Roger Boren: I’m Roger Boren, and I’m here on this day with Presiding Justice Robert Mallano, and we’re doing a formal history legacy recording on this day, which is May 9th in 2021. And because of the current and still continuing pandemic conditions here in California and elsewhere, we’re doing this remotely, and so the recording persons and Justice Mallano and I are all in separate locations, and we’re doing this by electronic means. Justice Mallano, you and I have known each other for about 20 years or so personally, known each other perhaps a little longer than that historically, and it’s an honor to be here with you today and attempt this interview in a way that will capture your legal and judicial history. Can we start with your youth, perhaps? And I talked about—go ahead and tell us about that.

Robert Mallano: Well, I grew up in Los Angeles, about 15 miles from where I sit right now, in southwest Los Angeles. I went to a boys’ high school, Mount Carmel High School, and then I went east to college.

Roger Boren: Let’s go back a little on that and take it in steps. What was your life like as a young boy in Southern California in those years? It must have been the time of World War II and maybe some of that after. What sticks in your mind about the conditions or events and your feelings about the 1940s? What was your life like?

Robert Mallano: The first thing that sticks in my mind is from my first recollections when I was three years old. My father was afraid of a Japanese invasion in 1941 following Pearl Harbor and shipped my mother and brother and I off to Chicago for six months, far away from the West Coast. So that was the first thing, and I could remember being terrified coming home six months later because we were going through the Great Salt Lake on the train and all the way around I looked, all I could see was water. I guess the train tracks cut across part of the Salt Lake, but anyway, I got home when I was three years old, went to grammar school when the war was going on. They were selling war bonds, meat was rationed, a lot of stuff was rationed, shoes were rationed, cars were rationed. When the local market across the street from my grammar school got bubblegum once a month, that was a big deal. We’d go in line and get bubblegum. So, and I remember the war ending and it was a happy childhood.

Roger Boren: What did you do for fun on a daily basis when you were a young man?

Robert Mallano: What was that? I’m sorry.

Roger Boren: What did you do for fun as a young boy?

Robert Mallano: Well, what did we do?

Roger Boren: Did you ride bikes?

Robert Mallano: We rode bikes. We played football in the street. Baseball in the street, baseball on empty lots. Went up to the local high school and played, and what—I started a bug club—we’d catch bugs. I love to catch bugs. You know how to catch a trap door spider? You open the trap and pour water down. Then you twist the top and pull it out. Anyway, so it was a normal—girls, sports, bugs.

Roger Boren: Did some of the playmates that you had there as a young boy, did they—some of those become your classmates when you were in high school at Mount Carmel?

Robert Mallano: My closest friend was Bruce and he moved away, broke my heart, when he was seven. And I was in love with the girl next door when I was five, Jeanie, and she moved away. And none of my immediate neighbors went to Mount Carmel where I went. I mean, some of the—where I went to grammar school—a lot of them where I went to grammar school went to Mount Carmel. But not in my immediate neighborhood.

Roger Boren: Have you—go ahead.

Robert Mallano: Used to hitchhike going to school until I got a ticket for hitchhiking. My mother had to go down to see the juvenile officer with me and he said, don’t let him hitchhike, it’s not safe. There’s bad people out there. So, then she gave me bus money and I got to take the bus, which is better because I wasn’t late for first period as I often was when I was hitchhiking. (00:05:06)

Roger Boren: Tell me about Mount Carmel High School. Has that been a relationship that has extended through your life?

Robert Mallano: Well, my brother went to a public high school, so I went to Mount Carmel with some of my colleagues and it was an all-boys Catholic school, a Carmelite school. And if you want to be anything, then you’re either on the football team or the basketball team, and that’s just the way it was. I was on the football team and we had a great basketball teams. They won the league often, and we won our league finally in football in our senior year, but that was basically what high school was about. Also, high school dances. The priests made you go to the high school dances and the nuns from the neighboring Catholic school made the girls go there because they wanted the Catholic boys and Catholic girls to marry in their faith. So, I met my wife at a freshman dance. My wife of 57 years. I met her at a freshman dance at my high school.

