

CA Appellate Court Legacy Project—Video Interview Transcript:  
Justice Richard Fybel, Court of Appeal, Fourth Appellate District, Division Three

Kathleen O’Leary: This recording is being made as part of the Legacy Project, which is being conducted by the California Courts of Appeal Oral History. And this morning, we have with us Justice Richard D. Fybel from the Fourth District Court of Appeal, Division Three in Orange County, and I’m Kathleen O’Leary, the presiding justice of the court, and it’s my pleasure to conduct the interview.

So, let’s get started. Justice Fybel, I’m fortunate to have known you so well that this interview should be relatively painless [*both laugh*], honest. I know you grew up in California in the Westchester area of Los Angeles, and I also know your parents were a huge influence on you throughout your life. So, why don’t we start with, Can you tell us about your early years in Westchester and about the role your parents played in your life?

Richard Fybel: Sure. First, I’d like to thank the Legacy Project for conducting this interview and my good friend K. O. for asking the questions. As she knows and anybody who’s read my opinions know, I generally tell you what I’m about to tell you so you don’t have to wait until the end of the story. So, I thought I would make a couple of points to begin, which is what you’re going to learn is that I’ve been very fortunate to have a loving family with my parents and my wonderful wife of almost 53 years, Susan.

Kathleen O’Leary: I second that, wonderful wife, Susan.

Richard Fybel: Thank you, and our children, Stephanie and Dan, Dan’s wife, Garland, our four wonderful grandchildren, and my brothers, Gary and Kirk and their wives, and my Uncle Harry and Aunt Cherry. So, you’re going to hear a lot about everybody. And then in my professional life, I’ve been very blessed to have worked with and have been mentored by many really terrific people and lawyers and judges. So, that’s what you’re going to learn.

You wanted me to start with my childhood and that’s how we prepared this, but of course, I’ll do my first curveball of the day and say, to understand my childhood and my parents—I was born in 1946—you have to go back to basically 1938 to really understand my family. The short version is that both my parents are immigrants to this country. I’ll start with my father, Ernest, who in July of 1938 escaped with his parents and his brother from Germany via Holland to come to America. He was only saved in Germany and allowed to immigrate because of the help of other people, including bankers who didn’t report him for taking money out, and the police for not reporting him to the Gestapo, and the people who worked for him who helped him escape.

My mother escaped Lithuania in 1939. She was the one who arranged for all the travel to the United States and getting the visa at the age of 16. She was an extraordinarily brave woman, and you’ll learn a lot more about her. My parents met here in Los Angeles and got married. So, I come from a family of immigrants who were very grateful for the opportunities that America offered them.

Kathleen O’Leary: And you never forgot the opportunities they received.

Richard Fybel: I never forgot them and I’ve tried to act on them my whole life. We were raised in Westchester, which is near the L.A. Airport. Actually, when we were growing up, there was no L.A. Airport. There was a small airport, then it became an international airport. And it was a really good life growing up. It was a wonderful childhood. My father was a manual laborer until the age of 40. He was a gardener who went house to house—not a landscape person like you think of today—but he went house to house, and I think he got a quarter for every lawn he mowed.

I was thinking about my childhood, and the one thing I remember is the smell of my childhood. He had an International Harvester truck, and so, every night he’d bring home these burlap bags filled with lawn clippings, and that’s the smell I remember. He was a very hard worker; he was persistent. At the age of 40 he decided to go into real estate and went to night school, became a broker.

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Ernie Fybel became the realtor of choice for particularly Jewish families in Westchester. It became “Buy and Sell with Fybel” [pronounced *Fy-bel*]. He changed the pronunciation of the name. I do the original *Fy’-bel* because my mom pronounced it *Fy’-bel* and so that must be the correct spelling. My mother Ruth Fybel was, I often have said, the smartest person I’ve ever met, and just an amazing human being. I always say she arranged for immigration to the United States in 1938, did all the visa work herself, arranged for all the travel. Who does that at 16?

She came to America and worked in a sweatshop during World War II. They raised a wonderful family. I have two brothers, Gary and Kirk. I’m the oldest, Gary is four years younger, Kirk is four years younger than he is. As you’ll learn later, both of them have become very successful in their lives. Long marriages, and Gary was the Chief Executive Officer of one of the big Scripps hospitals in San Diego and now retired. Kirk basically was an entrepreneur and philanthropist, and he’s now retired, too. We had a really good life.

Both my parents were active in the Jewish community. My dad was synagogue president for two terms; my mom was always involved in activities. They were very supportive and encouraging, loving people. We went to public schools.

Kathleen O’Leary: Westchester High?

Richard Fybel: Westchester High, the Comets.

Kathleen O’Leary: Okay.

Richard Fybel: You know I was a school officer in junior high school at Airport Junior High. Then high school was good. We spent a lot of time in a little, in a club called AZA, which was for sports and social stuff. It was all Jewish

related. Met a lot of very nice people. Dated a lot of [REDACTED] nice people. It was a good life.

Kathleen O’Leary: So, when the Dodgers, was it grammar school, high school? When was the infection?

Richard Fybel: Yeah, the Dodgers moved here when I was 12 or 13 in 1950. I went to a telethon—I was in Little League—to bring the Dodgers to L.A. I’m sure we were the pivotal influence on bringing the Dodgers here, but I’ve been a lifelong Dodger fan, as you’ll find out. The jersey in back of me is number 32, Sandy Koufax, who was, who has always been a hero of mine. So, that is sort of my childhood. I did work since I’ve been 14 years old. I’ve never been without a job since I’ve been 14.

At 16 was the first day. My mom, of course, went to Safeway stores and knew the manager and said, “You’ve got to hire my son.” So, Kirk Palousky(ph) who was the manager of the local Safeway store, I think just to get my mom out of his hair—she’s a really nice woman but she was persistent—he hired me as a box boy. I worked for Safeway from the age of 16 all the way through high school, all the way through college, and after I graduated from college, between college and law school. So, I worked for them for many years and I started as a box boy, became a checker, and by the end, I was a night manager. So, I owe Safeway really quite a bit.

My parents lived a good life and they got to see their kids grow up and they got to see their grandchildren. My mom passed away in 2005 and my dad in 2010, and they lived wonderful lives.

Kathleen O’Leary: Now, after you left Westchester High, you stayed on the west side. You went to that school. What’s the one up in Westwood? What’s that school?

Richard Fybel: Oh, yeah, UCLA. So, I basically applied to one school. It was not like it is today, and thankfully, I got into UCLA. I graduated on a Friday. In those days, you could graduate in, like, March. And so, I started UCLA on a Monday, and it was really a culture shock. I mean, I was a young 17 when I entered college, and I mean, I was not worldly by any stretch, and I was just at sea for that first semester. Then we had saved enough money where I could afford one year to live in a dorm, because I lived at home the first semester then. So, I moved into Dykstra Hall on the UCLA campus and I met the love of my life, Susan, there. We met by an apple machine, which was sort of a family lore. We were introduced by a mutual friend.

Kathleen O’Leary: When you say an apple machine, you don’t mean an Apple device.

Richard Fybel: No, no device [both laugh]. That’s right. Add 50 years later. No, it was a machine that dispensed apples.

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You could put in, I don't know, maybe it was even a dime, and an apple would fall out. It was like a vending machine. We call it the apple machine. So it's a real legend.

Kathleen O'Leary: Young people can look up what a vending machine is on the internet.

Richard Fybel: That's right. So, you know, after that first year, I moved back home, continued to work at Safeway. I helped found, believe it or not, a fraternity at UCLA, which was a national fraternity called Tau Upsilon Phi, TUPs, and we founded this chapter. The most illustrious member of our chapter was Joe—the fighter, boxer—Joe Lewis's son. That was kind of a big deal on campus. And we founded this chapter and we had a lot of fun. Still friends with some of my fraternity brothers to this day. We had a good time. I guess my most vivid memory is I was—I don't know if you elected this or not, but I was pledge master, which means I was in charge of the pledges, and I instituted a no-hazing policy way before its time. And there was a big letter to the editor by my pledges in the *Daily Bruin* about how we were the only fraternity on campus with a no-hazing policy. And it got a lot of attention. Made me feel really good that they would think enough to actually write that letter.

In college, I met—well, in high school I met Harvey Levine, who was a very dear friend and continues to be and we were roommates at UCLA. He has just retired as the city attorney of Fremont in California, where he was a huge success. He's a lovely man with a wonderful family, and we are in close contact today.

Kathleen O'Leary: What was the major?

Richard Fybel: I majored in political science. I was thinking about, What are my takeaways with my classes at UCLA? and there are two, and they both involved teachers. One was a TA for history class called—I remember her name was Mrs. Neff. And in high school, maybe like a lot of people, it was like all memorization. All you had to do was memorize what happened and when, regurgitate it, and you'd be a big success, you'd probably get an A. When I went to UCLA, they wanted more than that, and I was kind of struggling with it. And so I met with her, at her idea. And so, What do I need to do? And she didn't use these words but what she meant was critical thinking. She said, "Look, you're very logical, you're great at memorizing, and you can tell me when events happened, but you need to know why they happened. So, after everything when you write, ask why. Why did this happen? What was the cause of this event? What was the aftermath of this event and why did that happen? Keep asking why." That was a real lesson that I've taken with me all the way to my present job.

And the second was, I really didn't know what I wanted to do. And there was a Professor Hobbs at UCLA that had a class called The Supreme Court, and he taught it using the case method. You start with *Marbury v. Madison* and you just go through all the cases. And I took it as a sophomore. You're not supposed to take that class until you're upper class, but I took it as a sophomore on a dare by a good friend of mine who was really smart and said, "We'll both get As in this class." This

Professor Hobbs was famous for only giving like scant As. And so, sure enough, we got two of the As, but I loved the class and it really made me interested in becoming a lawyer, which I had really not thought of before, just because I enjoyed the process of reading a case, reasoning by analogy, and trying to figure out what the holding was and how it influenced the future.

