

David Knight: . . . when you left the bench.

Nat Agliano: Yes. My name is Nat Agliano. You wish it spelled. N-a-t A-g-l-i-a-n-o.

David Knight: And you were Your title when you were on the bench?

Richard McAdams: When you retired.

Nat Agliano: I was retired Presiding Justice of the Sixth District.

David Knight: Excellent. And Justice McAdams?

Richard McAdams: Richard McAdams, M-c-A-d-a-m-s. And at the time of retirement I was Associate Justice at the Sixth District Court of Appeal.

David Knight: All right. We are ready to begin whenever you are.

Richard McAdams: Well, good afternoon. This My name is retired Justice Richard McAdams, and it's my pleasure today to interview retired Presiding Justice Nat Agliano from the Sixth District Court of Appeal. And we're going to talk a bit about your legal career, your personal life, and some thoughts along the way. And maybe a few cases here and there. Mainly just to have a chance for people to really appreciate who you are and appreciate you. Because as I left the Sixth District this morning, I was reminded by people there how well loved you were during your time there and still well loved to this day.

But my first question to you is: I was reading a biography that said that you had – this is the *Daily Journal* some years ago – said that you fell into a legal career almost by accident.

Nat Agliano: Yes.

Richard McAdams: And I can't help but ask you about that. We wouldn't be here today, I guess. What happened?

Nat Agliano: Well, it just goes to show you that you can establish goals and really never get there, because something else comes up in the interim that sidetracks you. I had just graduated from Cal at Berkeley. I was getting ready to go into the service; I had been drafted. And by happenstance I ran across a friend of mine, and we chatted about what we were going to do; we had both just graduated. He said he was thinking of applying at Boalt Hall, the law school at Berkeley. And I said, "Really?" He said, "Yeah, why don't you take a walk?" So I walked with him to the law school. And never before did I even *imagine* the possibility of going to law school. So while he went to the desk to get his application, I saw a door. It had words "Moot Court" inscribed over it, and I opened the door and looked in, and there was a spotlight. The room was dark, but there was a spotlight shining on the witness chair and the bench and the jury box. And I just became very intrigued by the whole idea. It had a quiet dignity to it. I just had a nice feeling about it. So I went home and told my wife about that experience, and she said, "Go for it." So that was it.

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Richard McAdams: What year was this?

Nat Agliano: Oh, this was 1954.

Richard McAdams: And you didn't go to Boalt Hall, though. You went to

Nat Agliano: I went to Hastings.

Richard McAdams: . . . Hastings.

Nat Agliano: Yes.

Richard McAdams: And there was military service before that, after all, then?

Nat Agliano: Yes, two years of military service. Right. And I spent that two years in El Paso, Texas.

Richard McAdams: Well, it's our gain that your friend took you to see the Boalt Hall mock trial courtroom that day. And that led eventually to your career that included the . . . being the Presiding Justice of the Sixth District Court of Appeal from 1986 to 1992. But we'll get to that. But getting back, then, to that . . . to the law school experience, how was Hastings back in 1959?

Nat Agliano: Well, Hastings was a wonderful school because at that time, at least, it was not as difficult as many schools to gain admission to. I had graduated from the University of California, and that was almost an automatic entrée into Hastings. I remember the dean – Dean Snodgrass – coming out and introducing himself. Yes, he had the visor.

Richard McAdams: The green eyeshade.

Nat Agliano: Yes. And he said, "We've never really been able to figure out what type of background is helpful in the study of law." And he said if we had to guess about it, he thought that a mathematics background would be most helpful. And at that point, you know, all of us looked at each other and wondered whether we should stay a minute longer, you know. But as it turned out, it was a wonderful experience. It was difficult at first – well, you know how it goes – until you establish a routine for studying and understanding the process. But it was a wonderful thing.

Richard McAdams: You enjoyed it, all in all? Did you have any law-related jobs while you were at Hastings before graduation?

Nat Agliano: Not at all, not at all.

Richard McAdams: And you were married when you were at Hastings.

Nat Agliano: Yes. Lil and I had just been married, right before I went into the service. And No, in fact, my first law-related job was immediately upon graduation, when I applied for a job in the Attorney General's Office and I began work there. 6:35

Richard McAdams: In San Francisco?

Nat Agliano: In San Francisco.

Richard McAdams: And how long

Nat Agliano: Well, it was San Francisco at the very beginning. And then there was an immediate assignment in Sacramento in the Criminal division.

Richard McAdams: How many years were you with the A.G.'s Office?

Nat Agliano: Three years.

Richard McAdams: And the kind of work that you did there?

Nat Agliano: It was exclusively criminal law. In fact, when I accepted the job – or when I applied and was fortunate to be accepted – I really didn't know what I'd be doing. You might recall from law school that the words "Attorney General" were usually mentioned in connection with supervision of charitable trusts. So I thought perhaps I'd have an investigator's job of some kind. And I was surprised when they handed me a set of briefs and said, "Here. Your first assignment will be to write the People's brief on appeal."

Richard McAdams: And do you remember how soon after you took the job were you actually in court arguing a case?

Nat Agliano: Within a couple of months. And my first appearance was in the Court of Appeal, to argue that case in the appellate court.

Richard McAdams: San Francisco or Sacramento, by that time?

Nat Agliano: In Sacramento.

Richard McAdams: Okay.

Nat Agliano: Yeah.

Richard McAdams: And the Do you remember what the case was, by chance? We're all We're supposed to always remember our first court appearances, but

Nat Agliano: It was a search and seizure.

Richard McAdams: Oh, you do remember! Okay!

Nat Agliano: I do remember that.

Richard McAdams: See? For some reason, I knew you'd probably remember what it was. Do you remember if you . . . if the People prevailed in that case?

Nat Agliano: Well, that was the thing about You know, if you needed a boost in your attitude, especially on appeal, the People prevailed almost 90 **8:31**

percent of the time. And I always thought it would have been truly difficult to be on the other side – to be on the defense side all the time.

Richard McAdams: In your all your time at the A.G.'s Office, were you handling appellate cases?

Nat Agliano: I was, but after about a year, then they sent me out to some of the northern counties to assist district attorneys that needed assistance. And my first assignment of that nature was to Plumas County, where I helped a D.A. and we tried a first-degree murder case along with a few other cases and preliminary hearings. It was a great experience.

Richard McAdams: Would you move up there during the trial? Would you have to pack up pack your bags and go?

Nat Agliano: Well, it was every, you know, Sunday night, up to Plumas County, stay there the entire week, come back on Friday evening. And then the next assignment that was for an extended period of time was in Lassen County, in Susanville, and I tried a grand theft conspiracy case that arose out of the construction of the prison in Lassen County. And so I When we heard of the complaint, I was assigned to investigate the case. I had a CI&I agent helping. Gathered the evidence, presented the case to the grand jury, obtained indictments, served the indictments, and then tried the case to a jury. And we were lucky enough to prevail in that case also.

Richard McAdams: Were you working with the district attorney, or were you . . . did you . . . were you substituted in, in the place of the district attorney, in that case?

Nat Agliano: Working *with* the district attorney, but the district attorney really didn't take an active part in the case. I was flying solo, which is kind of a frightening experience.

Richard McAdams: And other memorable trial court experiences that you had during that earliest phase?

Nat Agliano: No, that was about it. I went to several other counties and presented cases to grand juries and so forth. The Attorney General's Office was just the best possible experience that any lawyer could get.

Richard McAdams: Did you ever have the opportunity to argue a case before the Supreme Court?

Nat Agliano: Not while I was in the Attorney General's Office. When I went into private practice, I did.

Richard McAdams: What kind of a case was that, or cases?

Nat Agliano: Now you're drawing on my memory. But it was a

Richard McAdams: It's easy from this chair, you see. A civil case?

Nat Agliano: No, it was a criminal case. 11:40

Richard McAdams: Okay.

Nat Agliano: It was a case in which the trial court declared a mistrial. But it was right before the case went to the jury, and as I recall, the difficulty with the case was the fact that the court did not obtain the defendant's consent for the declaration of the mistrial, which is fatal. And when there was an effort made to retry the defendant – because a mistrial had been granted without the defendant's consent – the prosecution could now proceed in another case.