Roger Boren: Wow. Well, with that, you ended up getting your bachelor’s degree from Yale University in 1960. What led you to the other side of the United States to Yale?

Robert Mallano: Well, the football coach at Yale, the back coach called my coach and wanted to know if anybody, any of the players on his team had the grades to get into Yale and my high school coach said, yeah, and named me. So, the coach came by my house and said, told me about Yale and told me—he was Italian. I’m Italian ancestry. Told me about 40 percent of New Haven, Connecticut, where Yale is, is Italian and gave me that pitch. And so, I applied, and I got in and I got a scholarship, an academic scholarship, called a financial aid scholarship. They do not give athletic scholarships in the Ivy League to this day, and they didn’t then. So, it was a financial aid scholarship. So, that’s how I ended up out there.

Roger Boren: And then you played intercollegiate football at Yale, then?

Robert Mallano: I did. Yes.

Roger Boren: Any highlights from that period?

Robert Mallano: Well, today, I haven’t forgotten this day. I can live it over in my mind like it happened yesterday. I was on our own 45-yard line. I intercepted a pass and ran it back 55 yards for touchdown. I was a guard then, so that was kind of unique. That was kind of the highlight of my football career.

Roger Boren: I have to ask you this, did you win the game?

Robert Mallano: No. My touchdown put us ahead—

Roger Boren: Sorry.

Robert Mallano: —touchdown put us ahead, but they came back and won.

Roger Boren: You remember what, who you were playing?

Robert Mallano: Brown.

Roger Boren: Brown. Is that in Rhode Island? I think it is.

Robert Mallano: Yes, it is. Providence, Rhode Island, yes.

Roger Boren: Okay. Any other highlights that stand out from Yale University? What was it like? I guess I should ask you, what did you major in?

Robert Mallano: History. It was a big cultural shock going back there. You know, I heard people talk about the change of seasons and everything. And you know, there’s no change of season in Los Angeles, you know, everything’s the same. So, I went back there, and we were sophomores flying to upstate New York to Ithaca to play Cornell. And I’m on this bus—we got off the airplane and I’m on this bus going to Ithaca, and I’m looking at these trees and they’re red, they’re orange, they’re yellow. My first thought was, who painted those trees? I mean, I’ve never seen this. So, then I figured out, none of them would paint the trees. That’s just the way they were. And it was the most magnificent sight I have seen in my life. I was 19 years old at the time, and I never had any idea of the beauty of the fall colors. It was a big cultural shock going from L.A. back to Yale with all the prep guys and dressing very preppy. I dress like we dressed in high school in L.A., which is peg pants and you know, gaucho shirts, and so it took me a little while to get acclimatized to the New England culture, but by the time I was a sophomore I was wearing buttoned-down shirts and khaki pants with the buckle in the back, and penny loafers and sweat socks.

Roger Boren: Have you still maintained some connections to your classmates or to the school?

Robert Mallano: I have a couple of guys I see. My best friend from there died five years ago. But there’s a couple of guys I keep in touch with, but I try to make all the reunions. The last, our 60th reunion, got called off.

Roger Boren: Well, you graduated from law school at the University of California at Berkeley, Boalt Hall, in 1963. (00:10:06) When did you first contemplate pursuing a legal career?

Robert Mallano: When I was in high school watching Perry Mason. I was intrigued by Perry Mason and I said, I want to be a lawyer just like Perry Mason. So, I had that in my mind, went through high school and at Yale, that was my goal, to be a lawyer.

Roger Boren: Okay, so you got to law school, it was not a short-time target. It was one you had in mind at an earlier time.

Robert Mallano: Yup.

Roger Boren: Had you any thoughts while attending Boalt Hall that you might someday have a judicial career as well?