And, also, between college and law school, I worked for Safeway, but we needed money. Susan and I were going to get married in August of 1968. I graduated again in the spring of '68 from college, and so I took a job with the United States Air Force in the Judge Advocate's office. And my brother, Gary, actually turned me on to this job because he was already working for the Air Force in a civilian job. So I got to work in the Judge Advocate's office and we did a lot of good work in basically collecting money from lawyers for money that they owed for personal injury actions as reimbursements to the Air Force. But I had a lot of good experience there. I worked at Space and Missile Systems. So I worked from there from like 8 in the morning until I think it was 4 maybe, and then I went to work for Safeway from 6 to midnight.

Kathleen O'Leary: Wow.

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Richard Fybel: So it was quite a—well, we were about to get married and had no money, so this was a really good way to make money. And I was living at home, so there was no other overhead. I remember, I think gas was a quarter a gallon at that point, too.

Kathleen O'Leary: And they give you free glasses and maps and all kinds of stuff when you get your gas.

Richard Fybel: That's right, they did.

Kathleen O'Leary: Then you went on to UCLA Law School, and I know you were very successful there, both on the law review and that you graduated Order of the Coif, but tell us a little bit more about UCLA, your years at UCLA Law School.

Richard Fybel: They were wonderful years. I actually enjoyed law school more than college, which I know is unusual, I think. Susan and I got married on August 11, 1968. I started law school shortly thereafter. I learned the world was not perfect when I applied to law school because—I'm going to shorten the story—but I only applied to a couple law schools and I hadn't heard from UCLA, and friends of mine who had lower LSATs and lower grades were getting in. And I didn't quite understand that, so I went to the dean of admissions and asked him why and he opened up a little folder and said, "This is because your grades are too low." I didn't want to throw anybody under the bus, but I said I'm a little surprised to hear that.

To make a long story short, he opened up the folder and said, "Are these your grades?" And I said, "Those are my grades, but this pencil mark

with my grade average: that's not my grade average." And he looked at it and he said, "Well, let me compute it." So he did this four times three, three times four, maybe some twos in there, and then he says, "Oh, that's a different grade average. Is that your grade average?" I said, "Yeah, that's the right one." So he did over again manually and he came up with the same numbers the second time, and I said, "Yeah, that's my grade average." And he stood up and he said, "Congratulations. You've just been admitted to UCLA Law School." So I often wondered what would have happened if I hadn't gone in there.

Kathleen O'Leary: You were like your mother. You asserted yourself and asked the question.

Richard Fybel: I did. I think that I did really well there. I enjoyed it thoroughly. I guess the highlights for me: I was part of the first clinical program at UCLA, so we actually tried cases. I tried a case representing the mother in a dependency case and successfully got the child back to the mother. We appeared in court, everything. We also represented somebody in a civil case. There was a debt collector trying to collect a debt, and we prepared for trial and were prepared to go for trial, and we showed up at trial the first day and the other side wanted a continuance and we said, "We're ready, your honor." And the other side wasn't ready, and the judge said, "You know, you have no grounds for a continuance other than you're not ready, so no continuance." And that was it. The judge remanded for our client. He couldn't present a case.

So I had two really good experiences in court, so that was encouraging. Dave Binder was the professor in charge of the program, and we were friends for a long time. Susan was on campus. She actually attended some classes, and she was getting her teaching credential at the same time and she was teaching part-time at what was then Westlake School for Girls. She taught a Spanish class there. And now it's Harvard Westlake, but she taught there and she made some extra money for us, which was nice.

We met lifelong friends at UCLA. We're still really close friends with Paul and Becca Marcus. Paul has had a wonderfully successful career as deans of various law schools. He's now a professor at William & Mary Law School. And Becca is a founder of the Mindfulness Center at William & Mary and a very accomplished therapist. We have renewed our friendship with Larry Rubin, who is a fellow justice on the Court of Appeal, and he was a classmate of mine, and many other classmates at UCLA we've continued to have friendships with.

Kathleen O'Leary: You've been active in the Alumni Association, too, at UCLA, haven't you?

Richard Fybel: I did. I became president of the Law Alumni Association at UCLA. We became—while I was in law practice, we could afford it and we were pretty generous donors. At UCLA Law School, our names are on the wall a few places. And they honored me as Alumnus of the Year for community service to the law school, and we've been active in the law school for a long time. I owe a lot to that school. I got a great education with law school.

Kathleen O’Leary: So moving on from those golden law school years [*laughing*], law school that you loved so much, move onto more your practice years, more reality years. So, let’s start with your experiences at the Nossaman Firm.

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I think that was your first firm?

Richard Fybel: [REDACTED], my charmed life continued, I think, is the message from Nossaman. I was, you know, when I was in law school, as I mentioned you know, after the first year I went back to the Air Force and worked there in the summer. And then the second summer I worked for the Nossaman firm as summer associate and it was called—at that time, it was Nossaman, Waters, Scott, Krueger & Riordan. Nossaman had passed away but he was a real legend, I guess, in the trusts and estates area. Waters, who I’ll talk about somewhat here, was a very important politician in California, a leader of people and very prominent in the Republican party, and later a federal judge. Riordan, of course, is Dick Riordan, who became mayor of Los Angeles, and it was a great—really good small firm with a lot of talented lawyers. I became so fortunate there.

I started working for Richard Mainland, who became my mentor. He was a classic mentor in the sense that we became close with Richard, known as Dick then but now Richard, and his wife, Jan, and their family and they become close with Susan and I—I guess it’s Susan and me. But he taught me so much. We would sit at his desk and we would craft every paper we drafted. He was a wonderful writer—very precise, very well-organized—and we would talk about what the messages were and how to write it and how to—what was the most persuasive way to do it. He’s also extraordinarily honest with his clients and with the court and with his colleagues. He just was a straight arrow with a brilliant mind, you know, Harvard Law School, the whole nine yards, and just a wonderful man and a great example.

We had one big antitrust case that we worked on [REDACTED] worked on a lot of cases but the most memorable one was an antitrust case over, of all things, kitty litter, which is basically sand ground up, and we had a six-week bench trial before Judge [Harry] Pregerson in Los Angeles, which at that time was the longest bench trial in the history of the Central District, and we were there for six weeks. He started every morning—Pregerson had an interesting way of doing things—he started every morning at 8:15, and we went straight through to like 1:15 or 2 without a break.

Kathleen O’Leary: Wow.

Richard Fybel: And then he would do his afternoon calendar, but we did that for six weeks. I learned a lot on that case. We actually lost our case as plaintiff and won on a counterclaim, but one of the things I learned as a judge—because now as a judge I think of this moment—Judge Pregerson (he’s passed away now, obviously, but he was a legend; he was a former

Marine). He was a very, he had a real—he was kind of—he had a real twinkle in his eye, and I really liked him even though we lost, but the other side won the case on what was a view. And we went to two kitty litter plants, ours and the other side's, and I was the guide for Judge Pregerson, so I led him through the hills of Maricopa County, and, you know, we lost that day because the other side's plant was very efficient, state of the art, and our plant could only be described as a [redacted] Goldberg concoction with pulleys and all that stuff. And the other thing I remember about him is he made a ruling from the bench (and this is what I remember as a judge). He made a ruling from the bench that I just thought was haywire, and I made a face, and at this point you really know the lawyers, right? So, he looked right at me and just said, "Mr. Fybel, obviously you disagree with my ruling. Next morning, tomorrow morning, I would like a brief on my desk explaining to me why you disagree with my ruling and what the correct ruling would be."

Kathleen O'Leary: This may explain why many times we've had students visit the courthouse and you've told them from the bench, after we're finished, tidbits, you know, pearls of wisdom, and you've said, you know, "Don't show a reaction to the judge's ruling. If you disagree with it, don't make a face, don't shrug, don't roll your eyes. Not a good practice."

Richard Fybel: I learned that lesson in the mid-70s and, man, that stuck with me because I was a victim of it. I've never done that again in all my practice. And then, I worked with Laughlin Waters, who was one of the greatest men I've ever had the privilege to work with. You can look him up, as they say, Laughlin E. Waters. He's a World War II hero. He...if you read *Citizen Soldier[s]*, by Stephen Ambrose, Mr. Waters is in that book.

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Susan and I, as a tribute to him, travelled to Chambois, France, which is a little town where he was "Captain Waters," where there's a monument to him because he led the allied forces in shutting off the German retreat after D-Day. There's not a monument to Eisenhower there; there's not a monument to Patton. There's monument to Mr. Waters, and we met some locals there and he would go back for all the reunions. My wonderful memory of him, is I guess six weeks is a common denominator, but we had a six-week jury trial where he was the first chair and I was the second chair right here in Orange County in 1973, and we represented Stop and Go Markets, which was being sued by a bunch of franchisees, and we just had two franchisees, two sets of franchisees in our case, but the courtroom was filled with other franchisees who were going to piggyback on whatever victory these people achieved, and I learned so much about how to try a case from him, and he gave me so much responsibility.

I mean, this was 1973, so I was fresh out of law school—I graduated in '71—and he just gave me witnesses to do, arguments to make, motions to argue. I mean, we won that case, jury verdict, and there were some other claims the judge dismissed and, you know, it was a complete victory, but watching him deal with settlement negotiations, he couldn't have been more straightforward than he was to the other side. "These

are our strengths, these are our weaknesses, this is our offer," you know. He was just a very brave, honorable man.

Kathleen O'Leary: Was Judge Waters a partner who invited you to have dinner at an establishment in Los Angeles?

Richard Fybel: Yeah, he was.

Kathleen O'Leary: That's a good story.

Richard Fybel: It's a good story.

Kathleen O'Leary: It's a very inspirational story, I think.