Richard McAdams: And were you successful before the Supreme Court?

Nat Agliano: Yes.

Richard McAdams: And were you up against any . . . a former colleague in that case?

Nat Agliano: That's a good question. I don't recall.

Richard McAdams: But it was The A.G.'s Office was

Nat Agliano: It was the A.G.'s Office.

Richard McAdams: . . . representing the other side.

Nat Agliano: Yes, yes.

Richard McAdams: That's great. So when you left the A.G.'s Office, then, did you go right into private practice, or . . . ?

Nat Agliano: Yes, I went right into private practice. I was in the Attorney General's Office for three years. Received a call from an acquaintance who said that he knew of a firm in Salinas that might be looking for an attorney. I always wanted to go into private practice. It was not the easiest thing to do because we had a child by then, and another on the way. So it was difficult to leave a nice, stable job and go into private practice, where the future was somewhat unknown.

Richard McAdams: You know, I should have asked you I should go back just a little bit. You served under one or more Attorneys General during your time?

Nat Agliano: Stanley Mosk was the Attorney General during the time that I was there.

Richard McAdams: And did you have a chance to work with him directly?

Nat Agliano: We had lunch frequently because he would come down on . . . at least once a month to Sacramento, and the entire office had lunch with the Attorney General.

Richard McAdams: And what was that like? Stanley Mosk is like a *giant* of California law.

Nat Agliano: Yes. 14:09

Richard McAdams: Was he perceived to be that at the time?

Nat Agliano: I thought he was a very down-to-earth person, very likeable, very personable.

Richard McAdams: And did he . . . was he appointed to the Supreme Court while you were there, or did that . . . if you recall?

Nat Agliano: I don't recall the time. I don't.

Richard McAdams: So, in taking you back again, we're up to . . . you're out of law school in 1959?

Nat Agliano: 1959, yes.

Richard McAdams: Working with the A.G.'s Office, as you said, so it must be the early '60s you're tempted to go down and take this job in Salinas now. You were no stranger to Monterey County, as we'll talk about before, so the goal was to get back to your roots?

Nat Agliano: Yeah, that really wasn't the *goal*. It just so happened that the opportunity arose in Monterey County and . . . in Salinas. And I went into a small firm. We had two, three . . . three partners. I was not a partner, of course, at that point. And it was a general practice. We handled any case that came along: criminal, family law disputes, corporate, probate. And I have to say that, you know, having worked in criminal law for three years and then suddenly going into a law firm that practiced everything, including a lot of civil, I spent a lot of nights and weekends in the library.

Richard McAdams: The And the name of the firm when you joined it?

Nat Agliano: Panelli and Well, at first it was Panelli No, pardon me. Bardin, Cunningham, and Panelli. That was the name of the firm. And then shortly after that it became Panelli and Agliano. But it was not, you know, Ed Panelli, who was my colleague initially at the Sixth District, then went to the Supreme Court. He was only distantly related to Michael Panelli, who was my partner in the practice.

Richard McAdams: Were you the only associate, then, when you . . .

Nat Agliano: Yes.

Richard McAdams: . . . joined?

Nat Agliano: Yes.

Richard McAdams: So I imagine you were given some interesting tasks as the newest attorney? Any memorable events from that stage of your career?

Nat Agliano: Well, it was just Private practice You know, I've always said, of everything I've ever done including the trial court, the Court of Appeal, and even what I'm doing now - working as a private judge - I 17:08

have to say that private practice was the greater . . . the greatest challenge. Stimulating. Exhilarating. You were subject to great highs and great lows, depending on the outcome of the case, from day to day. Nothing compared to private practice, because you're dealing with individuals, and you're trying to You know, it's an awesome responsibility to represent someone.

Richard McAdams: Was there a favorite area of law? You say that you and the firm did everything there.

Nat Agliano: Yes.

Richard McAdams: Was there a favorite area that . . . as time went by, or anything resembling a specialty?

Nat Agliano: Not really. It depended on, you know, the case itself, I think. Once you got into a case – whether it was civil, criminal, whatever it was – it had its own special quality. So I could never say I preferred one type of case over another.

Richard McAdams: Did the practice take you to other counties, or to federal courts?

Nat Agliano: No, it was primarily confined to Monterey County – cases in the Monterey court. Monterey had branch courts in Salinas and Monterey and then throughout the valley – the Salinas valley. Of course, in those days we had justice courts, and they were situated south of Salinas in Gonzales, Soledad, King City, San Ardo, Greenfield. There was a justice court in Pacific Grove, as I recall. And then, of course, the municipal courts in one division in Monterey and one in Salinas.

Richard McAdams: Now, did you ever appear in the justice court down in San Ardo?

Nat Agliano: I never had that privilege. But I understand that they were exciting times for some attorneys that appeared there.

Richard McAdams: There are stories that have come out. But we'll save that for another . . .

Nat Agliano: Tell me one, Rich!

Richard McAdams: . . . time. No, I just Old West, I guess . . .

Nat Agliano: Old West.

Richard McAdams: . . . as people described it. The Old West.

Nat Agliano: Exactly.

Richard McAdams: Okay. The During that time – we're into the '60s – had you thought about becoming a judge?

Nat Agliano: No, no. So I was in practice from, yes, in the early '60s, through Our private practice was We were doing better and better each year. I enjoyed it very, very much. I really didn't give it much 20:00

thought. Then an opening occurred. I can't even recall how I became involved in it. You know, all of a sudden my name was out there as a possible appointee.

Richard McAdams: So I have it in 1971 you're appointed to the municipal court. I have it October of 1971, because this is We're not going to have, maybe, a lot to talk about about muni court, because six months later you're elevated to superior court . . .

Nat Agliano: Yes.

Richard McAdams: . . . as I understand it. But was there a You were Somebody encouraged you to apply, obviously. Somebody put your name to the . . . then Governor Reagan.

Nat Agliano: Yes.

Richard McAdams: Do you remember anything about that appointment process?

Nat Agliano: Not really. It's, you know, it's a matter of seeking out support and so forth from different quarters. But there was not the As I look back on that particular appointment, there was not a great deal involved, at least in my estimation, in terms of political activity. I never viewed it that way. And I always thought that the Governor at that time was primarily looking for merit. Maybe that was selfish.

Richard McAdams: Well, and we . . . people talk about that, of being a different time, where if we compare it to now with the Jenny Commission and the . . . all the process, the application process, and the time that it takes, it was a different world for those of us appointed back in the '70s, I think, . . .

Nat Agliano: Yes.

Richard McAdams: . . . compared to that. But you go to the muni court in October, and then March of 1972 you're elevated.

Nat Agliano: The muni court, I might . . . must say, although often thought of as handling misdemeanor criminal matters and small claims, it did . . . we did have many very, very interesting issues. I recall one, in particular, involved the constitutionality of a parking ordinance. And so, you know, we had a smattering of constitutional law, which was interesting.

Richard McAdams: Do you remember how you ruled on this great constitutional question?

Nat Agliano: I believe I upheld the Salinas city parking ordinance.

Richard McAdams: They're still talking about it down there, I think. How was it that it was so . . . such a short stint on municipal court?

Nat Agliano: I don't know. I was there and then gone.

Richard McAdams: In March of 1972 you joined the superior court in . . . of Monterey County. How many judges did you have at the time? 23:21

Nat Agliano: I was appointed to the fifth department. There had been four for a number of years, and a new position was created in the fifth department in the Monterey branch court, and I was appointed to that position.

Richard McAdams: And your initial assignment?

Nat Agliano: Well, in those days, again, the judges of the superior court as well as the municipal court handled all kinds of cases, whether criminal, civil. You might be doing criminal law one day – a criminal case one day – and a civil the next. Either one might involve a jury trial or a court trial. And it was very, very interesting. It's not the same now – as I see it, at least. The courts specialize so much. And so many of the courts now, I think, are consumed with criminal cases as compared to civil. As I remember, in those days the allocation was probably something like 55 or . . . 55 to 45 criminal versus civil. Now I understand that it's probably more like 70/30 in favor of criminal versus civil.

Richard McAdams: And during your tenure there, until you went to the appellate court, you handled all kinds of . . . every kind of case, I take it.

Nat Agliano: Yes, yes.