Robert Mallano: Well, I always looked up to judges. I thought it was an honorable profession and some—a career that I thought would be terrific. But I really didn’t have that in mind when I was in law school, because I thought that the process is, as I understand it, you got a judicial appointment from a governor someday after you practice law for a while. So, that wasn’t on the radar for me when I was at Boalt Hall.

Roger Boren: As you were growing up in Southern California, had you known personally any judges?

Robert Mallano: There was one classmate whose father became a judge. But that was when I was in high school, and I had never met him. So, I mean, I—oh, wait a minute, let me back up. Let me back up. When I was in high school, they had something they called Boys Day, where a boy, if you will, got to take over a role of somebody, okay, in government or whatever. A friend of mine, he got to be a police lieutenant and I thought, oh, lucky him. You know, he gets to ride around in a cop car. The slip they wrote down for me was presiding justice of the criminal courts. Well, I can’t go sit in the mayor’s desk and get my picture taken, you know, so I just don’t know what’s going to happen. So, I go down to Department 100, which is the master calendar for the county, and I go up to the clerk and say, I’m blah, blah, Boys Day, blah, blah. So, the judge—

Roger Boren: That’s the biggest courtroom in L.A., isn’t it?

Robert Mallano: So, the judge was Herbert V. Walker, and he puts a chair next to him on the bench and says, sit up here with me. I’m sitting there listening to him and he’s arraigning some big, big criminal case—L. Ewing Scott, who was charged with murdering his wife and they theorized that she’s under the Hollywood Freeway someplace under tons of cement—and watching him, and he’s chewing out this lawyer. He leans over to me and says, he’s a new public defender. I chew him out because it’s good for him. They got to learn. He said that. So anyway, he says, well, I’m sorry, I can’t take you to lunch because I have a commitment, but I’ve arranged for another judge, Louis Burke, to take you to lunch. And Louis Burke at that time was on the superior court and he went on to be on the California Supreme Court. Very respected, very well-known guy. So, I talked to him about—at lunchtime, I said, that case looks real exciting you’re trying. It was some automobile case. He said, no, it’s really boring. I learned a couple of lessons from that. But anyway, those are my two experiences with judges, and they were both real positive and they were both very, very nice gentlemen that treated me very nice, and I appreciated it.

Roger Boren: Well, your first few years as an attorney, though, was not with a criminal law firm, that was with Paul, Hastings, wasn’t it?

Robert Mallano: Can I back up just a little bit because you’re leaving out a year in Italy. (00:14:06)

Roger Boren: Okay.

Robert Mallano: When I, Boalt Hall—

Roger Boren: I had forgotten about that. Yes, I needed to ask about that.

Robert Mallano: Boalt Hall had a Ford grant that promoted international legal studies, and they gave scholarships out—they called them fellowships. And I wanted one just because I wanted to travel and go study someplace. So, I went to talk to a professor who I really liked about it, and I said, well, maybe I’ll go to Venezuela or something. I said, what—I just threw this out just to say something as introduction—but what I’d really like to do is go to Rome and study canon law. He says, what? Canon law? That’s law—the internal laws of the church. He says, well, why don’t you do that? He said, did you know that a rich Anglican died and left a lot of money for a canon law collection and Boalt Hall has one of the best canon law collections in the United States and you’re the only person that showed any interest in it? (00:15:10)

Wow. So, I applied for that to study canon law in Rome and through a classmate of mine, put me in touch with a Dominican who arranged for me to be tutored at the Dominican University of Rome in canon law. And also, the school put me in touch with the head of international comparative law at the University of Rome. So, I was in a seminar at the University of Rome. And then I was going to Angelicum, which is right across the street from the Forum, and I did that for a year. Now, in the meantime, I graduated, got married, took the bar. So, I was over there with my wife, and we had a baby over there, as a matter of fact. Our first child was born in Rome.

Roger Boren: He wasn’t born in the United States?