Richard Fybel: Thank you. At that time this case was going on—again I was brand new, I was still very young and inexperienced in the life of the law and in business—but there were clubs in Los Angeles, The California Club and the Jonathan Club, that discriminated against pretty much everybody: women, Jews, anyone of color. You kind of name it. It was white males only of a certain religion, and he was a member. He was a member because that's how you got business in Los Angeles, and we met right before the trial started, in his office, and he had this big desk (I think they called it a lawyer's desk). Anyway, he said, "Okay, this is our schedule," you know. "We'll meet here at 6:15 a.m. and we'll go over what we're going to do. We'll get a witness in here and we'll drive to Orange County, try to beat the traffic a little bit, and then we'll do our cases and then we'll probably bring a witness back, and we'll go to dinner at The California Club. We'll come back, we'll work some more, probably 'til 11 or 12, and then we'll do the whole thing again tomorrow," and I just looked at him. I said, "You know," Mr. Waters (I called him at that point), "I'll do all that, except one thing." I said, "I won't go to The California Club for dinner with you. You can go. I'll just get some take out or something. There's a restaurant in that building," and he didn't miss a beat. He just let—he knew what. He knew why I wouldn't go, and he just looked at me and he said, "Then we won't go to The California Club. We'll have dinner brought in from somewhere." That was it, and I learned a lot from that, and I would have done anything for him at that point because I was going to have to quit if he made me, if he said, "No, you have to go." I was like, "I can't do this." So, it was a real momentous thing for me at that time.

The other person at the Nossaman firm who I think really influenced my life was Chuck Vogel. He was an L.A. superior court judge who retired, and then he joined the Nossaman firm. You got a sense of his sense of humor when in our first meeting we were sitting around a partner table, partnership table, the first partnership meeting Chuck attended, and people said, "What do we call you? You know, do we call you judge, do we call Chuck, do we call you Mr. Vogel? What are we supposed to call you now that you're here?" And he, straightest face he could ever have, he just said, "You know, I think Your Honor would be fine."

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Richard D. Fybel: And, of course, that broke the ice, but the way he influenced me: He became president of the L.A. County Bar Association, and of course he had to form committees, and he had to appoint committee chairs, and he had to do all this work. So, Chuck just walked into my office one day and said, "Okay, what committee are you going to be on?" I said, "I've never thought about that." This kind of changed my life when I tell you what the committee was. So, he said, "What committee do you want to be on?" I said, "I don't know. What do you think the choices are?" He says, "Here's the list, look at this," and then I saw this committee called Professional Responsibility and Ethics for Lawyers, and I said, "I want to be on that committee."

So, Chuck appointed me—there's a continuing theme here. So Chuck appointed me to that committee. Over time, I became chair of that committee in Los Angeles and became very experienced in lawyer ethics. We wrote opinions, we answered questions. It was a very active committee, and I was on it for several years as chair and then past chair. So, I worked with a lot of great lawyers at the Nossaman firm, really kind of too numerous to mention. I almost went out on my own, practicing law with Carl McKenzie, who was going to be—he wanted it to be Fybel & McKenzie and I wanted it to be McKenzie & Fybel, and then I opted out the last minute because I had a very young family and no money, so I decided not to take the risk and then he went out and became Riordan & McKenzie, which became a very successful firm. One story about Dick Riordan, again, and I'll close on the Nossaman.

So, to give you an idea of what kind of a person Dick was, which was terrific to me, anyway, and to many other people, when I first started there, it was on my first week there and my office was basically next to Dick Riordan's. I'm not quite sure why. I was in litigation and he was, you know, the big corporate lawyer, and Dick just walked into my office, sat down, and said, "I want to go over your finances with you." I says, "What?" He says, "Yeah, tell me what your budget is." So, I told him, "Well we pay this much for rent (which was I think \$145 a month), we have—this is for our cars, this is—we're going to start a family." I gave him my whole budget. I didn't know why he was doing this, but he was Dick Riordan, so I answered the question. And so, he looked at me he says, "Oh, we don't pay you enough. We're going to change that." And the next day, they upped the salaries for all first-year associates. That was just him.

Kathleen E. O'Leary: Because it was the right thing to do.

Richard D. Fybel: It was the right thing to do, and he was interested, he was engaged. So, Susan always teases me because Dick is one of the only two Republicans I've ever voted for. I voted him for mayor because I thought he was a great man of character.

Kathleen E. O'Leary: You left Nossaman and you went on to Morrison & Foerster, known as MoFo, and there you took a different role. I mean, you were a partner but then you also took on management roles at Morrison. So, why don't you tell us a little bit about your MoFo experience?

Richard D. Fybel: Thank you. You're doing a great job as an interviewer, by the way, thank you.

Kathleen E. O'Leary: I'm doing my best.

Richard D. Fybel: Well, I was with Morrison & Foerster from 1981 to 2000. I had, as I mentioned, been on Nossaman from '71 to '81 as a summer associate, associate, and then partner, and I joined Morrison & Foerster as a partner in 1981. It was really an opportunity for me. It was—the L.A. office at Morrison & Foerster had 13 lawyers. It was obviously an international law firm, but the L.A. office was very small and they had some stumbles along their way. So, they brought a partner from San Francisco whose name was Haley Fromholz, who was the leader of that office and a great, great man.

He became a managing partner at the L.A. office and his charge was to move from San Francisco and really grow the office. And he persuaded me this was a leap of faith worth taking, that Morrison & Foerster was a meritocracy, that you rose or you fell not on seniority but on the job you did. And their values were very close to mine in terms of equality and nondiscrimination and work in the community, and they encouraged pro bono work and it was just, to me, it was the right firm at the right time, and he says you're—it's unlimited what you can accomplish here, and I still remember the meeting with Haley and, again, just taking the leap of faith, this was the right thing to do.

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Even though I left the firm that was very, very good to me, and I had a lot of friends there but, well, I just decided this was the right thing for me and my family and for my career, and it obviously turned out to be a great decision. In terms of the...I'll talk about practice first a little bit and then the management. First of all, the practice continued to be all civil business litigation. That's all it was. There was no criminal work, no personal injuries, all civil business litigation. I was really fortunate there in attracting and retaining clients. I got a lot of business from former opposing counsel who I was up against and then when the case was over, they would refer cases to me.

I got a major client, First Interstate Bank, because I opposed them on the case and when the case was over, their head litigation counsel called me up. As soon as the case was over, he called me up and he said, "Can you come over here to the bank? I want to talk to you." And it was just—his name was Peter Whelan, and he said, "You know, we were impressed with the work you did, and we want to hire you." And they hired me over many years, until First Interstate was acquired by Wells Fargo, but I did really high-level stuff for them that never made the papers and never made a lawsuit. I counseled them on what they considered the important matters and especially on employment issues, and then I represented them on several employment cases, which are pretty high-profile at the time, and we used your old friend, Jack Trotter, as our mediator over at JAMS when that started. But I had a very—

When I started out, it was a little surprising to me and to everybody else. They had hired me to be—not to be derogatory—to be sort of a service partner to help them with Crocker Bank, because they had a lot of Crocker work and not enough people to do it, and I quickly had a practice built, without working for Crocker, even though in the end I ended up doing a lot of work for them, but that was kind of a surprise. I think that, again, the practice highlights for me (I kind of try to identify them over the years at Morrison): One was, it was a jury trial and we represented a nonprofit museum that had an insurance claim against an insurance company and a broker for—they had a theft of a major exhibit, Nitsky exhibit. It was small Japanese figurines, and it was stolen, and their insurance company denied coverage, and you know, basically their defense was to pound sand. They were not interested in paying the museum anything. I don't think we ever got a settlement offer from them. And it was a contingency case, which for Morrison, we never took contingency cases, but we took this one. It was kind of the right thing to do, and we won. It was again—I don't know why these things always take six weeks, but it was a six-week jury trial and we won, and it was just glorious, it was just glorious. And then, we had—the cross-examination of the—this is sort of the highlight of my negotiation skill, I think. We won this big jury verdict. We got everything.

We got the money for the exhibit, we got general damages, we got attorney's fees, we got punitive damages. We had this very nice verdict that made our client more than whole and more than enough money for outside a contingency, and so the insurance company fired their—after trial was over, they fired the trial lawyer and then they hired [REDACTED] elveny, and I had gone up against [REDACTED] elveny many, many times, won some, lost some. They're great lawyers in my experience. In fact, I copied some of the writing style from the cat litter case, the way they organized their briefs. I've done imitations of flattery, right?

So anyway, so they called us into this big meeting, [REDACTED] elveny, and they must've had 10 lawyers there. They must've—their client was there, everybody was there—and they, I walked in with my client and one other lawyer and they talked at us for 45 minutes about how they had a great case and they were going to appeal and we were going to get nothing, and that we should take pennies on the dollar. It was pretty brutal, and I decided, "You know, I'm not going to say anything." And so, I said, "Okay, we heard you, thank you very much."

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I went back to my office. I called the lead, I called the lead [REDACTED] elveny partner. (He became a judge, ultimately, by the way.) I said, "Do you want to meet me?" Their office was in one tower and we were in another tower, right next door to each other. And I said, "Why don't you meet in the plaza or in my office?" He said, "I'll come to your office." So, I got a little conference room. I said, "By the way, did you ever see the examination, the cross-examination of your client?" And he said, "No, I've never seen it." The trial lawyers didn't have dailies. I said, "I have a copy for you of the cross-examination. I want you to read it, take it home with you, and this is the amount we're willing to settle for. No

negotiation. This is it. I could start higher if you want, and then you could start lower, and then we can meet in the middle, but this is the number; it makes sense. Read the cross-examination, rethink what you said to me this morning, and let me know what you think.”