Richard McAdams: Was there a favorite area of . . . or a favorite type of case at the time?

Nat Agliano: No, no. I really can't say there was a favorite type of case. They were all favorites. They all had their interesting aspects to them.

Richard McAdams: Yeah.

Nat Agliano: Even small claims. They were all interesting.

Richard McAdams: All of us who've been trial court judges at some stage of our career have many accumulated memories of the cases that came before it, but any particular . . . I want to ask you about one in particular, because people always associate you with the case involving the Oakland Raiders and eminent domain – one of the more unusual cases, probably, that came along. Can you tell us about that case and how you came to be involved in it in Monterey County?

Nat Agliano: The . . . Well, it came to Monterey County because the law required a change of venue because it involved the City of Oakland. And I can't recall whether it was statutory or otherwise. But it had to be moved out of Alameda County. I don't know what the process was; the presiding judge of the court probably knew better than I at the time. But it got to Monterey County, in any event. Monterey County received many cases on change of venue in those days. We even had one case involving a criminal matter that involved the Symbionese Liberation Army.

Richard McAdams: This is the Russell Little . . .

Nat Agliano: *People v. . . .* 27:00

Richard McAdams: . . . case?

Nat Agliano: . . . *Russell Little*. It had been It arose out of the killing – tragic killing – of Dr. Marcus Foster, Superintendent of Schools, by members of the Symbionese Liberation Army.

Richard McAdams: This was also a case coming out of Alameda County?

Nat Agliano: It came out of Alameda County, but it was first tried in Sacramento County. There were *two* defendants: Russell Little, and the co-defendant was . . . his last name was Remiro. The jury returned a verdict in that case, but because of the sequence of the verdicts, the Remiro case was affirmed on appeal but the Little case was reversed – Russell Little. And when it came on for retrial, it was . . . for some reason it was transferred out of Sacramento County to Monterey County. And I had that case also – that trial. That was a very interesting case. But getting back to the Raiders case – that’s where we started

Richard McAdams: Let’s talk about the Symbionese Liberation Army . . .

Nat Agliano: Yes.

Richard McAdams: . . . case and we can come back to the Oakland Raiders; they’ll still be there. What were some memories . . .

Nat Agliano: Well, you never know if they’ll still be there! *[laughs]*

Richard McAdams: I’ll look at my That’s true! For the team, we don’t know that, but our discussion of it will always be there, let’s say. But the so-called SLA case.

Nat Agliano: Yes.

Richard McAdams: What are some memories of that one?

Nat Agliano: The attorneys were very good on both sides – the prosecution and the defense. The defense attorneys were, I believe, Tony Serra and Russell Hanlon, both very, very experienced. Mr. Serra, of course, is very, very well known in criminal law circles. The jury found Russell Little not guilty. There was a lot of evidence, I thought, going the other way. But whatever it was, it was the jury’s prerogative to find as it did. There were a lot of interesting experiences in the course of that trial, of course. And counsel – defense counsel – was being compensated because they had been appointed by the court; Russell Little didn’t have funds to retain his own attorney, so the court appointed Tony Serra and Russ Hanlon. At least two or three times in the course of trial, counsel said, “Well, we’re not being compensated. Our paychecks have not arrived.” And threatened not to show up the next day. So that became a point of contention. And all I could do was say, “I’ll see you tomorrow, gentlemen.” And they’d arrive on time.

Richard McAdams: There was a lot of media attention in that particular case. This is before the era of television cameras in the courtroom, I gather. Were **30:53**

there, like sketch artists or other media attention, or were there any demonstrations or

Nat Agliano: No. No, the . . . I think it was, you know, considering the nature of the case and so forth, from that standpoint I think it was rather low-key. It was tried in that tone.

Now, on the other hand, we had another case that was transferred It was not transferred, but it was *People v. Inez Garcia*. I don't know whether you've heard of that matter, but that case had a lot of notoriety. It was retried. I had it upon retrial because the appellate court reversed it the first time around because of an instruction given by the court at the time. I don't know whether you remember that instruction. It's interesting because the court gave the standard instruction on reasonable doubt, you know. It's been given in the same words historically. At the end of the court's instruction on reasonable doubt, the court added about seven to ten words and said, "Let me tell you what 'reasonable doubt' really means. You weigh one side as against the other, and thereby determine wherein lies the truth." Well, you know, that applies a standard of something like preponderance of the evidence.

Richard McAdams: Sounds like reversal.

Nat Agliano: And it was reversed and then came back for retrial. But it involved . . . the case involved the feminist movement, and it drove a lot of people to the courtroom in support of the defendant, Inez Garcia.

Richard McAdams: How so? How

Nat Agliano: She was accused of killing a man that she claimed tried to rape her. And it was a question of whether or not . . . at what point could a person exercise self-defense and shoot someone. At what point had the assault become so aggravated that the right to kill existed? That was primarily the issue in the case. And there was a lot of feminist support for . . . it didn't have to progress very far before a woman had the right to take that kind of measure. And again, she was really well represented by counsel from, I think, Alameda County.

Richard McAdams: And the result? The jury verdict, in . . .

Nat Agliano: Not guilty.

Richard McAdams: . . . that case? [pause] Oakland Raiders case?

Nat Agliano: Back to the Oakland Raiders case. Well, that was a court trial, and the issue was whether or not the City of Oakland had the right to exercise the power of eminent domain to acquire a National Football League franchise. The essential issue in the case was whether or not the taking of the Oakland Raiders constituted a public use – whether or not it was for a public use. And that was the issue in the case. When I first decided it, the appellate court immediately sent it back, saying, "Well, you had not . . . you haven't really decided the issue of public use." I, of course, thought I had. But it went We had further hearing on the 34:59

case, and it was finally affirmed on appeal on an issue that the parties really didn't pay much attention to. But it was an issue in the case, and we made findings on it and so forth. And that was that a taking by the City of Oakland would interfere with the . . . with commerce, on the theory that the National Football League was a business engaged in interstate commerce, and so the taking of one component of that interstate business would interfere with the operation of the National Football League. And that was the theory on which the case was affirmed on appeal, and all the way up to the United States Supreme Court.

Richard McAdams: Other memorable cases from the Monterey days?

Nat Agliano: Well, I'm sure, if I had some more time to think about it, I probably would. *[laughing]*

Richard McAdams: If you do. Those are three, I think, stunning examples of the kind of work that you were doing – that here you are in a relatively small county and yet handling major events, many transferred from other jurisdictions. So in the . . . in this time period, getting into the . . . in towards 1980 and the early 1980s, there is the movement to establish a Court of Appeal here in San Jose. And eventually you become part of the first panel, and you help create the Sixth District. But how did your . . . the process . . . how did . . . what was the process of you becoming . . . of the Sixth District coming into creation and your appointment to . . . as one of the three original

Nat Agliano: Well, that brings to mind that it had somewhat of a torturous start, because I believe . . .

Richard McAdams: So they say, yeah. *[chuckles]*

Nat Agliano: . . . Governor Brown made three appointments to the court, and then there was a controversial hearing before the commission that was to confirm those appointments. And I believe, because the court had not existed, it didn't have a presiding justice at the time, who ordinarily would have been a member of that panel. And so it was the Chief Justice and the Governor. Oh, no, pardon me, it was the Attorney General, who was Deukmejian. And he refused to confirm those appointments. And then after a change in administration, when, well, Deukmejian became the Governor, and he made . . . ultimately made the appointments that stuck. And it was He appointed me and Justice Brauer and Justice Panelli. And it was interesting because the three of us came from different counties. We really were not that well acquainted. When I was in practice I had tried a number of cases in Justice Brauer's courtroom, and that was about the extent of my acquaintanceship with him. I really didn't know Justice Panelli that well, but I have to say that when we began working together, we really were very, very collegial. Worked hard together. It was very interesting.

Richard McAdams: At some point you know that there's going to be a vacancy. You file an application with By this time it's Governor Deukmejian. 39:03

Nat Agliano: Yes.

Richard McAdams: You filed an application with him and . . .

Nat Agliano: Yes.

Richard McAdams: . . . he's the one who appointed you . . .

Nat Agliano: Yes.

Richard McAdams: . . . to the Court of Appeal.