Robert Mallano: When I was over there I got an offer from a law firm with whom I’d interviewed. And then when I got back, I went to work for them. They were a big—then I was the 14th lawyer. It’s Paul, Hastings, Janofsky & Walker. Now they probably have over a thousand lawyers. But I was the 14th (00:16:17). And then they were just in L.A., now they’re multinational.

Roger Boren: Where was your office?

Robert Mallano: Downtown L.A. on Spring Street.

Roger Boren: So, you began your legal career on Spring Street and ended your judicial career on Spring Street?

Robert Mallano: That’s right. It was two blocks down from the Ronald Reagan Building where you and I sat. But anyway, I did that, and I was scheduled to be a corporate lawyer, which really was dreadfully boring for me. So, I told my father-in-law, boy, if I could do anything I want, I’d quit and go into the D.A.’s office. He says, why don’t you? I said, I got to take a pay cut. So anyway, I took a pay cut from $10,000 to $7,000 and joined the D.A.’s office because I really wanted to do courtroom work, and the idea of criminal appealed to me and going back to watching “Perry Mason.” So, I did that, and I was in the D.A.’s office three and a half years, and after three and a half years, I tried it all. I don’t know how many jury trials. And I decided, to advance in the D.A.’s office, you become kind of a—you don’t try a case anymore, you become a civil service administrator, filling out forms, and I didn’t want to be a civil service administrator. So, I went into private practice on my own. Now, I was in private practice for nine years before I was appointed to the bench by Jerry Brown in 1978.

Roger Boren: Let me ask you a little bit, you know, your chance to do criminal law there in the D.A.’s office as a prosecutor rather than as a Perry Mason defense lawyer, is there anything that stands out in your mind about that part of your career? And anything—

Robert Mallano: I enjoyed being a prosecutor very much. I loved the esprit de corps of our office, made some good friends there, and I enjoyed doing criminal law as well. And I did criminal law and family law. And that’s how I made a living. I started with a small firm, and they didn’t want to do divorces anymore. They didn’t do any criminal law. But I took over the criminal law practice, and then I was with them for seven years, and then I went out on my own doing the same thing for a couple of years. But it was an enjoyable time. I enjoyed the practice of law.

Roger Boren: When you were serving in the D.A.’s office, did you serve downtown, or did you get to work in one of the regional offices out where you grew up?

Robert Mallano: Well, I ended up working myself back to Torrance, which is about five miles from my house. Before that, I was on the county run, which meant I—well, first, I was doing prelims in the old Hall of Justice downtown, then it was in the county run where they send you all over the county. Then we had to be in child support in the old Hall of Records, which they tore down, for four months, and then I wangled my way back to Torrance close to home, where I spent the last two and a half years. And then when I went into private practice, it was about a mile away from the Torrance courthouse.

Roger Boren: So, you got to stay in your own backyard?

Robert Mallano: So I knew the lawyers. Yeah, it was fun to practice in a smaller community. You know the lawyers and people were more respectful to each other then, and not the kind of nastiness I’ve seen to happen later on. I mean, you got to see the guy or the woman all the time. You know, they tend to be more civil.

Roger Boren: Your practice there both with the partnership and then when you were in solo practice consisted of kind of a general practice of both criminal and civil kind of cases?

Robert Mallano: Well, pretty much all criminal law and family law. That was— (00:20:02)

Roger Boren: Okay, family law. Okay. What did you—

Robert Mallano: Pardon me?

Roger Boren: Go ahead. I’m sorry. Go ahead, finish.

Robert Mallano: When I was on the bench, I had about 50 open family law cases.

Roger Boren: Wow. That’s a lot of cases.

Robert Mallano: That’s about a third of my practice.

Roger Boren: Okay. Those are kind of disagreeable situations, a lot of times—were they for you?

Robert Mallano: I missed the question, Roger.