He took it. It was brutal. I mean, the guy. To give you an example, the test for punitive damages is basically a conscious decision to disregard the rights of the victim. That’s the standard. So, in trial, I asked them, “Did you make a conscious decision not to consider the response of the museum to your questions?” “Yes.” So, I said—that was just a sample. And so, he took it, he came back about that afternoon—it was the next morning I think, actually. He called me up and said, “I’ve read it, we accept.” That’s it. So, we felt pretty good about that. Later on, I became special litigation counsel for Federated Stores, which is Bloomingdale’s, Macy’s, all that. That came in from a referral, kind of a combined referral: one to Bob Raven, who was the chairman of Morrison & Foerster for many years, and to me from an opposing counsel, and that was the biggest bankruptcy in the history of the United States for a retail operation, and I represented them. So, I saw a lot of Cincinnati, where the case was litigated, and a lot of New York because a lot of the banks that we owed money to were in New York and a lot of the witnesses were in New York, but it was Bruce Bennett who was the lead lawyer. He was great at settling that case for a lot of money. It was a billion dollars at stake at that time.

The other case that I want to talk about briefly was, we represented a company called Platinum Technology. Actually, this case was referred by the litigation counsel for Federated Stores because they were in Cincinnati. Platinum was based in Chicago, they needed a lawyer in Los Angeles, and so I was hired by Platinum, which turned out to be a great representation. It was good news and bad news with that representation. The good news is it’s a wonderful client, tough case, we did really well. The bad news is our opposing counsel was opposing counsel from hell, as far as we were concerned. The long and the short of that one is we got a call from Platinum saying—we’re going to trial. I had an apartment rented in—we were living in Orange County at that point. I had an apartment rented in Downtown Los Angeles. We were ready to go to trial. We had all our technology ready to go, all our exhibits. In federal court, it was in federal court, so all the pretrial stuff was done, all the exhibits were labeled, all of the snippets from the depositions were, you know, like, we were ready to go, and I got a call like the week before trial, and my client tells me, “We just got an offer to be acquired in the largest software acquisition in the history of the world, basically, and certainly in the country, and we have to settle this case. That’s a condition of the sale.” I was like, “Okay, we have an opposing counsel who has no interest in settling. They’re doing everything they can to *not* settle,” I said. “But you’re general counsel. They have a general counsel. As long as I don’t script it, you can talk to the general counsel and see if you can settle it. I can’t do it. I can’t go to him and I certainly can’t—the opposing counsel will do everything they can to do the kibosh on this,” and we were the plaintiffs in that case. We actually owed them money, as it turned out, but we knew that going in, but we wanted to be the first to the courthouse.

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So, anyway, the long and short of it is we settled the case. We were documenting it, the other side tried everything they can to not have it settled, because we were dealing with computer equipment all over the world and, you know, security interest in it and all this kind of stuff. Anyway, the case settled, and I've always wanted to be a fly on the wall in that one because we settled, we documented it, we closed, and the next day, the headline on the *Wall Street Journal* was the acquisition of our client. Headline! It was like, I just, I mean, if that headline had come, first of all they wouldn't have closed without our case settling, but yeah, we paid a premium for the case knowingly, but boy, that premium would have gotten up a lot if the other side knew about the potential acquisition. It was great. And then the other thing about practice, I do want to mention that I worked very closely with Shirley Hufstедler, who was a genius and a very kind woman. As anybody watching this will know, Shirley was a Court of Appeal justice, she was a Ninth Circuit judge, she was the first Secretary of Education of the United States. If Jimmy Carter was reelected, she would have been the first woman on the Supreme Court of the United States, and I got the privilege of practicing with her. She was the best writer I've ever worked with. She wrote better than anyone I've ever read. The funny story about her and my mom are that I'd always told my mom, which is true, that she was the smartest person I'd ever met, and I came home one day, we were at dinner at my parents' house, and I was working with Shirley and I said something like, "Oh my god, she's just the smartest person," and my mom said, "Wait a minute, I thought *I* was the smartest person." I said, "Oh"—I had to quickly pivot—and I said, "Well, actually, she's the smartest *lawyer* I've ever met. You're just the smartest person."

Kathleen O'Leary: Good recovery.

Richard Fybel: It was good, really on the spot, but I just, I want to give homage to her. And she spoke for me in my enrobing on the Court of Appeal and was very instrumental in my getting appointed in the first place to the Superior Court. And you asked me about management, which was the question I was supposed to be answering, so—

Kathleen O'Leary: We're not in court. You can be nonresponsive.

Richard Fybel: Okay. So, in management, I had quite a journey, quite a ride at Morrison. When I got there, and again, they only had 13 lawyers so we had to grow, and I was a hiring partner, chairman of the hiring committee, at Nossaman, and they kind of knew that, and they knew I had some experience in hiring. So, after a little while, they named me to the hiring committee of the firm, and I actually do know what I'm talking about in the hiring, so they quickly named me hiring partner in the Los Angeles office at Morrison for associates, and we did a really good job. One of the things that I told them was that this office is noncompetitive in the law schools that the firm was hiring from in other offices: Harvard, Yale, you get the picture. And I said, "You also have

no minorities to speak of in the firm. So, you can solve that problem by starting a first-year program at Harvard and Yale and hiring and focusing on minority lawyers as first years. You may not be able to keep them, but they'll be ambassadors for you when they go back to school, and you'll be able to hire people for the second year from Harvard and Yale.

I also remember the partnership meeting. Carl Leonard was the chair. And there was a partnership meeting was in—the hiring committee meeting was in January or February and Carl, who I'll talk about a little later (I'll never forget it), said, "You know, that's a great idea." It was February, Boston, cold, snow, ice, "Rich, you go. You do that." So, I did, and we ended up hiring some amazing African American women as first years, and we continued to do that. It was a real success story, because some of them actually ended up at MoFo permanently and some went back and sang our praises, and we ended up hiring a lot of people from then on from those two schools, as well as, you know, many, many other schools, but we became competitive and served a purpose at that point.

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Richard Fybel: Haley Fromholz was the managing partner of L.A., and then in 1988 they—I guess he decided to step down as managing partner, so they needed another one, and management of the firm (shows you how people have been so kind), but the management of the firm wanted to choose a person I'm still friends with, [redacted] an named Alan Benjamin, because he'd been there the longest. He'd started as an associate in the L.A. office. He was the longest-serving member in the office. He was a very successful corporate lawyer. And they said—they approached him and said, "We want you to be managing partner." And he said, "You made the wrong choice." Imagine that.

He said, "Rich Fybel should be managing partner. He's the one who's going to have the support of everybody in this office. He's just more experienced than I am and he's—that's the right choice." And being management, they didn't want to take him at his word so they interviewed everybody in the office and they came back and said, "Okay, you're right." They approached me and they said, "Do you want to be managing partner?" I said yes, because I had a lot of ideas on, again, how to manage and how to grow the office, and I was managing partner of the office from 1988 to 1992, and we did a really good job. We grew to 138 lawyers. We negotiated a new deal at another bank tower, built out new offices. I'll brag a little bit. We were recognized. One of the things I wanted to do was get Morrison & Foerster's L.A. office in the community, get known in the community, do pro bono work, and get things accomplished, and when people thought about who to hire, they would think of us along with the other leading firms in L.A., and we won one of the first awards, the L.A. Women Lawyers for our promotion of women. I'll always be grateful to Laurie Zelon, who was my partner at Morrison and is now a retired appellate justice, who will soon be serving here as a pro tem thanks to Justice O'Leary. We went to this big gala award dinner and they called Laurie up to accept the award from L.A. Women Lawyers because of what we had accomplished in the hiring and

promotion, frankly, as partners of women lawyers, and Laurie stood up the stage and she said, "I'm not the one that should accept this reward," and she called me up to accept the award, which I'll always remember. That was the generosity of Laurie.

Kathleen O'Leary: So Laurie.

Richard Fybel: So Laurie. We also got the first-ever award from NAACP Legal Defense Fund for our work in housing discrimination. We represented would-be tenants who were discriminated against by landlords, and we won there. We also won the Public Counsel Law Firm of the Year Award. I got to accept that. I never really knew that when you stand on the stage like that in a big auditorium—I think it was the Beverly Hilton—there are these white lights. You can't see a thing. So, I gave a speech. I had no idea who I was talking to. I mean, there were a lot of people in the room.

Kathleen O'Leary: Sometimes that's comforting.

Richard Fybel: Yeah.

Kathleen O'Leary: You can't see those people, those intimidating eyes out there.

Richard Fybel: Yeah. So, the management in those years was great but I was also building a practice. Federated was in those years, and so it was a lot of work for First Interstate, and I had a lot of other clients. A lot of clients I got along with really well were from the Midwest: Chicago, Cincinnati. Hayworth was based—it's a furniture manufacturer. They used to make the—they used to sell the Eames chair before Herman Miller did. They invented—Hayworth invented cubicles where you have the electronics in the walls of the cubicles. It was a wonderful company based in Michigan—Holland, Michigan—and did a lot of work for them throughout the United States and in California.

Kathleen O'Leary: I'm really glad for all those management years you've spent because I call on you as a resource in my management role because you do have the view of the whole organization. We tend, judges and lawyers, to have sort of a myopic view of what affects me personally. And so, you do think of the entire organization, not just one person.

Richard Fybel: Thank you. I appreciate the confidence that you've shown in me over the years. So, I was managing partner from '88 to '92 and then '92 I got a call from the then-chairman, Carl Leonard, who said, "What do you think about joining senior management?"

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That was basically four or five people, what's called the small management group, that ran the firm, and I became the managing partner firmwide for attorney personnel, which meant I was in charge policies and hiring for associates and partners firmwide, internationally, and part of the small management group. So, I stepped down as managing partner of the L.A. office and went into senior management.