Nat Agliano: Yes.

Richard McAdams: So, you'd have to This is starting a Court of Appeal from scratch, so to speak.

Nat Agliano: From scratch.

Richard McAdams: What did When you arrived, you drove up from Monterey, which I understood you did every day. You drove up from Monterey. What were the first Where did you sit? Where'd you find

Nat Agliano: Well, I have to, you know, back up . . .

Richard McAdams: Oh, yeah.

Nat Agliano: . . . just for a moment and say that, you know, speaking of commuting, I knew it was a long commute. It was 75 miles each way. And I remember for the first week Because the appointment was in November, so by the time I got home in the evening, it was well dark. But on the way in the morning, I'd pass by the courthouse in Salinas, which is about 10 minutes from my home. And at one point I said, "What have you *done*? [laughs] You exchanged a 10-minute commute for an hour and a half. Because the traffic was heavy in those days.

Richard McAdams: Highway 101.

Nat Agliano: Highway 101. It's much better now than it was.

Richard McAdams: Really.

Nat Agliano: Yes!

Richard McAdams: And that's an interesting

Nat Agliano: Yes. It was very congested. And you never knew, especially on days that we had oral argument, that naturally started at 9:00. And so it was a little risky. You never knew whether you were going to get there on time.

Richard McAdams: But was there There was a Where was the first courthouse, and where did you set up space? 40:40

- Nat Agliano: We held oral argument in the Board of Supervisors' chambers, Santa Clara County, until our courtroom was built in the Comerica Bank building.
- Richard McAdams: Where it is today.
- Nat Agliano: Where it is today.
- Richard McAdams: Now, today the court occupies two floors – the 10th and 11th floors – of that building. But when you moved in, what was it like?
- Nat Agliano: Well, it was somewhat the way it is today. I was there the other day. The quarters are very, very nice – well appointed. The chambers are very nice. I
- Richard McAdams: Was it awkward or unusual to be in an office building after all the years you'd spent in a courthouse setting?
- Nat Agliano: It really was not awkward, because once you got into your quarters, you know It was different for It certainly was different. But it was challenging. And I remember in the early days Because we were still moving into the building, and we were processing our cases at the same time – we were writing opinions, hearing oral argument – and we still had boxes, empty boxes, that equipment arrived in every day. So we You know, typewriters and so forth. And we had The secretaries in those days used the Selectric typewriter. And so in writing opinions, you know how that went. If you Errors had to be erased, and you start all over again. And then about a year later, we acquired the . . . I think it was the IBM computer. And we all had a tremendous learning curve in using the computers. But it certainly stepped things up.
- Richard McAdams: No carbon paper in those days.
- Nat Agliano: No.
- Richard McAdams: No longer did you need carbon paper?
- Nat Agliano: No.
- Richard McAdams: The But when you got there, you Were you Did you build a caseload, or was there an instant caseload?
- Nat Agliano: No, we had an instant caseload. The First District selected – and we were always somewhat suspicious about the selection process [*chuckles*] – selected 300 cases. And those were our seed cases. And we began parceling them out and
- Richard McAdams: The three of you.
- Nat Agliano: The three of us.
- Richard McAdams: Each of you got a hundred cases. 43:33

Nat Agliano: No, we didn't do it that way. No, the 300 cases were always part of the inventory, but we would . . . as I recall, we would assign three cases in . . . for each of us each week. We would confer on those cases and then we would begin working, drafting the opinion – even before the final argument, which surprised me, to be honest with you. I thought it didn't seem right that we would begin drafting the final opinion before the final argument. But I soon came to learn that this was the process that was used historically. And it was a good process, as long as we kept an open mind and were ready to change even a tentative decision, based upon what we heard in argument.

Richard McAdams: Were you able to do much in the way of talking about cases among the panel members as the cases came in or as they were working their . . . or before any kind of draft briefing?

Nat Agliano: Yes, we conferred religiously about cases. We always met. We had our door open. We would always have the initial conference. We would read the briefs, take them home, and be prepared to discuss the cases. Because our conference occurred every Monday morning on the appellate cases. The appellate court involved a lot of work – many, many hours. And I always said that Well, I'm not sure I could say "more than the trial court," but in sheer . . . in terms of hours, it was 11:00 every night – for me, at least; maybe I was slower than most – but 11:00 every night, and Saturdays and Sundays, including most of the day Saturday and most of the day Sunday.

Richard McAdams: So, for example, if the . . . if you had 20 cases that were fully briefed . . .

Nat Agliano: Yes.

Richard McAdams: . . . that you were going to take up for a month or whatever period of time, . . .

Nat Agliano: Yes.

Richard McAdams: . . . you – all three of you – would read all 20 briefs, and conference over them?

Nat Agliano: Not at the same time, no. We would take the three in terms of order – date filed, date when it was fully briefed. Those cases had priority. We would assign three, sometimes four, cases to each one of us, and we would read not . . . we would read cases that I would For example, if I received three or four from the presiding justice, those are the cases that I would author – I'd be the author on. But I You also read the other briefs, briefs that were assigned to the other two justices. And we would confer on all three.

Richard McAdams: Then you'd have your Monday conference, and

Nat Agliano: Monday conference on all those cases.

Richard McAdams: On *all* of 'em. 47:03

Nat Agliano: Yes.

Richard McAdams: And would . . . at that time, would you typically indicate your . . . give your initial impressions of . . .

Nat Agliano: Yes.

Richard McAdams: . . . where you thought the author ought to go?

Nat Agliano: Yes. And then if I, for example, had three cases assigned to me that I would author, I would take one of the cases that I would personally write the draft on. Each justice had two staff attorneys, and with the other two cases I had, I would assign one each to the staff attorneys that I . . . that worked with me. And we would discuss it, I would indicate our tentative feeling about the case, they would research it and begin writing the draft accordingly.

Richard McAdams: But you would take one of them and do it yourself.

Nat Agliano: I always had a case going on my own, yes.

Richard McAdams: And that means the record, the briefs.

Nat Agliano: Yes, yes.

Richard McAdams: Were you able to keep that up during your entire career at the appellate court?

Nat Agliano: Yes. It became a little more arduous when I became presiding justice, because then you had administrative duties on top of your case duties. But, no, I kept that up. In fact, I enjoyed it. I enjoyed the writing.

Richard McAdams: When just When the three of you were there – just the three of you – was that the practice of the other chambers as well, that they would write maybe not one out of three the way you did, but would handle cases themselves, without the assistance of a research attorney?

Nat Agliano: I don't know that it was uniformly done that way. I'm not sure . . .

Richard McAdams: Okay.

Nat Agliano: . . . about that.

Richard McAdams: Do you have I mean, I know that you've been away from the appellate court for 20 years. Are there some memorable cases that now, 20-plus years later, that – whether you authored them or whether you were on the panel – that come to mind?

Nat Agliano: Yeah, there are a couple. One case in particular: *In re Drabick*. It was a case involving the right to die. And the essence of the case was that the . . . each individual has the right to refuse medical treatment. If that If a person becomes incompetent and has a conservator, then 50:00

does the conservator assume that right? Can the conservator make that determination? In the *Drabick* case, we had a person who had been badly injured in an automobile accident – was in a persistent vegetative state for four to five years. His brain was found to still be intact, but he could not speak, he could not eat on his own, there was absolutely no indication that he was sensitive to pain or . . . and he was fed entirely through a nasogastric tube. And after four to five years, all the doctors said, “There’s absolutely no hope that things are going to change; he’s in a persistent state.” And the family thought that . . . the family decided that he himself – Mr. Drabick – had he been able to make the decision, would not want to remain in that state. And so by that time he had a conservator. The conservator sought the instructions of the court, and the trial court appointed a public defender to represent Mr. Drabick himself, even though he had a conservator. The public defender at the trial court level decided, in accordance with the family’s wishes, that the conservator could make the decision to withdraw life-sustaining measures. The trial court decided otherwise and ordered that the conservator could not order the withdrawal of this treatment. And the conservator appealed. It came up to the Sixth District. We appointed the State Public Defender to represent the individual at that point. It was one of the most difficult decisions to write. But we finally decided – and the opinion was unanimous – that the conservator, exercising sound discretion with the advice of unanimous medical opinion that there was no hope of recovery, that the conservator had the power – and it was a statutory power, in fact, in the Probate Code – to order the withdrawal of the life-sustaining measures. That was the outcome of the case.

