kind of the – especially the intermediate Court of Appeal – kind of an unknown court to the public.

Rebecca Wiseman: Right. Now, sadly, you have retired – sadly from my point of view. Why did you choose to retire from the Court of Appeal?

Steven Vartabedian: You know, I think it was part of that thing I was talking about, as I got three or four years into this job, that I really missed having more contact with people. I retired at the point that I had 21 years as a Court of Appeal justice, 29 years total as a judge. And I was ready for something different. I happened to reach my minimum retirement age – age 60 – this year in June, as was when I retired after my May 8th birthday. I just wanted to do something different. I humbly think I have some skills, in mediation in particular, and that's where I've really targeted my post–appellate court practice as I've retired. So I'm not so much retiring but changing my focus of my legal job. Of course . . . .

Rebecca Wiseman: Tell us what you are doing now. 1:21:22

Steven Vartabedian: Well, I am doing alternative dispute resolution with the Fresno firm of Dowling, Aaron and Keeler. I happen to be there with two other retired justices: Dibiaso and Thaxter. You might remember I indicated that they were the class of 1989, in terms of when the Governor put out phone calls to fill three vacancies. I just happened to end up there with them; they were there before I. And I'm doing primarily mediations but I'm also available for arbitrations and discovery, special master work as well as referee work. But it's the mediation I think that I enjoy the most, and that's where you really have the contact with people and you can help them resolve issues short of what sometimes can be a disastrous trial.

Rebecca Wiseman: How would you describe your style as a mediator?

Steven Vartabedian: You know, I think I am a mix of collaborator with an evaluator. I think the thing we're learning in education . . . mediation education now is the need for more collaboration. Empower the parties; allow them to make a decision. And I'm very much in agreement with that. But I think especially when you're a retired judge and mediator, at some point that evaluation has to come into play. You don't want it to come across like a hammer. You don't want it to become like you're making a ruling. But you can set parameters for people that will help them resolve a case and truly cause the people to feel vested, with the ability to decide for themselves. So I think it's a combination of collaboration with some evaluation that maybe helps give parties parameters of what might be doable by way of settlement. And you're doing it in a very confidential way when you start doing the caucusing with both sides and you find out the strengths and weaknesses in a confidential way. And you can kind of help direct people to where the case might settle. It may not be ideal for either party; in fact, you haven't done your job if either party feels like they've gotten an ideal settlement. But where it's something the people can live with – maybe not their target, but something that they can live with. And you want the people to walk away feeling good about the process. And I feel very fortunate that, as much as I feel like "Well, gee, I've been hard on these people in this mediation," but at the end it seems like they're always very cordial and . . . where I *have* been able to settle and even where I *haven't* been able to settle the case; they still seem to be cordial. So you get enormous feedback and enjoyment from that. But that's my style, anyway.

Rebecca Wiseman: Well, so how is business?

Steven Vartabedian: A little slow at first. Again, I maybe had this big impression of myself that I would just walk out there day one and have people, you know, immediately calling me that they have business. Well, it didn't quite happen that way. I did . . . . Actually, the second day I was out I did have a 1:24:24

mediation from a case that a judge wasn't available for a settlement conference and the parties were ready to go, and they called. And of course, I'd be the only person available on one day's notice! So I did do a case early on, on my second day on the job. But after that it was quite a long time because people really don't know you're out. And ethically I was not allowed to do any public relations until I actually had been retired and no longer was on the state payroll. So it was a little slow at first and allowed me to get caught up on some things I needed to get caught up on of a non-job nature. But it certainly has picked up now and it's gotten busy. I think it's a word-of-mouth type of business, basically.

Rebecca Wiseman: Oh, yeah. Now, you have a wonderfully supportive family. You've mentioned all of them at one time or another while we've been talking. Three of your daughters have gone to law school. What are they doing now?