Throughout all this time I was a member of the points committee, which is the Compensation Committee, so I had a lot of responsibility that I tried to fulfill honestly and well, so I was in senior management until Carl stepped down as chair and Peter Pfister took over. I was still for a little while with Peter. I'm still friends with both Carl and Peter to this day. We still exchange emails and talk on the phone, and they're both really wonderful people, great leaders of Morrison & Foerster. They really led the firm and, not just to grow but to hire good people and to do good works in the community. And I was on the managing committee through 1996, and then Susan and I decided the kids were out of the house, my commute was still from Palos Verdes to L.A., and we started thinking of moving someplace maybe. We didn't really know if we were going to move closer to L.A. or move somewhere else, and I'll talk about—we ultimately moved towards Orange County and to the Orange County office. I was recruited by Dean Zipser, who was the managing partner a long time with Morrison's Orange County office.

I was looking back at my Morrison days and I do want to say, one thing which I touched on, which is I think one of the things I'm most proud of is my mentorship and close association with women, the lawyers of Morrison. Many women made partner under my—working with me. Just to name a smidgeon, Beth Cranston was my right hand for many, many years and she—I interviewed at UCLA. As she fondly remembers, she wore jeans to the interview because she didn't think she was going to be in interview. She was just going to sign up, and then I saw her and we talked, and the rest is history. And she was a partner, and I worked with her on many cases, traveled with her. She's now the director—she was general counsel—now the director of the Rape Treatment Center in UCLA Hospital, a crowning achievement to such good work. I'm going to talk later (I'm going to get too emotional if I talk about it right now), but when I refer to donors later, she was a donor—a volunteer donor—for me. We're dear friends.

Kathleen O'Leary: Well, we've talked a lot about your practice years and all—you've talked a lot about all the other—you give kudos to everybody. But we want to focus on *you* and, you know, as you went on to the bench. I know practice years were great, but I also think your years on the bench have been pretty special.

Richard Fybel: Yeah.

Kathleen O'Leary: And they started at North Court and, what, in the criminal assignment, which was, to call it a sea change from what you'd been doing—the successful civil litigator, managing partner, management team—and now you are Judge Fybel at North Court, and did you start on an arraignment calendar of criminal trials or—something to do with criminal, I think?

Richard Fybel: It was quite an experience, you know. I hadn't really thought about becoming a judge, but after the Platinum case settled, I went on a roots trip with my parents and we went to—my mother would never set foot in Lithuania again, but my father wanted to go back to his little town in the Harz mountains in Osterode. So, I went with my brothers and my

parents; Susan joined us later. But we went on a roots trip. We went to Osterode, and it really hit home. I mean, we were greeted as celebrities in Osterode because the town believed, and their town history is they saved the Fybel family. That's their town history. That's it. And so, we were greeted by the mayor, everybody, but really, I said, "You know, maybe, I keep giving lip service: Do we owe this country, America, so much? Maybe I should do something about it."

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Richard Fybel: And so, I decided I wanted to go into public service, and Tom Umberg, who was in and out of public service for years, was a partner at Morrison. I hired Tom Umberg at Morrison, by the way, which I never let him forget. And he never let me forget it because the first time I interviewed him, I sent him a rejection letter and he still has it, but Tom gave me good advice on where to apply. And so, I applied to be a superior court judge, and thanks to Tom and to Shirley and a few other people, Burt Pines.

Kathleen O'Leary: Governor Davis.

Richard Fybel: I was going to say Burt Pines as appointments secretary, and Governor Davis did appoint me. I'm very grateful to Governor Davis and to Burt Pines for getting me appointed and appointing me. And I did go to North Court, which I think they picked because it was the furthest from my house. But you know, it was funny at the time (Justice O'Leary is very experienced in administration of courts), and I think at that time, word on the street was, "Oh, North Court, that's the furthest. It's the old municipal court. It's limited jurisdiction, blah, blah, blah." You're kind of being sent there. I didn't know anything. So, I go to North Court and, in a way, it was kind of like heaven for me.

Kathleen O'Leary: There were some great judges out there at that time.

Richard Fybel: There were such great judges. Now, the first six weeks were not a lot of fun because, as you pointed out, at Morrison and as a litigator I was always the most prepared one in the room. I'm not saying I was the smartest one in the room, but I was pretty good, but I was the most prepared. I mean, I knew what was going to happen and why. I go to North Court, I was the *least* prepared person in the room. The DAs, the PDs, the criminal defense lawyers, the clerks, some of the *defendants* knew more about the system than I did and, I mean, it was a crash course.

First six weeks, people would come up to me, especially Mike Hayes, who I'll talk about, but—he was the supervising judge at that time—and he'd say, "Isn't this the greatest job in the world?" And I'd think to myself, "Actually, no. Being managing partner over at the Morrison & Foerster office, that was the best job in the world," but after about six weeks, I kind of got the hang of it. I had some events there, my north—my enrobing hasn't come across yet, but you can see it over my right shoulder, which is a jersey of Sandy Koufax (who's my hero who refused to play in the World Series on Yom Kippur), the greatest Dodger pitcher,

probably the greatest pitcher of all time. But I was always a Dodger fan and we met Maury Wills at a charity function that my brother, Kirk, hosted, and Gary and Kirk and I spent a lot of time with Maury and he came to my enrobing. So, in my enrobing, I was not the center of attention. Dodger great Maury Wills was.

Kathleen O’Leary: When I got sworn into the West Municipal Court in 1981, the person that said the Pledge of Allegiance at my swearing in was Jerry Reuss, a pitcher for the Dodgers, and they had just won the World Series.

Richard Fybel: You had the same experience as I did.

Kathleen O’Leary: Yeah, so it was, yeah, I was—nobody cared about me. They were all, “Can we get Jerry Reuss’s autograph?”

Richard Fybel: My colleagues there were spectacular. I don’t want to leave anybody out, but in addition to Mike Hayes, who was supervising judge, there was [redacted] mac Carney, Rick King, Derek Johnson, the late Jimmy Marion. If you ever went into a foxhole and needed somebody to defend you, you would look to Jimmy Marion. And Pat Donahue. They were just terrific. I remember we used to go to Carrows every day for lunch, which was a short walk, and I said one day at lunch—and Sarah Jones was there and a few other people, and we would sit around (we all go to lunch every day together, probably have the same thing). And I looked around the table at these guys and I said, “You know, I’ve never been around people like you. You guys are amazing. You’re just wonderful people, and you take this job so seriously and you’re teaching me so much. It’s just amazing that we’re all here.”

And Pat Donahue looked at me and said, “I’ve been on the Orange County Superior Courts for I think at that point I don’t know, 15, 20 years, something like that.” He said, “I’ve been around a lot. I’ve been with a lot of people, DAs, judges, PDs, everything. This will never happen again. This is unique, to have an experience with these people that you just are so fond of and everybody respects each other and likes each other.” It was a great experience.

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I also really appreciate the lawyers there, especially the young PDs and DAs. We were learning together. The one thing I remember especially is that—I didn’t know anything. So, I got this CEB book, which was a softbound, very thick vanilla cover Criminal Law and Procedure, and I had it on the bench. It was a bench book, and I guess it was appropriate to be on the bench. And I would use it. So, they would cite some jargon, which all they used was jargon, numbers and jargon. I would look it up. I’d say, “Okay, what’s the code section? What’s the case name? What’s the cite, if you can get it? What’s the motion you want to make?” I would look it up on the bench. I would just do that. And so, sure enough, the young PDs and the young DAs suddenly appeared with the same book on their desks. We had a great relationship.

I had my assignments there. I started out in trials and—well, arraignments, and then trials and pretrials, and in master calendar misdemeanors, which was really interesting for me, assigning cases out, and I really lobbied at that time to be in criminal, not civil. I didn't think I could advance my knowledge. I guess it was a bit selfish, but I really wanted to do criminal. And so, I was put in felony arraignments, which is basically felony arraignments and plea bargaining. I learned so much in that department because I had to go through all these, the counts and what was the evidence, and what should he—he or she plead guilty to, and how long should the sentence be, and I had a lot of experience in that.

I think the one thing that I remember, also Jimmy Marion started it but then I continued it, which was the misdemeanor domestic violence calendar, where we actually were counselors to these couples that just—it was misdemeanor stuff, it was not felony conduct—but they just couldn't get the concept that you don't hit each other and you don't abuse each other, but they weren't lost. They just needed some help. And they were in this calendar. We would talk to them. I would have conversations with them.

So one day my parents came just to watch me at my job. So, they watched the whole day. And at the end I said, "Hey, mom and dad, what do you think?" And my dad said, "You know what? All those years of being a lawyer, that didn't prepare you for this job. What prepared you for this job is working at Safeway, dealing with the public and dealing with people, just everyday people, and talking to them," and he was right.

Kathleen O'Leary: And that's really who you deal with in limited jurisdiction assignments, real people with a real problem.

Richard Fybel: Yeah. It was a great—North Court is very fond memories.

Kathleen O'Leary: Before we talk about the Court of Appeal, I'm going to kind of take a detour, and I know this happened a little after you started with the Court of Appeal, but there's another topic that's near and dear to your heart, and you mentioned it a little bit earlier: ethics, and traditional ethics, in particular. And you've been the chair of the California Supreme Court's Advisory Committee on the Code of Judicial Ethics since 2004. You coauthored the Fourth Edition of the *California Judicial Conduct Handbook*, which is the bible for judges. When we want to know about some—answer an ethical question, we go to that book. And you were chair of the California Supreme Court committee responsible for recommending the structure and the rules for the Supreme Court Committee on Judicial Ethics Opinions. So it's been a, I don't want to say a hobby, because that might be a little demeaning, but it's been an area of special interest to you. So, I'm probably missing some of the things you've done, but why judicial ethics and how did you get to be a statewide, if not a national, expert in judicial ethics?