Richard McAdams: Truly life-or-death . . .

Nat Agliano: Yeah.

Richard McAdams: . . . issues.

Nat Agliano: Yeah, we worked hard on that case.

Richard McAdams: Yeah. Other cases that come to mind?

Nat Agliano: Well, I served on the California Supreme Court on several cases. The name of one escapes me, but it had to do with the amount of pre-judgment interest that could be assessed. Was it 10 percent, was it 7 percent? As I recall, Justice Mosk wrote that opinion, and we held that it was 10 percent prejudgment interest.

Richard McAdams: Your former boss.

Nat Agliano: My former boss. [*chuckles*] And he didn’t let me forget it, either. But then I served on two other cases. One was *Keller v. State Bar*, in which the Supreme Court decided . . . Well, the California Supreme Court decided . . . Well, let me back up and state what the issue was. The issue was whether or not attorneys who were compelled members of the California State Bar had any right at all to dictate what portion of their dues were not to be used for certain political causes. And I was in the minority. We . . . I and two other justices of the court, then, 54:58

dissented. The majority held that the State Bar was a governmental agency – that dues that were paid by members of the State Bar were more like taxes that citizens pay. And citizens who pay taxes can't say, "We want our taxes used in one way or another specifically." Then it went to the U.S. Supreme Court. The U.S. Supreme Court decided no, the State Bar is a governmental agency in some ways but the pivotal point in the case that distinguished it from a regular governmental agency was the fact that attorneys are compelled members of the bar. They're compelled to pay dues. And that made it more like the union cases, where members of a union who are required to pay dues can indicate that they don't want their dues, or portions of it, used in certain ways. That was *Keller v. State Bar*.

Richard McAdams: So the U.S. Supreme Court agreed with you.

Nat Agliano: Agreed with the minority – with the dissenting judges of the California Supreme Court.

Richard McAdams: I'm sorry – you were in the majority in that case.

Nat Agliano: No, I was in the minority.

Richard McAdams: You were. That's what I thought. At odds with your former boss, or were . . . was he part of the dissent also?

Nat Agliano: He was not on the court at that time, as I remember. I was trying to recall who . . . I think Justice Eagleson may have been the Chief.

And then there was one other case that I served on the California Supreme Court. I believe it was *George Arakelian* (or something like that) *v. the Agricultural Labor Relations Board*. And the issue there was whether or not an employer who refused to bargain with the union could be ordered to make whole the employees on the hypothetical contract. And that was the majority. I dissented in that case also. [chuckles] That was a fine experience with the California Supreme Court.

Richard McAdams: Now, I mean, for sitting as a judge pro tem, the . . . there are many who would say that the pro tem judges do not dissent in the case.

Nat Agliano: No, you get to . . .

Richard McAdams: Have you ever

Nat Agliano: . . . call your shot . . .

Richard McAdams: Oh, okay.

Nat Agliano: . . . the way you see it.

Richard McAdams: Have you ever been Has anybody ever pointed out to you that you dissented not just once but twice while sitting on the Supreme Court?

Nat Agliano: No, I point it out to myself more than anything. 58:10

Richard McAdams: You may have a record of some sort there; we'll let others look at it.

We can come back We're going to talk more about judicial and other cases as they come up along the way, but I can't resist any longer to at least take you back and get through the . . . some of the personal history that we can record. And we can begin with According to the notes that I have here, you were born in Philadelphia.

Nat Agliano: Yes.

Richard McAdams: When, and what was life like in Philadelphia for you and your family?

Nat Agliano: Well, we lived in South Philadelphia. Don't know whether you've ever been to South Philly, but it's like a country of its own. It's just a *wonderful* place, and I can't think of a better place to have grown up in. We lived in row houses. I had no brothers or sisters, but I didn't need any because there were so many kids in that neighborhood that you couldn't help walk out your door in the morning without falling into a game of some kind. There was activity going on, night and day. Just a great place. And

Richard McAdams: And you were born February 18th of

Nat Agliano: 1932.

Richard McAdams: This is We celebrated your

Nat Agliano: So it makes me a thousand years old.

Richard McAdams: We celebrated your 80th birthday in . . .

Nat Agliano: Yes.

Richard McAdams: . . . grand style down in Monterey.

Nat Agliano: Yes.

Richard McAdams: And your parents Really an interesting story about your parents. Your South Philadelphia is where you were born, but your parents have a great story. Can you share that with us?

Nat Agliano: Well, my parents were both born and raised in Siracusa in Sicily. In fact, there's an island off the main part of Siracusa called Ortigia, and that's where they lived. And I had the pleasure of going there about 10 or 15 years ago and finding a relative who still lived there, who escorted us around the area and showed us where they all lived growing up.

Richard McAdams: And when did they come to America? What were the circumstances, and when?

Nat Agliano: Well, I think like most immigrants they came here looking for work because there was no work in the Old Country in those days. 1:00:56

And I believe they arrived here through Ellis Island, probably around 1920. They did remain here for several years and then return, but only for a short time, and then they came back to Philadelphia permanently.

Richard McAdams: They came together to the United States?

Nat Agliano: Oh, yes. Yes.

Richard McAdams: And the household language, then – your birth language –

Nat Agliano: The household language was Italian with a Sicilian dialect. My mother and father both worked. At some point my grandmother came over, and she spoke Italian, and thus that's all I ever spoke until I went to school. I frankly don't remember the transition, because I attended a parochial school. Irish nuns taught us. They were not about to learn Italian. So we learned English very, very quickly.

Richard McAdams: Was the neighborhood Would you consider the neighborhood to be Italian? Was it

Nat Agliano: Yes.

Richard McAdams: And the Sicilian dialect spoken on the streets commonly, also?

Nat Agliano: I believe so. I never distinguished it from any other dialect, and so I assume that that was the case. But by the time we were kids playing on the street, you know, we were all speaking English primarily.

Richard McAdams: And the You went to Then you went to school in Philadelphia.

Nat Agliano: Yes.

Richard McAdams: At some time you moved . . . your family moved out to the West Coast. At what How old were you then?

Nat Agliano: Thirteen. My parents had relatives living in Monterey, all of them – most all of them – involved in the fishing industry. The fishing industry was thriving then in the early '40s. And so they had an opportunity to come here and work. A new cannery opened – the Enterprise Cannery opened in Monterey – and my father was offered a job in the cannery as well as my mother. And that's the reason they moved here.

Richard McAdams: Was it . . . Were they involved in similar work in Philadelphia?

Nat Agliano: Oh, no, no. In Philadelphia they did a number of different jobs. My father was a laborer – worked in lumber yards and worked for, I think, the Philco Company, Victrola Company, and various lumber yards. I think he worked in the shipyards for a short period of time.

Richard McAdams: Did You said you were . . . you had no siblings. Were there aunts and uncles and cousins around that . . . the area in South Philadelphia?

1:04:05

- Nat Agliano: No, not at all. No relatives. But just friends. It was such a warm environment, really. There were so many people around and it was a thriving neighborhood. A lot of fun. A lot of activity.
- Richard McAdams: And you were there up through . . . what grade was it in school?
- Nat Agliano: Well, I had just completed grammar school.
- Richard McAdams: And did . . . Other families had come out west with you, or was it just your . . . the parents and you?
- Nat Agliano: That was it! And my grandmother, of course; she moved out with us.
- Richard McAdams: And then . . . So you settled in what part of Monterey County?
- Nat Agliano: Just in Monterey itself. We lived in downtown Monterey for about a year. I just started high school – we moved in September. I went to Monterey High School. And then my parents found a home that they purchased in Pacific Grove, and we moved there and I just . . . I kept attending Monterey High School.
- Richard McAdams: Now, we all . . . This day and age, we go visit Cannery Row and it's the wonderful museum, and . . .
- Nat Agliano: There's a lot different.
- Richard McAdams: [*chuckles*] Have memories of . . . This is now the early '40s. It . . . Coming in to . . . And your parents are working around Cannery Row?
- Nat Agliano: Yes. They would receive phone calls in the middle of the night, saying that boats had come in. They were unloading sardines in the hoppers. And that was the call for them to go to work. It could be at any time – early morning – and they'd work long hours. There was one occasion I think my father went to the cannery and didn't return home for about 35 hours. He just worked continually.
- Richard McAdams: And, you know, you're in high school by this point, so . . .
- Nat Agliano: And I worked there, also. I worked there when I had the opportunity when school ended in the summer. And everyone was working. It was a . . . And Cannery Row was obviously an industrial area – nothing like what it is now. And the odor of fish and fertilizer was pretty prominent around the entire city, I can tell you that.
- Richard McAdams: Now, the Aquarium has kept a few remnants of that, and one of the smaller museums has kept some mementos of that. But it was a much larger area than what we see today, I take it.
- Nat Agliano: Oh, I think the size is about the same. I don't think that's changed, at least in my recollection.
- Richard McAdams: Okay. 1:07:21

Nat Agliano: Yeah.