Steven Vartabedian: And they blame me for it! No, not actually. What are the three daughters doing? Well, I have one daughter – the oldest, Melanie – who went to law school at the University of Utah, was where she ended up going to law school. And she ended up working there. We're still trying to get her back to California, but she graduated from law school in 2004, is currently with the Philadelphia-based firm of Ballard Spahr, working in their Salt Lake City office doing a lot of land-use litigation. Her firm represents a lot of land developers in Utah. She's also done some securities law and some intellectual property practice. But basically a trial attorney. And please forgive me if I become the proud dad here, but she's been very active in studies and in bar activities dealing with the role of women in the practice of law. And she co-authored a study in that area and presently is the president of the Utah State Women Lawyers. So I'm very proud of her for that, and just want to get her back to California before too long. So that's the oldest daughter – Melanie, who's now 31 as we are doing this interview.

Twin daughters, who are age 28: Pamela went to my alma mater law school – Santa Clara Law School – and her twin sister Stephanie also did. So both of them, twin daughters, they're at the same law school. Pamela *is* practicing law; she's doing primarily insurance defense work, specializing in construction defect litigation cases, working for Boornazian Jensen & Garthe in Oakland. She's living in San Francisco and working for that Oakland law firm. And both Melanie and Pam will . . . as the lawyers who at times have their struggles – and al lawyers do; that happens for all of us – will give me a phone call. And Pamela happened to have been second chair in a two-month, $9 million lawsuit involving a Kaiser Hospital project up in Santa Rosa, and it ended up being a hung jury. And the phone call I got: "This can't be right, Dad! How can this be a hung jury after we put two months into trial?" They 1:27:45

eventually settled, which was the right result they should have done before trial. But post-mistrial they did settle the case. But I'm constantly getting this dialogue – you know, after-the-fact dialogue. I'm not in a position to give them advice on what they're doing, because some of the stuff they're doing they know more about it than *I* do! But just being able to console them over the phone and in chats that we might have and also encouraging them when things go well, and patting them on the back. Those are some of the things I . . . that we do with our two that are practicing the law, and Marilyn does the same thing as well.

And Stephanie is the one that's *not* practicing law, but she happens to be someone who's very interested in the Internet, and she has really found a good niche for her because she works for a firm called Justia.com, where she does law office marketing and development of web pages for law firms all over the United States. And she's been able to put her law school education to work in that. And there are a number of people with legal educations – lawyers – on staff there, and she works with them. So she's in an environment, I think, that she finds very good for her. She enjoys that work. And I often joke that of the three that went to law school, she probably has the most job satisfaction!

Rebecca Wiseman: Looking back on your career, and if you were talking to a person that was considering going to law school, what would you tell them?

Steven Vartabedian: Well, you know, I encouraged my daughters to do that rather than discouraged them. And in recent years I have encouraged people. I know the market has gotten very tough; jobs have gotten very tough for people going to law school. But I honestly believe in that law school education. I think it's so good. Stephanie is the example. Even though she's not practicing law as a lawyer, that legal education can lead you to a lot of things in fields that are interesting to you, whether it be the Internet, if you're someone that's interested in civil engineering there are legal aspects that can be involved in that. So even if there aren't lawyer jobs . . . . I realize the expense is really great, especially . . . . Well, it's great even in public schools now. And I think a person should evaluate that expense, because I know many people out there nowadays that have $200,000 student loans, and I know that's tough to deal with. But to the extent that you can financially work it out, don't be discouraged by the current law job market. I think it's just such a wonderful education, and I would encourage people to go forward with it.

Rebecca Wiseman: Okay, we're coming to an end. Are there any closing comments or thoughts that you would like to record and save? 1:30:18

Steven Vartabedian: Well, I think your questioning has so well directed it that there's really not a whole lot more I could say, other than I've really enjoyed my time in law, enjoyed my time as a judge and a justice, and am enjoying what I'm doing now. And I treasure those many moments I have, and I know I shared that with my fellow colleagues here at the Court of Appeal at the time of my retirement. And I truly love the people that work here, and I loved my job. I didn't retire because of dislike, but just to do something different. And I just thank everyone who's been a part of my legal career, because it's been a reward to me.

Rebecca Wiseman: It's been an interesting one.

Steven Vartabedian: Thank you.

Rebecca Wiseman: It's a privilege to have had the chance to . . .

Steven Vartabedian: Thank you, Becky. I appreciate it.

Rebecca Wiseman: . . . sit down and formally talk with you.

Steven Vartabedian: Yeah.

Rebecca Wiseman: Thank you so much.

Steven Vartabedian: Thank you very much.

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