Richard Fybel: Well, it all started when I worked on the L.A. County Bar Committee on Professional Responsibility. That helped because, in 2002, Justice

[Charles] Vogel was the chair of the Supreme Court Advisory Committee on the Code of Judicial Ethics, which is the committee that advises the Supreme Court on what should be in the code of judicial ethics and what should not be in, and what are necessary amendments, and they needed another member of justice. And Chuck had remembered that I had this experience in ethics, and I talked to the [redacted]'s principal attorney since they wanted someone with experience in ethics. And I had just become a justice on the Court of Appeal in 2002, and Chuck remembered me and remembered my experience and recommended me to the Chief, and Chief Justice Ron George appointed me in 2002.

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So, I got to work there, and when Chuck retired from the bench in 2004, he once again recommended me to be chair, and I was appointed chair in 2004, and it's, to me, important work to provide judges with the rules. It's not an aspirational code of ethics; in other words, it's not what you should do, it's what you must do. So, it's a disciplinary code, and we keep that in mind when we make recommendations to the Supreme Court.

Over the years, I've worked with some really, really good people on the committee and it's been a small committee. It maybe was seven or eight or nine members. Over the years, we were assisted until his retirement recently by Mark Jacobson. So, we've done some important work. I've tried again to pick two or three things in terms of recommending to the court. I think our most public achievement was, there was a rule that said judges could belong to nonprofits that discriminated on the basis of sexual orientation or other things and, otherwise known as a boy scout exception, and we recommended to the court that it be eliminated, that there'll be no exception, judges cannot belong to any organization that discriminates. And the court agreed, and so that was implemented.

We've also strengthened the code in many other areas dealing with discrimination in the court, in the courtroom itself, in judge's responsibilities to correct that. We implemented a rule, recommended a rule, against sexual harassment by judges, that that was a disciplinary offense. And then, most recently, the last one I'll talk about is, recommended rules for judicial elections, both in terms of fundraising and reporting of fundraising disclosure, as well as what judges could and couldn't say in the judicial election process—not just the judges who are running for office, but judges who supported or opposed them.

Yeah, I even have—I guess this is my prop.

Kathleen O'Leary: It's your book.

Richard Fybel: It's my book, it says—

Kathleen O'Leary: The bible, we call it the bible.

Richard Fybel: It's a handbook. Thank you. Well, I got to work with David Rothman, which, again, I get these phone calls that David called me one day and

said, on the fourth edition, the California Judges Association was to sponsor this, and the funder, and they wanted the fourth edition, and he asked me would I be the lead author, and he was—I said, yeah, if he would still review it and make sure we don't make any mistakes, and then we asked Judge [Ronnie] McLaren and Mark Jacobson to work on it. We worked from—it was published in 2017, and we worked for three years on this book. I'm very, very proud of it.

Kathleen O'Leary: What I think is so helpful about both your writings and also the classes that you teach in ethics are the practical examples, the hypotheticals, because I think as judges, if you ask us are we fair, are we impartial, are we ethical, we'd all say, "Sure we are." But then you bring it to life in a hypothetical, and I think some eyes sort of—the lightbulb goes on for some people in the audience thinking, "Oh gosh, I guess that could be perceived as something short of being ethical."

Richard Fybel: Right. And I also use that knowledge in another area which I taught for eight years at the Witkin Judicial College with now the late, great judge Beverly O'Connell. She was a Morrison & Foerster lawyer and then—when I was at superior court—and then the federal court. Dear, dear friend of mine. And they asked me to teach this course on making a record at the Judicial College, and they said you could choose any superior court judge in the state to teach it with. So, I chose Bev, and we taught for eight years. Just briefly, it started out as a 45-minute course on the last afternoon of a two-week college. You can imagine how many people attended that.

Kathleen O'Leary: Yeah, but you did okay at North Court. I mean, you're used to tough challenges.

Richard Fybel: That's right. Maybe by the second or third year of teaching it, it became a three-and-a-half-hour course, plenary session (means everyone had to mandatory attend). After the speech welcome, speeches, the Chief's welcome speech, it became the first class of every two-week session. And then after she passed away, I really couldn't do it without her. So, I just turned it over to somebody else. But that was a real privilege to teach at the college, and we used—a lot of the ethics examples that you mentioned we used in that course. It was really how to be a judge. it was called "How to Make a Record," but it was really how to be a judge.

Kathleen O'Leary: Another area of expertise that you have is with respect to the holocaust and how the courts really failed Germany during those years, and I know that's an important subject to you, and I suspect part of it comes from how fortunate and blessed your parents were to have escaped some of the horrors in Eastern Europe. But the Nazi years were such a dark period in world history, and so many Jews lost their lives, and very different experience in your family. And I know we should never forget, so it's one thing to remember, but it's I think an entirely different thing to be as active as you are in conveying the message and educating people. Maybe talk a little bit about what you've done to educate people about the atrocities of the holocaust?

Richard Fybel: Thank you. You're right about the family history, and that was an intersection with that and judicial ethics that caused my interest. It was like, How could a western civilized country in the 20th century, how could this happen? And then I focused on the judges and lawyers because I was a judge and a former lawyer, and I really became interested in the system. And I started speaking and writing about it, and then Katherine Darmer, who was a professor at Chapman Law School, came up to me one day and said, "You know, you're speaking and you're writing little stuff about this. I'm going to edit a book. You want to coedit it with me? And you can write a chapter on this. You can actually write down."

So, the long and the short of it is I agreed to do that, and in 2011, we published a book called *National Security, Civil Liberties, and the War on Terror* and I got to write my chapter, and I wrote a chapter on the German legal system, and the book was published. And then that sort of—People started to see that. And you're right, I've spoken about it probably maybe 20 or 30 times across California to lawyers, judges, citizens groups, you name it, I've spoken to them if they—I mean, all over the state. I think two highlights: one, for some reason, Sacramento likes to, different people in Sacramento. I've spoken to everything from Reuben Clark Society to the Holocaust Center in Sacramento that does great work to judges and lawyers there.

And another highlight was, the California Judges Association did a trip to Nuremberg in 2015, and I got to give the keynote speech in courtroom 600 in Nuremberg, which was the courtroom where the Nuremberg trials were held, and I got to give a speech there. If you think I talk a lot now, I did not want to leave that lecture. It was awesome to be in that courtroom to give that speech, and Susan and I became board members of the Rodgers Center for Holocaust Education at Chapman University, working with the director Marilyn Harran there, and they do great work in terms of education.

I taught. I got into this because, in 2005, Michael Bazyler, who was another former Morrison lawyer, who teaches holocaust genocide and the law at various law schools, said, "Hey, you want to coteach this class with me?" So, I cotaught that class with Michael from 2005 to 2018 at Chapman Law School, and so, the teaching, the writing, the speaking, I just think is important to get the message across to people. The judge's—you know, we say impartiality, we say independence from politics, but that can go horribly wrong if we let ourselves be controlled by an executive or by political leaders.

We do have to follow the constitution and achieve justice and, you know, in terms of—I get more than I give out of this one because I became known to, I think, Professor Elie Wiesel, Nobel Laureate, who would come to Chapman every year for five years, and he taught our class at Chapman. So, next time when I taught our class, I had many conversations with him, dinners with him, I moderated discussions where he was the speaker and I was the moderator. I got to know him really, really well.

01:20:03

Such wisdom that he had and such a—he was like my mom, though: he answered every question with a question. My mom would always—you'd ask her a question, she would answer with a question. Same thing with Professor Wiesel. I teased him about that. And the last thing about him is, you never know, right? So, one of the last times I saw him, I went up to him and—I always reintroduced myself to him because, you never know, he meets so many people—and I went up to him. I said, "Professor Wiesel." I introduced myself, and he just looked at me and he says, "I know who you are, you don't have to do that. It's good to see you again."

I got so much out of that, and I participated in so many things in this area.

Kathleen O'Leary: After hearing your speeches about how the judges reacted to the Nazi declarations and directions, it makes all judges, I think, wonder if judicial officers show more courage or is the world a better place. Wonder if some of those judges had shown a little more courage, not that we would have avoided it, but maybe we could have—

Richard Fybel: You're right. I asked Professor Wiesel. He was very interested in the subject. What do you think that the judges lacked? And he said, "They lacked humanity," which is the ability to see what you're doing affects other people, empathy, basically, which is also the message of the *Judicial Conduct Handbook*: judges need empathy. And he also said courage. They just completely lacked any courage. And I also got to spend time with Leon Leyson, who was the youngest member of Schindler's List. Brought him to the court here in Santa Ana, and he spoke to the judges here so they might have a—understand that these laws and these practices could impact people personally.

Kathleen O'Leary: So, let's segue to the court of appeal years. You've been here for almost 20 years. Can you share with us some thoughts about your tenure here at the court of appeal, Mr. Justice?

Richard Fybel: Sure. Again, I'm grateful to Governor Davis for the appointment and to Burt Pines for leading me through, although his interview was pretty tough. After the interview, I went to the Hyatt and sat on the bench. I don't think they had cellphones then, but I called Susan, maybe I did have a cellphone, and said, "I'm never going to get this job."

But it turned out a week okay. The enrobing ceremony was very meaningful in 2002. Both my mom and my dad were alive and were there, and my mom thought this was her revenge for all the discrimination against her. So, yeah, this has been a good ride. When I was a lawyer, I was very frustrated with court of appeal opinions because they all seem like mystery novels to me.

Kathleen O'Leary: Not mine, though.

Richard Fybel: Of course not. And I resolved that if I ever became somebody who could write an opinion like this, it wouldn't be mystery novels. I would tell the people right up-front, This is the issue, this is our conclusion, these are the reasons: affirmed, reversed, whatever. So, they don't have to wait until the end. And I would try to be clear in a published opinion especially what's the holding. And I think I achieved that. I've been extraordinarily fortunate, as usual. My charmed life continued. When I got here, I asked them, pardon me for doing this, but what's you're hiring? How do you hire? because I was told in those days I could hire three lawyers, and I asked, "How do you hire lawyers?" I won't bore you with the details on how they hire lawyers, but I concluded it could be the worst system ever created.