Richard McAdams: The Other summer jobs you had that . . . before or during college that are of interest?

Nat Agliano: I always had a job; I mean, it was just a given. You know, I think starting at age 10, when my father took me down to the corner grocer in Philadelphia and indentured me to the owner, and I worked in that store after school and Saturdays for about a year and a half to two years until we moved to California.

Richard McAdams: These are Depression years. These are

Nat Agliano: Well, that would have been 1930 . . . pardon me, 1940, 1941, right around that time. And then I always worked. I mean, through high school had jobs working on the wharf selling . . . working in the retail markets selling fish at retail. Worked in used car lots, cleaning cars. Worked in automobile distributorships delivering cars, cleaning cars. When I And even during school I worked at different food markets delivering groceries, selling. When I went to Monterey Peninsula College, we worked at digging the footings for the construction of the new stadium – football stadium back then. And then even when I went to the University of California and I was playing baseball, I was invited to go up to Chester and work there – worked in the logging camp and played baseball on Sunday.

Richard McAdams: We're definitely going to come back – we're going to talk about the baseball experience. But what reminded me, just from listening to what you're saying, is you've lived in Monterey County now for many, many years. What We talked about Cannery Row a bit. What other significant changes have you seen in Monterey County over the years?

Nat Agliano: Well, there were a lot of changes when urban redevelopment came in. But I was gone most of the . . . much of that time. I attended Monterey Peninsula College, then I went to the University of California and I was gone from Monterey County. But in some of those early years there were *major* changes in the physical appearance of downtown. Many of the buildings were torn down, and apparently there was a lot of controversy about what would be built there and who would govern or decide what would be built. And it looked like a disaster area for quite a long period of time. Now, of course, it's much nicer.

Richard McAdams: And you're still living in Monterey County now, but not in the City of Monterey?

Nat Agliano: No. Yeah, now we live in . . . halfway in between Salinas and Monterey.

Richard McAdams: So let's get back. So Monterey Peninsula College, and you mentioned earlier where you went to . . . where you went next. It was a wonderful school that you mentioned earlier. *[chuckles]* You went to Cal.

Nat Agliano: Cal. *[chuckles]* Yes. 1:11:13

Richard McAdams: We share that. We share Cal and Hastings; that's our . . .

Nat Agliano: That's right.

Richard McAdams: . . . connection. I a few later years than you. But when did you really start playing sports?

Nat Agliano: Well, I started playing sports in high school. Well, I actually played . . . we always played sports in Philadelphia. Then when I went to Monterey High School, I think even as a freshman I played on the baseball team. And I played baseball throughout Monterey High School and then also at Monterey Peninsula College, and I also played football.

Richard McAdams: What position on the baseball team was your . . .

Nat Agliano: Oh, I played . . .

Richard McAdams: . . . usual?

Nat Agliano: . . . anyplace where I could do the least damage, I think. But I played third base, shortstop, second base, some outfield. And I played there, I played at MPC, then I played at Cal also.

Richard McAdams: Baseball?

Nat Agliano: Yes.

Richard McAdams: And . . .

Nat Agliano: And football.

Richard McAdams: . . . what position at Cal? Any one spot?

Nat Agliano: I played third base, primarily, and left field.

Richard McAdams: Now, I thought the part about your sports career that really caught everybody's attention at the party earlier this year was the . . . was your football experience. Started at high school, too, or Monterey . . .

Nat Agliano: Monterey High School. Yes. Monterey High School, we had just a group of players that came together. And one year, 1948, when the team was undefeated, and then . . . That was a team of 1948 at Monterey High School. And then at the turn of the century, the *Monterey Herald* named that team "The Team of the Century" in Monterey County – all teams, all sports. "The Team of the Century." And it was unforgettable. And then the nucleus . . .

Richard McAdams: Did any of your teammates go on to . . .

Nat Agliano: Oh, yes.

Richard McAdams: . . . besides you, for college or professional . . . **1:13:36**

- Nat Agliano: Yeah. Yes, yes. And we all remain good friends. The quarterback was Dan Albert, who then became the mayor of . . . He was a football coach at Monterey High School for many years. Very successful, very successful. And then he became the mayor of Monterey, and I think he served 20 years as mayor. Vince Maiorana, who was the center on our team, went on and became a starting guard at Cal later, and a football coach. At least four or five of the players on that team went on to become teachers and football coaches. John Anastasia was a fullback on that team; he's probably one of the really – and I think I'm being . . . not being . . . not exaggerating – but I think one of the truly great football minds. He coached at West Point, at Virginia, at New Mexico, and I've heard him and Dan Albert debate football for hours. They'd come over and visit me when I was studying at law school, and they would start arguing about techniques or theories in football.
- Richard McAdams: Are many others of them still around the Monterey area?
- Nat Agliano: Yes, many are. Two or three are deceased now, but many are still around Monterey.
- Richard McAdams: Ever throw the football around with each other?
- Nat Agliano: Nah, no. *[laughing]*
- Richard McAdams: But . . . So, you go . . . Now, you go on to Cal to play football with a legendary figure.
- Nat Agliano: Yeah. Well, first, we played at Monterey Peninsula College . . .
- Richard McAdams: Oh, that's right.
- Nat Agliano: . . . and in our second year, we won the championship and played for the northern California championship. But we lost that game up in Santa Rosa.
- Richard McAdams: Many of the same teammates from high school . . .
- Nat Agliano: Yes.
- Richard McAdams: . . . went on with you to MPC?
- Nat Agliano: Yes. It was the nucleus of that team that eventually came together in our second year at MPC, when we won the championship. And then from there I went to Cal and played baseball at Cal, and I won my letter at playing baseball. I went out for football – almost foolishly, because I was too small, really, but it was a lot of fun.
- Richard McAdams: Well, in this day and age of the size of football players, they probably wouldn't put either of us in the category of "pick us out as football players." But the coach at the time that you went out there . . .
- Nat Agliano: Pappy Waldorf was the coach at Cal. **1:16:39**

Richard McAdams: So you actually went for tryouts there, or

Nat Agliano: No, I just walked on. They gave . . . handed out uniforms. I thought I was in pretty good shape because I'd worked out all summer, knowing I was going to go out for football. And I ran and On the first day of practice, we had one-on-one, or one-against-two, in the line, and I happened to be placed against Matt Hazeltine, who then . . . and Les Richter, who went on to become Pro Bowl players! *[chuckles]* Matt Hazeltine played for the 49ers and Les Richter for the Rams. And I had rented a small apartment right across from Edwards Field, where we practiced. And the next morning after the first day of practice, I woke up and I couldn't move, and I couldn't get out of bed for a solid day 'cause I was so sore from football practice. On the third day I finally managed to make it up to training table at Bowles Hall. You know where that was, up on the hill; it's where we were fed. But I managed to last that season.

Richard McAdams: And did you get in any games?

Nat Agliano: I suited up for one varsity game. Oh, I played a lot of JV games; we played a lot of good teams: Ford Ord had All-American football players. We played military teams, we played other JV teams: Stanford JVs. And I remember once, Stanford . . . we played Stanford and I played opposite Larry Crosby – Bing Crosby's son – who was a big husky tough guy.

Richard McAdams: The And so the encounters with Pappy Waldorf Any stories that we can add? Any Pappy Waldorf stories?