Roger Boren: Well, those often are very, you know, they are people that are not happy about life, when they—

Robert Mallano: Well, it’s very stressful to go through a divorce. I urged every client I had to go to a marriage counselor. They said, well, I can’t fix the marriage. I said, well, go to a counselor that can help you understand what you’re going through and how stressful this is for you and how stressful it is for your children and it’s just good for your mental health. So, I tried to—I said, I’m not a trained marriage counselor but these are tough things you’re going through. So, I tried to understand their predicament, and some clients are really, really unhappy about life and it’s understandable. But, you know, I tried to be as kind and as empathetic as I could be.

Roger Boren: What steered you into becoming a trial judge?

Robert Mallano: Well, every young lawyer goes to court and sees the judge up there and says, Well, I could do that. I could do that as well or better than him or her.

Roger Boren: You’re more in charge of your own destiny, too.

Robert Mallano: Well, then, you know that—but going about it is getting into something else, you know.

Roger Boren: Yeah. Well, how did you go about it?

Robert Mallano: Well, you know, I took Pat Brown’s judicial appointments secretary out to lunch. He had offered me a job when I was at Boalt Hall. He went to Boalt Hall. And then I said, well, how did it—what appealed to you when you were rating these people and advising Pat Brown, or something? He told me how Pat Brown did it. So, I tried to do that and of course, Jerry Brown had his own ideas. So, doing it the Pat Brown way didn’t do it. Did not do it. So, Jerry Brown had his own thoughts about who should become a judge. So, minority bars were very, very active and so, I was one of the original members of the Italian American Lawyers [Association] of Los Angeles, which were organized for the sole purpose of lobbying for judicial appointments, and [Santa Monica Superior Court] Judge Mario Clinco was very outspoken about it, and we talked to Jerry Brown—when are you going to appoint some Italians? When are you going to appoint some Italians? Look at this guy, look at this guy’s resume—and Jerry Brown went to Cal undergraduate, Yale Law School, I was the reverse, you know, so look at this guy. So, I was appointed the day before the Italian American Lawyers had a dinner for Brown, maybe 300 people there at the Italian Cultural Center downtown. The appointments secretary, when he called me and said, it’s just a coincidence that you’re getting appointed the day before, that Brown is going to be down, I said, well, I’m sure that, okay, whatever you say, basically. So, that’s how I got the appointment. And a recommendation of the superior court judge—municipal court Judge George Perkovich who got elevated, and he recommended me for his spot on the South Bay Municipal Court in Torrance. So, those two things did it for me.

Roger Boren: And again, you got to go to work in your own background area.

Robert Mallano: That’s right, I’m in the building where I was in the D.A.’s office where I did most of my divorce work and a lot of my criminal work. So, it was just five miles from my house and it was great.

Roger Boren: Well, you must have got yourself into Jerry Brown’s mind because you were only there for two years, right?

Robert Mallano: Well, yeah. It’s kind of like the pride of authorship, I guess, because the (00:24:32) Legislature gave L.A. 25 new judges, okay? So, there are all these vacancies. So, I contact the appointments secretary, Tony Kline, who’s our colleague up in San Francisco and said, could I be considered? He says yes. So, I got one of the 25.

Roger Boren: Okay. Well, then you went to the superior court and where did you practice being a judge? (00:25:01)

Robert Mallano: They sent me first to Compton, which was about not too far from my house, about a 35-minute ride. I was there for two years. Then I went to Long Beach, which was about the same drive, and then I worked my way back to Torrance, where I really wanted to be because that was my home turf. And then Judge Bob Wenke—he is no longer with us, God bless Bob—I sat with him in Long Beach, and he kept nagging me to go downtown and run for presiding judge. And he says, I think you could be presiding judge. And it’s by election, of course. So, I said, well, I want to go back to Torrance first and maybe become supervising judge there and then get a little gray in my hair. So, I was not in Torrance for five years or so and then I went downtown in a civil courthouse with the idea of, in a couple of years, running for presiding judge.

Roger Boren: Was there anything that prompted you to run for presiding judge besides Bob Wenke or somebody like that just urging that you’d make a good candidate?