And so, I said, "No, we're going to put the word out and we're going to cast a very wide net for who I'm going to interview and who I'm going to hire, and we're going to do not writing samples, but we're going to give people real problems that they're going to have to write something up." I think that's common practice now. "And we're going to have rounds of interviews, not just one interview. And we're going to ask tough questions. We're going to listen to the answers, and then we're going to hire the right people."

And it worked. And the three lawyers—God bless them, I love them all—who I hired back in 2002 are still sitting right over here in 2021: Julianne Bancroft, Michelle [REDACTED]an, and Matt Ross. They all had illustrious careers before they got here. Matt and Julianne were partners in really good law firms.

01:25:03

Michelle was a senior associate in a really good law firm. Their law firms hated to lose them. I was very fortunate to hire them. They're family. They've been family for a long time.

Kathleen O'Leary: Now, you said the law firms kind of have a sense of humor about us stealing their best lawyers because they're sort of our farm teams, all those law firms.

Richard Fybel: Yeah. Now, I can't—I mean they've been—research lawyers write the drafts. They tell you when you're right, they tell you when the law won't support what your instincts tell you, they go through in excruciating detail what the analysis is, they put up with my, "No, you need subsections. The reader has to understand where they are in the analysis, so put in more subsections. Put in—in a published opinion, say our holding is, and we publish because." But they are wonderful people.

I've seen between Michelle and Julianne—we now have six, started out as babies, are now college kids mostly or about to be college kids and they're just, Julianne, Michelle, and Matt are just fabulous human beings and make me look good. Pretty much everything I've done I owe to them in this job. I've been fortunate with judicial assistants, as well. I've basically only had three, Nancy O'Connell and Arlette Cornell Chavez retired, and then I just hired Tony Martin, and I've been really blessed.

They were long term and, again, they work hard and they from time to time laugh at my stupid jokes, but I'm very, very grateful. And my colleagues, of course, led by you, are impressive and they always try to get the right result for the right reasons. I'm very grateful for my relationships among my colleagues, and it's been a really, really, really good ride.

Kathleen O'Leary: I think we're really fortunate and I know—and I love Pat Donahue. He says this will never happen again. I don't know. I think we've had some relationships and camaraderie here at the court of appeal that would rival your days in North.

Richard Fybel: No, that's right. Again, you don't want to slight people, but they know who they are, my people here who are considered dear friends, you included, and we get a lot of benefits here. Being on the court of appeal, your name goes out through the—there are not that many of us, so on the UCI board, law school board, and the Chapman law school board. I'm even on a board in New York for the Jewish Law Institute at the Touro Law Center. We all get our share of awards and because we have higher profile I think, and you know I've been very fortunate in that regard. The CJA gave the authors, all of us, the award, their highest award, for publishing the book. So, it was the CBA and Orange County Bar Association, Chapman, UCLA—I've been very fortunate.

Kathleen O'Leary: Now, if we can segue a little back to the personal life, Susan here, your wife of many, many years.

Richard Fybel: That's where I started.

Kathleen O'Leary: Yeah. It's sort of cyclic, isn't it? We started with Susan and Susan comes in towards the end, again, because Susan is always there for you, professionally and personally.

Richard Fybel: That's right.

Kathleen O'Leary: And she's pretty honest with you about—she will tell you when you've gotten off the mark, in her opinion. Anything you'd like to share with us about Susan other than the vending machine meeting, or the apple machine?

Richard Fybel: Susan was born and raised in Milwaukee, Wisconsin, so she's yet another Midwest connection.

Kathleen O'Leary: Connection there.

Richard Fybel: Really good values. She had wonderful parents, Dave and Rose, and her brother Marty and sister Nancy. And we met at UCLA as undergrads, fell in love. We had a wonderful life. She's a loving person, she's a wonderful wife, mother, *bubbe*, which is Yiddish for grandmother. She's a great person. She's supported me through all this emotionally and keeps me grounded.

I know we've got time issues, but she's the kind of person who when I was at Morrison and we were invited to all these events and people would, oh, they were so nice to me. Oh, my God, everybody was so nice to Rich Fybel, you know? And I came home one day and Susan said, "Why do you think everybody is so nice to you?" I said, "Because I'm a really nice man, you know?. I treat people with kindness, I think." She says, "Okay, the fact that you have complete control over their assignments, their compensation, their advancement—that has nothing to do with being really nice to you?"

01:30:03

I said, "Okay, point made." So, she's the realist and the grounded one in our family. She's just a terrific person. She's very kind, compassionate, considerate of everybody, and great judgment in people. She's got the best judge of character of anyone I've ever met. But I think the big takeaway: she's just kind. She's just a very kind, loving person.

Kathleen O'Leary: And very supportive.

Richard Fybel: Very supportive.

Kathleen O'Leary: How about the kids?

Richard Fybel: I mean, you try coming home and telling your wife that you're cutting your compensation as the senior partner with Morrison & Foerster to a public employee at the lowest level of the superior court. You try doing that sometime, and then she says, "Let's talk about it, but it makes sense at this time in your life. Do it."

Kathleen O'Leary: Rich, we'll make it work.

Richard Fybel: We'll make it work, and we have. And then, yeah, we built a great life and a very loving family.

Kathleen O'Leary: Well, let's hear about the two kids and the grandkids.

Richard Fybel: Yeah. Well, you know, we raised our kids, Stephanie and Dan, in Palos Verdes. We lived there over 20 years. They went to public schools. They were raised in a Jewish household. Stephanie was bat mitzvahed and Dan was bar mitzvahed. You know, we all, it was a wonderful time in PV. Just to, because I want to pay tribute, for a moment, to friends of both Stephanie and Dan, the Roy family. Dave Roy, who's passed away, who was my closest friend at the time, and a client, and just to—we had a really good nuclear group in Palos Verdes, and the kids were part of it. You know, you end up being friends with your kids' friends' parents.

Kathleen O'Leary: Yeah, your social circle somehow gets directed by your kids.

Richard Fybel: So, I'm going to talk about my kids, but I'm going to do it in a little reverse order, and the reason will become obvious for the reason I'm doing it. First of all, Dan was born in 1974, so he's now 46 years old. Growing

up, he was a happy, red-headed, kind kid, good in school, excellent athlete, especially baseball and track. He was always funny, always creative, great artist.

Kathleen O’Leary: Would have made a great lawyer.

Richard Fybel: Well, I used to tell him, he’s the best writer of any young person I’ve ever seen. We met when I was in judge’s college, between the two weeks you could either come home or you could stay up there. So, it was Father’s Day weekend and he went up there that weekend and he was in a career crossroads and I was trying to persuade him to be a lawyer because he’s just logical and a great writer, and he says, “I want to be a comedy writer.”

I was like, “You what? What about health insurance?” He said, “No, I want to be a comedy writer.” “Okay.” You know, he had earlier graduated from Emory University in Atlanta and a great son, a wonderful son, but you know, he has become very successful, which I’ll get to. But more importantly than that, he’s just a great guy, a wonderful son. He married Garland, who we love. It’s great to be able to say you love your daughter-in-law, and we do. She’s just wonderful. She was his boss in a TV show, and he married his boss, but she also taught him how to organize a story, you know, two storylines and all that, and then—

Kathleen O’Leary: I always think this is such a good story because it’s the one time that, I would say, thank goodness the son did not take his dad’s advice to be a lawyer.

Richard Fybel: I agree compl—

Kathleen O’Leary: He would have been a great lawyer, but I’m glad he didn’t take your advice.

Richard Fybel: Yeah, and they have two children, Tessa and Max. Tessa is 16, Max is 13, both wonderful, wonderful, wonderful people. We enjoy their company. We watched, enjoyed watching them grow. They bring joy to us all the time. And then, as I said, he wanted to be a comedy writer and he became one. He not only became one, he became very, very successful.

01:35:05

Kathleen O’Leary: He got an Emmy.

Richard Fybel: Yeah. He’s now one of the executive producers of *Bob’s Burgers*, which is on Fox now, owned by Disney. He’s had an illustrious, very successful career. He’s won two Emmys for work on *Bobs’ Burgers* for his writing. He’s been nominated every year. When he doesn’t win, we’re crushed and think he should have won, but he’s won two already. He’s also won a Writers Guild Award. They only give one award for Comedy Writing. It’s for the best episode of any comedy show in the animated category.

So, he was nominated against *The Simpsons* episodes and a few other pretty famous ones and he won. So, he's not only won two Emmys, he won the Writers Guild Award. And as somewhat important, we share a love of baseball, so he's got a fantasy baseball team and I have one that I am partners with Dean Zipser on and we talk about baseball and fantasy baseball a lot to the chagrin of our entire families. You know, they're very supportive but they kind of humor us about how much we talk about baseball.

He's just a warm, loving man, terrific husband, son, and father. I'm going to talk more about him a little later. Not much later, I know, but he's just a wonderful son. I love him very much.

Kathleen O'Leary: And you're fortunate to have a wonderful daughter, too.

Richard Fybel: And our daughter, Stephanie Kay Fybel. Kay is named after my grandmother, Katie, my father's mother. Stephanie is named after Sylvia who is Susan's aunt. Dan, by the way, is named after the River Dan, in Israel. Susan and I went there and said any time we ever have a son, we're going to name him Dan. It was just a beautiful spot. And Robert is after Rachel, who is my mother's mother, who by the way, lived with us. Did I digress too much? But my mother lived with us. My grandmother lived with us until she passed when I was a young teenager. I think about that: my dad's a gardener and he supports his mother, he supports his mother's mother living in our house. Pretty amazing.