Nat Agliano: Yeah. After a couple of days of practice, as I described, you know, I realized that I was up against I was weighing, then, about 160, 165. Eating everything I could get into me. And I after a chalk talk, I went to Pappy and said, "Pappy, I don't think I'm big enough to play in the line." You know, I was playing linebacker and guard on offense. And I said, "Would it be possible for me to play in the backfield? I'd like to give that a try; I might be more effective." And he said, "Have you ever played in the backfield before?" And I said, "No." He said, "Why don't you just stay where you are." *[chuckles]*

Richard McAdams: Now, I've heard you described as "scrappy" – as a scrappy football player. Any response to that?

Nat Agliano: No *[both laugh]*. No.

Richard McAdams: Now, you don't play football any more, but I know that you play golf now.

Nat Agliano: I play golf, yeah; I love golf.

Richard McAdams: Other sports . . .

Nat Agliano: Well, I haven't . . .

Richard McAdams: . . . over the years? **1:20:16**

Nat Agliano: . . . skied for a while, but I skied every year for, you know, quite a long time. When Lil and I first met at Berkeley, we'd go skiing on We'd leave on either Saturday morning or Sunday morning, drive up to Soda Springs, ski all day, and drive home. That was, in those days, four and a half to five hours each way.

Richard McAdams: Well, how is the golf game?

Nat Agliano: Golf game's all right, but I'm getting, you know, older.

Richard McAdams: Do you shoot your age?

Nat Agliano: I shot my age once. When I was 73, I shot 71. That's somewhat of a badge of distinction I think . . .

Richard McAdams: That's

Nat Agliano: . . . a lot of golfers aspire to . . .

Richard McAdams: That is.

Nat Agliano: . . . shoot their age.

Richard McAdams: I'm I'll I gotta live 'til 95.
Family. How did you and Lillian meet?

Nat Agliano: Well, we actually met on a blind date in Berkeley. And that was it. We met, and about a year and a half later, we married.

Richard McAdams: Both of you still in school.

Nat Agliano: Yes, yes. No, Lil was not in school. She moved down from the state of Washington, thinking about going to school, trying to make enough money to pay out-of-state tuition. And then But we got married before she had a chance.

Richard McAdams: And along came children along the way. Tell us about them.

Nat Agliano: Yeah. We had four children. Michael – Michael's deceased now; he died when he was about 37. And we have three great daughters: Lisa, Cheryl, and Julie. Lisa's a deputy district attorney in Santa Cruz County, and she has three great children. And Cheryl lives in Illinois. She became a librarian, but she married. Her husband's stationed at Scott's . . . I think it's Scott Air Force Base, and she has two children, and she homeschooled her children. Interestingly, she wrote me an e-mail a couple of weeks ago saying that she, at age 48, had taken up running. And she took it up with a vengeance, apparently, and she ran in the St. Louis Half Marathon, and had a finish somewhere in the middle of a field of, I think, 6,000 participants. And then Julie, our youngest, lives in Pacific Grove and she is the assistant finance director of Monterey – the City of Monterey. 1:23:16

Richard McAdams: Children? Does she have

Nat Agliano: She has no children, no.

Richard McAdams: And Lisa's three children are how old now?

Nat Agliano: Well, Annika's 21, and she

Richard McAdams: 'Cause I remember when . . .

Nat Agliano: Or 20.

Richard McAdams: . . . Lisa's children were born, when she . . .

Nat Agliano: That's right!

Richard McAdams: . . . was in the courts in Santa Cruz, of course.

Nat Agliano: That's right.

Richard McAdams: Including my court.

Nat Agliano: That's right.

Richard McAdams: So that tells me how time flies.

Nat Agliano: Yeah.

Richard McAdams: The oldest is 21?

Nat Agliano: And she went to the University of Oregon . . .

Richard McAdams: Gosh.

Nat Agliano: . . . and she went out for a . . . It apparently is a fairly new sport now. It's played somewhat nationwide. It's acrobatics and tumbling. Oregon has had very good teams. This year, they won the national championship in that sport. It's synchronized acrobatics and tumbling. But she told me recently that it's just too . . . it takes three to four hours of practice every day, and in her major, she thinks she'd better stick to academics.

Richard McAdams: All right. At some point you made the decision not to pursue a baseball career? Did you play all four years at Cal, by the way, or . . . ?

Nat Agliano: Yeah. No, I played two years and then I was injured. And But I'd . . . when I was at Monterey Peninsula College, I . . . there was a local The Cincinnati Reds had a farm team that was working out in Monterey. So I quit school to try out. That lasted about a month. And they said, "You know, you really would make a far better student than a baseball player." 1:25:08

Richard McAdams: So this is your oldest grandchild, then, who seems to have come to the same conclusion?

Nat Agliano: Annika?

Richard McAdams: Yes.

Nat Agliano: Yeah. No, she's a good athlete. I think she'll . . . I don't know whether she'll continue with that or not.

Richard McAdams: And

Nat Agliano: They're all good athletes. Sonja's a wonderful athlete and a wonderful young woman.

Richard McAdams: Another one of Lisa's children?

Nat Agliano: Yes.

Richard McAdams: How old is she?

Nat Agliano: She's probably 18, and she's going to attend Santa Barbara City College. And then Lena is a sophomore. They all played soccer; they're all good athletes – great, great kids.

Richard McAdams: And Cheryl's children?

Nat Agliano: Cheryl's children were homeschooled. One decided she wanted to start school and started college and is taking several class in community college in and around Highland, Illinois, and has managed to get all A's so far. And Sammy, who's about 10, still homeschooled – he's doing fine. I gotta get him to play golf!

Richard McAdams: So I heard: four granddaughters, one grandson? Is that

Nat Agliano: Yes.

Richard McAdams: Okay.

Nat Agliano: Yes.

Richard McAdams: The next question was: any golfers in the group?

Nat Agliano: No, I can't convince them. I'm trying to get Sam to see the light.

Richard McAdams: And you've got Some of them are Well, Lisa's children are nearby; they're in Santa Cruz County?

Nat Agliano: Yes.

Richard McAdams: And were the children back in the Midwest, you said?

Nat Agliano: Yes. **1:26:51**

- Richard McAdams: Do you get to see them very often?
- Nat Agliano: We generally go back at least twice a year. And Cheryl said . . . or plans now to come out to run in the Big Sur Marathon someday. I wonder.
- Richard McAdams: Once you've taken on the idea of running, it sounds like she's set out with the full Agliano gusto, as it seems to me.
- Along the way Well, other aspects of the family that you want to talk about. Anything else that you wanted to add about family? I know how important family is to you, so I don't want to just leave it off and
- Nat Agliano: Yeah. Lil's been great all these years. We're married 58 . . . 59 years come August. And she's a great gardener – works out in the back acre, works hard every day. I promised to get her a membership into United Farmworkers Union.
- Richard McAdams: Well, and thank you for reminding me, because I meant to pursue questions of times that she's worked outside the home during your
- Nat Agliano: Oh, yes, Lil
- Richard McAdams: . . . 58 years. Her kind of career path.
- Nat Agliano: Well, Lil worked all during the time I was in college. And when I was in law school she worked for Kaiser – I think it was called Kaiser Aluminum at that time. And then when I was in the service she continued to work in El Paso, Texas, when I . . . we . . . I was stationed there. And she worked up until the time Mike was born.
- Richard McAdams: What kinds of
- Nat Agliano: Secretarial work. And then, even more recently, she went to work periodically for H&R Block. But it's been several years since she's done that.
- Richard McAdams: Other attorneys in the family besides Lisa?
- Nat Agliano: Not that I know of. *[chuckles]*
- Richard McAdams: And do you ever think of – having an attorney daughter myself – did you ever think of going into practice together or something?
- Nat Agliano: Yeah, for about 30 seconds. *[both laugh]*
- Richard McAdams: Okay. About the same length of time that Emily and I considered it as well. The
- Nat Agliano: I think we try to remain friends. **1:29:28**

Richard McAdams: And the secret A 58-year marriage, and still running. Any secrets that you can convey to posterity, here, of such a wonderfully . . .

Nat Agliano: No, you might have to

Richard McAdams: . . . blissfully lengthy marriage that you care to put on the record?