Robert Mallano: Well, I was interested in court administration. It just—in the back of my mind growing up, I wanted to go into politics. I remember the priest saying—he was from Chicago—you go into politics, you lose your soul. And for a while before I became a judge, I thought of running for the Assembly and this and that, and then, it’s such a dreadful life on the family, from what I understood, and then so, but the idea being a presiding judge or the spokesperson for the court you interact with the board of supervisors and Legislature (00:26:46), it kind of gives me some of the political activity that I kind of thought that I’d enjoy.

Roger Boren: So, you did run for presiding judge and became one in 1993 to 1994, right?

Robert Mallano: That’s right.

Roger Boren: Were there certain challenges that faced the presiding judge of the Los Angeles Superior Court—

Robert Mallano: Well, they kind of say—

Roger Boren: —at that particular time?

Robert Mallano: Well, just in general, being a presiding judge is like herding cats, as they say. They’re all state constitutional officers so you really can’t tell them to do anything. You just try to appeal to their better nature and most of them have a better nature. Well, the one thing that was going on when I was presiding judge was the O.J. Simpson case. And that was getting a whole lot of court attention, you know.

Roger Boren: Do you remember one of the things that happened there about the—where the place that trial would be conducted?

Robert Mallano: Oh, yeah. Well, this is a—Garcetti—

Roger Boren: He was the D.A.

Robert Mallano: Deputy District Attorney Garcetti—the father of the mayor of Los Angeles now—got blamed for the case being tried downtown and not trying it as a preliminary hearing in Santa Monica, and then [at] the Superior Court of Santa Monica. Well, I’m the presiding judge and basically the Santa Monica [courthouse] was an unsafe courthouse—

Roger Boren: It sure was.

Robert Mallano: —ruined by the big earthquake. People had escaped by breaking through the walls. Not set up for security. They had to bring the defendants down the hallway and the supervising judge officer says (00:28:35) that this isn’t the place to try O.J. for safety reasons. Okay, so the court, not Garcetti, the court decided to try it downtown and they got to try it downtown. Now typically what happened in the past was all the big murder cases were tried downtown because they’d go to the grand jury and any indictment returned by the grand jury is done in the Department 100 downtown. So, there wasn’t anything unusual about a big case, but Garcetti got blamed for it being tried downtown. And I’ve seen books written that says that it’s his fault he chose to try it downtown. I had a reporter call me once and ask me about it and I said it wasn’t his decision, it was the court’s decision, and the reporter did not report that. Did not clear it up. It seems like he wanted to blame Garcetti, and he couldn’t blame Garcetti so he didn’t say anything about it.

Roger Boren: Yeah. Well, so, were there any other situations? As I recall, there was something, about the time that you became presiding judge, that the integrity of the judge situation in downtown was being challenged by local newspapers and things like that because of things. I don’t remember exactly what it was about. Do you remember that?

Robert Mallano: The integrity? (00:30:00)

Roger Boren: Yeah.

Robert Mallano: No, I don’t. Well, there was one thing, one thing. There was an op-ed piece in the L.A. Times that says Los Angeles Superior Court, an apartheid court, written by a criminal lawyer. And it basically said it was an apartheid court because Governor Wilson had appointed 21 superior court judges in L.A. County and none of them was an African American. So, I took it upon myself to say, in speeches, including one where the Supreme Court was there at the L.A. County bar judges’ deal saying that the court ought to be culturally diverse. You want people to buy into the court system, they can’t be looking up at just all white faces. So, then I got a call from somebody on the Governor’s secret committee that said, Who do you want the governor to appoint? I says, I don’t have anybody in mind. I just thought that, you know, out of 21, he ought to pick an African American. They’re 8 or 10 percent of the population. And there’s a—well, he says, give us a name. I said, well, okay. So now it became upon me. So, I went through all the commissioners on our court, and one of them was a standout. He was a mathematics major at UCLA and very highly respected and highly regarded. And I said, this guy. And the guy talked, oh, yeah, I appeared in front of him—he’s a good guy. So, I called him up and said, I want you to apply. He didn’t think he had a chance. I said, would you please apply? He applied and he got appointed. So, I feel good about that, because he was a good commissioner and he turned out to be a very fine superior court judge. So that was a contentious thing. Now, amongst the judges, there were two other things that were very contentious. One of them was the merger of the superior court and municipal court and the other one was state—

Roger Boren: That was a little later, I believe.