Stephanie, as I say, is now 48. I mean, growing up she was a happy, really great student. She was a real leader in her school, as was Dan. They were both school officers. She was very gifted in theater and singing and acting. She was always the lead in the school plays, always the lead in the community productions. She was known in Palos Verdes as, you know, she was the lead in everything, and just terrific. She was also a good athlete. She was good as—I coached her in girls' softball for nine years. Think about that. I actually coached after she left, but I would drive from PV, from downtown LA to PV to make her games and practices.

And then she went to the University of Michigan, got a bachelor of fine arts there, had to audition to get into their program and blew them away with a Shakespeare thing, and then she went on to get her master's at Contemporary American Theater in San Francisco. So she was able then to turn that into a job for the last 17 years as a drama teacher at Wildwood School in West L.A., where she's been a very successful drama student and a drama teacher and is beloved by her students. She has two children, Jonah, 10, and Liv, Olivia, age 14. Again, they're just both great kids. They provide Susan and I wonderful joy.

And again, I recently had my 75th birthday and one of the highlights was, each grandchild wrote me a note about sort of what I mean to them, and you never know what impact you have on people, and you kind of wonder, do the people notice, and they did. They wrote beautiful notes to me and very meaningful. Stephanie is just a loving, caring

daughter, wonderful mother. So, I do want to close with two stories, and they both involve Stephanie, which is why I waited until the end, which I think is near the end, unless you have more questions.

01:40:06

The first story involves my uncle, Harry. Harry is my father's brother, who is now almost 97 years old and we're still very close too.

Kathleen O'Leary: And Harry says it's *Fy'-bel*, not *Fy-bel'*.

Richard Fybel: Harry says it's *Fy'-bel*, so it's got to be right. We've been very close to Harry for our whole lives, my brothers and I, Gary and Kirk. And I'm going to go back up just not that many years. Stephanie is producing *Sound of Music*, the musical at her high school. And as most people know, it's set in 1938 Austria, it's The Trapp family, the Nazis. It's a whole—that's the setting for *Sound of Music*. And she was casting *Sound of Music* and some of the boys really wanted to be the Nazis. And she was, like, alarmed, she was like, we're in West Los Angeles and you want to do that? So she took action and she went to the Shoah Foundation at USC and asked for a Holocaust survivor to come speak to the entire school. And she did, and made a real impact on the entire student body. So Steph took real positive action to do that.

And then on the closing night of *Sound of Music*, when the director, Stephanie, gets all the credit and all the flowers and the bouquet and the standing ovation, Harry and Cherry, who is my aunt who we're very close to and Harry's wife, attended because we wanted him to see closing night. And he's in a wheelchair and he's sitting in the audience, hundreds of people there. It was a big theater and they'd just done their production. And Stephanie got on stage and they're honoring Stephanie. And instead of—she said thank you and took the flowers, and then she said, "I want to introduce my uncle, Harry, and just so you know who he is, he immigrated to this country as a teenager from Germany in 1938. When he was old enough, he enlisted in the United States Army. They shipped him to Europe. He fought in World War II, in real battles in World War II. He was a translator then for the POWs, German soldiers. He fought in Europe until VE Day, where they shipped him to the Far East Theatre." So, I get choked up every time I tell this story.

So she said, "You know, I'm going to introduce you to Harry. You won't meet many refugees from the Holocaust or from Nazi-occupied Europe, who is also a United States veteran in both Europe and the Far East, and he's here." The whole place stood up. Whole place. And then the students lined up to get his autograph, talk to him, hug him. It was amazing. But that's Stephanie.

Kathleen O'Leary: Well, and that's Harry.

Richard Fybel: And that's Harry. And we still see him.

Kathleen O’Leary: But your mother would say, just to lighten it up, he’s not the smartest person you know, was he? He may be the bravest, he may be one of the most distinguished, but she was the smartest person you ever knew.

Richard Fybel: My mother was amazing. And she raised two—one thing I haven’t done is talk about my brothers enough, but I’m very close friends with my brothers and their wives, and they’re terrific people. And they gave me a lot of support in this next story I’m going to tell and my final one.

So when Stephanie was a kid, little baby, I sang, which is really hard to believe, but I sang the song, “You Are My Sunshine.” So that plays a role in this. So in October of 2018, I had suffered from the kidney disease for a number of years, but not that it was out of control, but we all have something.

Kathleen O’Leary: But it took a turn for the worse.

Richard Fybel: In October of ’18, I was told that I had stage 4 renal failure and that, within a fairly short period of time, maybe a year, I’d either have to have dialysis or a kidney transplant.

01:45:08

And that was it. And that a cadaver waiting list in California was years and years and years, and I was already at the age which was borderline acceptable to have a transplant. And so, I would have to have a live donor. And that was pretty sobering news, so, and it wasn’t like equivocal. It was, You’re in renal failure; this is your only alternative. And I really didn’t want my kids to be donors. I didn’t want Steph or Dan to have to go through that.

Kathleen O’Leary: But they did tell you they would be the best matches.

Richard Fybel: Yeah. So many, many people volunteered, including both my kids, including my brother Gary (Kirk was disqualified for health reasons), including my friends. We have uncovered it. I was president of University Synagogue in Irvine for two years, and the people that I served with as executive officers of the synagogue—Sari Schreiber volunteered, and many other people from the synagogue volunteered. I don’t want to name them, but Sari is a dear friend. Beth Cranston, who I mentioned earlier, volunteered. Many, many people, over 20 people, which is unheard of for some little guy like me. And my rabbi, Rabbi Rachlis, was very supportive and he actually sent a letter to the community, the Jewish community and the JCC, the Jewish Community Center, sent a little blurb out asking for volunteers, and there were many, many people who volunteered.

I was told that—they came to me, and I had to undergo a lot of tests. It was a very stressful time. And then they came to me and said, we’ve tested all these people and the best match is your daughter, Stephanie, and she is the one that will be the donor, unless she changes her mind. And that was a hard decision, but she—

Kathleen O’Leary: You resisted that for a while.

Richard Fybel: I did resist it, but I was persuaded, again based on facts that if I said no, there were rare repercussions to both of us kind of psychologically that they’ve seen over the years. So I got ready for the surgery. My brother, Kirk, moved out here from Illinois. He has a house in Orange County, but he moved out here, and we went—exercising is too mild a word— we went hiking up these hills. And I feel like saying we went uphill both ways, but I feel like we did. It was in Orange County; there were these trails we went on.

Kathleen O’Leary: Sort of boot camp to get you ready for the surgery.

Richard Fybel: It was pretty much boot camp, and Gary and Eve were very—they volunteered to take care of Stephanie and did after the surgery. And Stephanie hasn’t changed her mind and I passed, thankfully, all the medical tests to do this, and on November 5, 2019, Stephanie’s one of her two kidneys was transplanted into me. We named the kidney Sunshine.

Kathleen O’Leary: Susan sent us a text saying, “Both Richard and Stephanie are doing great.”

Richard Fybel: Both Richard and Stephanie are doing great, and the whole family, you know, brothers and wives and Susan, of course, especially Susan. If you think about it, I think beyond Stephanie and me, can you imagine having your husband and your daughter in surgery at the same time?

Kathleen O’Leary: Life-threatening surgery for both of you.

Richard Fybel: At the same time, yes. Can you imagine that?

Kathleen O’Leary: I can’t.

Richard Fybel: I can’t. So she was very, very strong, very loving and supportive. Susan was a real hero in this piece, and she guided me through this, trying to make the right decisions every step of the way, you know, yeah.

01:50:12

And then Stephanie is doing great. She continues to teach.

Kathleen O’Leary: And she’ll always be grateful she was able to do this for you.

Richard Fybel: She thinks it was one of the best things, if not the best thing she’s ever done. The grandkids have been wonderful. Dan has been very supportive, very generous in his time. Dan moved down to San Diego for the surgery. Susan and I had to rent a place for like six weeks because Scripps said you’re not going anywhere. You have to stay down here.

CA Appellate Court Legacy Project—Video Interview Transcript:  
Justice Richard Fybel, Court of Appeal, Fourth Appellate District, Division Three

Kathleen O’Leary: I remember seeing a picture of that place. It was beautiful, except there was a walkway right along a cliff (that was beautiful), but I thought, well, I hope you don’t take a misstep and go down that cliff.

Richard Fybel: You got it exactly right, K. O., it was good news and bad news. The good news was it was on a cliff overlooking the ocean, and the bad news is it was on a cliff overlooking the ocean. So I came back to work too soon, but I came back to work. And then the pandemic hit. And ironically, if I hadn’t had the surgery in November of ’19, I would not have been able to have the surgery because they stopped doing kidney transplant surgery. So anyway—

Kathleen O’Leary: What were you saying? You’ve led a charmed life or a blessed life?

Richard Fybel: I have.

Kathleen O’Leary: You certainly have in many respects.

Richard Fybel: I’ve lived a charmed and blessed life. I’m very grateful to all the people that have helped me along the way. Yeah, I’ve had a lot of help. I’m very grateful and I’ve been in a position, I guess to sum it up, that I have a loving family and to make contributions in areas that I thought were important. And I’ve—just being on the Court of Appeal for almost 20 years has given me a chance to make a contribution to the development of law in California to try to show that empathy that Professor Wiesel talked about, to try to understand the impact of our decisions on the people, the litigants and the lawyers, that we’re dealing with, and try to be honest and kind to people and try to make my parents proud.

Kathleen O’Leary: Well, thank you for sharing your story with me. And I hope that this video gives others a glimpse into who Justice Richard D. Fybel really is and provides some information about your professional accomplishments, the legacy you leave, and I think it’ll be inspirational to a lot of people because a lot of people have had similar life experiences and the way you dealt with them, I think, will help others.

Richard Fybel: Thank you.

Kathleen O’Leary: So, we’ve worked together for over, well, roughly 20 years, few months short of 20 years. I want to thank you for being such a great colleague and for being such a great friend and thank you for putting up with this interview.

Richard Fybel: Well, the feeling is very mutual. You are a wonderful person and friend and leader of this court.

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