Nat Agliano: Yeah, I think it's probably due to Lil. You'd have to ask her!

Richard McAdams: We'll put an addendum on this. Your family sounds very close . . .

Nat Agliano: Yeah.

Richard McAdams: . . . for sure. Getting back to legal career and the life on the court and everything like that, was there any along the way, was there sort of What I think about is like the best advice that you received along the way during your legal and . . . your legal career, including your judicial career? And along the lines of mentors, helpful . . . people who were helpful to you along the way.

Nat Agliano: I wouldn't say advice as such. But my former law partner, Mike Panelli, I had the greatest respect for him, because as a lawyer I always noticed that it wasn't so much an effort to earn money, but it was the practice of law – the pure practice of law. One thing I admired about him was that no matter what, he would never, ever abandon a client. I mean, he was so loyal to clients, always looking out for their best interests. That was number one in his book, and that was a lesson for me, just to see how he treated clients, and the respect he had for clients, and the respect for his own responsibilities as a lawyer. Very ethical, in that regard. A very humble person. Was an excellent trial lawyer – had great imagination as a trial lawyer. I don't think he even appreciated how good he was. So, if I had to, you know, think of someone that taught me along the way, it would be him.

And then when I went on the bench, I had great colleagues in the trial court. When I went to the appellate court, Justice Brauer, I think, was a role model for me, mainly because not only was he very, very smart and very intellectual, but he was a very good listener. He listened, even though many thought he *wasn't* listening. But if he saw that he was wrong in his initial impression, he'd be the first one to change his mind. I always admired him for that. He was tough. He was tough on lawyers in oral argument. But he was always trying to get it right. That was the main thing.

Richard McAdams: I mean, in general, outside of the, let's say, mentors or people who . . . that you've described, just in the general area of the law, history of the law, are there any particular judicial heroes that you had as you . . . in the years through your . . . and *have* during your legal career?

Nat Agliano: I should have an affirmative answer for that, but I really don't. I never thought of it in those terms.

Richard McAdams: Do you consider yourself to be a judicial hero . . . **1:33:53**

- Nat Agliano: No!
- Richard McAdams: . . . to others?
- Nat Agliano: Not at all. [*chuckles*]
- Richard McAdams: Well, others might disagree with you along those lines, 'cause, as I said, there
- Nat Agliano: Well, you know, our job is . . . I wouldn't call it frightening, but it's so awesome in terms of the responsibility you have, sometimes you think or ask yourself, "Well, who gave you the right to make such important decisions about other people's lives and property?" You know, you So it's not a job you can take You know, if you were to ask me, "Do you really *like* your job?" and you know, I'd think, "Well, how can you say you like a job – *like* a job – when it has so . . . such heavy and awesome obligations and responsibilities?" It's challenging, interesting I don't know how you could find a better profession than the law.
- Richard McAdams: Well, what's remarkable about you, too, Nat, is that you have a whole 'nother career beyond what we've been . . . really been talking about. Was After retiring from the appellate bench in 1992 . . .
- Nat Agliano: Yes.
- Richard McAdams: . . . it's been 20 years now in your current work. You're one of the pioneers I and others consider you to be one of the pioneers of alternative dispute resolution in the private arena. So I don't want to leave without talking about this period of a remarkable career.
- Nat Agliano: Well, you know, from the standpoint of your personal activity and your personal life, I don't think anything better could have come along than what we're doing now – private arbitration and mediation. Again, it's so interesting. It's an opportunity to continue working. It has the same obligations and responsibilities as we had on the trial bench and the appellate court and as a lawyer before that. I never thought that the system would get to a point where the private judging aspect would be so prominent in it. You know, I've often thought about the fact that we . . . the reality that we have a three-part system of government: the executive, legislative, and judicial. But the judicial function is being performed, especially on the civil side, by private . . . what turns out to be private enterprise. It's not private in the sense that it isn't supervised yet by the courts. It is. But it has its own dynamic, let me put it that way.
- Richard McAdams: You've been doing both mediation and arbitration since you joined JAMS. And about half-and-half, or how does it shape up?
- Nat Agliano: I've never counted it up in that manner. A lot of it is arbitration, you know. Frankly, you know, I could say at this point that I truly enjoy arbitration more because arbitration's more like the function that we'd been performing as active judges. We're deciding cases. In **1:37:47**

mediation, you try to facilitate agreement between or among the parties, but you never get down to the point where you decide the issues, you know.

Richard McAdams: It's tempting, sometimes . . .

Nat Agliano: It's tempting!

Richard McAdams: . . . to want to, right?

Nat Agliano: Oh, sure.

Richard McAdams: But you need to be able to resist that.

Nat Agliano: But it's a lot more difficult, to get You know, from a professional standpoint it's hard to get from mediation, where you talk more in terms of hypotheses – what if this, what if that, you know. You never know . . . you really never know the outcome of a case that's going through mediation. That's what makes successful settlements, I suppose.

Richard McAdams: Do you have any favorite areas, in either mediation or arbitration?

Nat Agliano: You mean favorite areas in the law?

Richard McAdams: Of law, yes.

Nat Agliano: Not really, no. I participated in a lot of employment cases, real estate, probate. But again, they're all interesting. All very interesting.

Richard McAdams: I mean, you have a reputation – certainly *had* a reputation in the court systems at all levels – to be a 24-hour-a-day, 7-day-a-week worker. Do you

Nat Agliano: How could you not?

Richard McAdams: Do you have a Is that true? Is that myth, or is that Have you slowed down at all, let me put it that way. Because I know everybody says that of you – that you're hardworking.

Nat Agliano: Well, I think, if you've got one case under submission, or – even one, as opposed to five or six or whatever – you can't really let go of it, can you? I mean, you might take time to play golf, but it's always in the back of your mind. If you're not working on it actively, your subconscious is working on it. Because you can never You know, it's always been my thought, Rich, that you can never put *enough* time into a case. You can never say, "I'm done," you know. You could make a decision, and you could write it out, and you could send it in – I suppose that's when you're done, when you've completed that task. But otherwise, they just . . . the responsibility is just too great, dare we say "I'm through with it." You know, you could really never get to that point.

Richard McAdams: Well, that kind of great work ethic kind of ties into some of the concluding questions I have, really. But what advice you would **1:40:51**

give to the . . . I guess, either students thinking about law or lawyers thinking about the bench, or bench officers or others who were aspiring to the appellate court. Any advice to pass along? Pearls of wisdom?

Nat Agliano: Well, I would always say to a young person thinking about a profession or occupation that, in my mind – and I know this is selfish, perhaps, but . . . and I came into it by accident almost – but I can't think of a more interesting life than to be a lawyer. At any point, whether it's in practice, whether it's in government law, private practice, whether it's on the bench as a judge at any level, trial court – because you're dealing with subject matter that runs the gamut of human activity from A to Z. I can't think of any other profession that gives one the opportunity to deal with every aspect of human endeavor as the law does. So what more can you ask for in life?

Richard McAdams: Well, how I mean, you have many more years of private judging and all the activities we've talked about. But, I think As we always ask at these interviews, as kind of . . . in wrapping things up is, how would you like to be remembered as lawyer, judge, justice, private mediator, arbitrator, father, grandfather, husband?

Nat Agliano: Well, I hope nobody ever has to remember me! [*chuckles*] I don't know the answer to that question, I really don't, you know.

Richard McAdams: Everybody who knows you remarks about what a wonderful person you are – how humble you are. And that answer probably fits that description. Those who think about you – for example, after your years on the appellate court – thinking back to your . . . how *they* remember you as I was reminded again as recently as this morning of a . . . just a wonderful, wonderful person. A favorite of a whole bunch of people. So . . .

Nat Agliano: Well, it's nice to hear.

Richard McAdams: . . . you don't have to answer it. I will *tell* you how you *are* remembered in what is currently your past, and that everybody looks forward to a long, good future with you as well.

Nat Agliano: Thank you.

Richard McAdams: Thanks for the time today.

Nat Agliano: Thank you. I appreciate it.

Richard McAdams: We did it! We finally were able to get together and do this.

Nat Agliano: I tried to duck it for a long time.

Richard McAdams: You did, you did. You and a whole bunch of other people who tried to do it.

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