Robert Mallano: Yeah. Well, when I was presiding judge, they asked the superior court executive committee wanted to vote to see who was in favor of it and who was against it, okay? So that was on my watch, and it was 160-something against it and 33 for it. I was one of the 33 for it. Senator Lockyer, who was the head of the Senate, was pushing for it. So, I figured, to do the right thing, I should hand-deliver the letter, okay? Rather than send it to—I went up to his office and said, here’s the vote. Just to give it to him. I thought that was the right thing to do. Anyway, it eventually got forced on the superior court, after I was presiding judge. It happened maybe five years after I was presiding judge. They finally unified, and then the other thing was state court funding, which happened while I was on the Judicial Council with you after I was presiding judge. But that was a very contentious issue.

Roger Boren: Well, maybe turn the focus a little bit toward the Court of Appeal and the Second Appellate District here in Los Angeles. I believe Mildred Lillie was the administrative presiding justice?

Robert Mallano: She was.

Roger Boren: I was wondering if you might tell us a little bit about your experiences with her as you were presiding judge of this L.A. superior court, because I know that you had to have [had] some exchanges there to have cooperation.

Robert Mallano: Well, she would call up and say, Grrr—first time—I need somebody on the Court of Appeal. Are you going to give me a bad time? I said, no, no. Who do you want? Well, give me somebody! Okay. I cooperated with her. Unlike when I was on the Court of Appeal, we had two vacancies and the Ford Justice Department—and the L.A. Superior Court presiding judge says, no, we can’t give you anybody.

Roger Boren: Yes, I remember that well.

Robert Mallano: So, I went to Orange County. So anyway, Mildred, whatever—but I loved Mildred, you know, I loved her. As you recall, I had her speak for me when I was—my first confirmation hearing. One time she came in with a black eye and I said, what, did you fall off a barstool? And she said, don’t I wish. I don’t know, she bumped her eye at home or something, but anyway, she was something else. She told me this story—I love this story.

Roger Boren: She always had the story of the week. (00:35:04) She always had a new story of the week. Well, tell us this story.

Robert Mallano: Well, she said she went to Earl Warren, when she graduated from Boalt back in the late thirties, and she wanted a job as a—he was the D.A. of Alameda County, and she interviewed for a job. He said, no, we hired a woman once and it didn’t work out. [Laughs] Okay, so later on, the irony is, she was the first woman appointed to the municipal court in the state, [and] Earl Warren swore her in. So, she got the last laugh in. Anyway, Mildred was a lovely woman. I loved Mildred.

Roger Boren: She used to embellish that story a little—I mean, not embellish it, amplified that story by saying that later in life, she went back to, probably an ABA convention back east, and took the time to get herself admitted to the bar of the U.S. Supreme Court and Earl Warren gave her kind of a special applause, you might say, in introducing her in the courtroom. She was very proud of that.

Robert Mallano: Yes, she was.

Roger Boren: Didn’t you and she sort of establish a policy that was followed thereafter, because I think before you were presiding justice, the Court of Appeal used to just work through the Judicial Council, the Chief Justice, and they were calling up people from the superior court without even interfacing [with] the leaders of the court, the superior court. Didn’t you and Mildred sort of iron that out?

Robert Mallano: You know, I don’t recall that, Roger, but I just remember she asking me, and I said, you need anybody just let me know. I always thought it was a—

Roger Boren: I think she told me that, that she had that arrangement. And I think that came about because of your ability to converse with her and to work out an amicable way of doing things that made more sense rather—because when I was called up as a pro tem justice, they were still doing that. I mean, the supervising judge was even—you’re going there to the Court of Appeal pro tem? It changed the workload.

Robert Mallano: Well, my way of getting along amicably is just doing whatever she asked for, which was always—

Roger Boren: That was always a good thing with Mildred.

Robert Mallano: Which was always reasonable, so I didn’t have any problem with that. Yeah. Well, don’t leave off me, about my being the man that came to dinner in your division. You invited me—

Roger Boren: That’s where I was going next. I was going to mention that it was about this time that you are still presiding judge, that you started serving on the California Judicial Council, is that correct? Yeah, and that’s when we served together. Who was the Chief Justice when you first went on the California Judicial Council?

Robert Mallano: It was Malcolm Lucas.

Roger Boren: Right. And then I think while you were still there, Ron George became the Chief Justice of California.

Robert Mallano: I sat next to him at a lot of the Judicial Council meetings so he was on the—he hadn’t been appointed as Chief Justice, I think, until—I think I was off the Judicial Council. It was a three-year term.

Roger Boren: Okay. I think I stayed on while he was still the Chief Justice. Do you remember the thing about the budget woes that we had about that time in the California judiciary?

Robert Mallano: Well, the contentious issue—you mean, about the budget business, now?

Roger Boren: Yeah. How we got—

Robert Mallano: I was there.

Roger Boren: We had a problem with the Legislature, the judiciary did.

(Voice Overlap)

Robert Mallano: Well, the Legislature decided there ought to be a trial court budget commission to allocate the funds and somehow, I ended up being the—this is for all the state. Somehow, they handed me the chairperson of the State Court Budget Commission that was established by the Legislature, and all the courts would get together and want their piece of the budget, and we were supposed to distribute it. All the courts had different budgets, different accounting systems, so the first thing we had to do is to get everybody reporting in the same way and using the same budgetary instruction and that was a big problem, just to get that done. And then we ended up allocating the funds pretty much as they were historically. So, that was a lot of work and I’m not sure what we achieved. (00:40:04) Although I think it was a healthy thing because we could get together and discuss our needs and figure out a framework to voice them to the rest of the Judicial Council so the Legislature would be apprised of our situation.

Roger Boren: Right around that same time there were—that was part of that push for, by the Legislature, for unification and a lot of other things, and so the budget thing is kind of a step towards that.

Robert Mallano: Yes, it was. Yes, it was. That’s right. Unification, state court funding, they were big sea changes in the California infrastructure.

Roger Boren: And then also a kind of (00:40:47) gulf created between the judiciary and the Legislature because of some things that happened with I think might have been term limits or something, as I recall and—go ahead.

Robert Mallano: What happened between the Legislature and the courts was the ruling on the limits of judicial legislative term limits.

Roger Boren: Right.

Robert Mallano: The opinion in that opinion offended a lot of legislators, okay? And it kind of caused a rift, if you will.

Roger Boren: Well, there was a period—your rough road for about five years after that.

Robert Mallano: Yeah, but then they all got termed out eventually, so the ones that came in there got the benefit for the turbulence. So, anyway.

Roger Boren: So, let’s just go to the thing you—after your term as presiding judge was over you came to the Court of Appeal, and I was the beneficiary of that because you served on the division where I served and—

Robert Mallano: Well, you asked me to come down there—

Roger Boren: Yeah.

Robert Mallano: —and I had a direct calendar court in Torrance. I had all these cases, so I called the presiding judge of L.A. Superior Court and said, Could you send somebody out here to take my spot? And he said, I don’t have anybody, you’ve got to get somebody yourself. So, I called L.A. Municipal Court. Does anybody want to sit assignments for the superior court of Torrance? No. I called the P.J. in the South Bay Municipal Court. No. So I became very frustrated and I called the—[Administrative Director] Bill Vickery (00:42:41) and he was out and I left a message with his secretary. How come so and so—who was out in the muni court—can sit in the Court of Appeal for a couple of years, but I can’t go down there because there won’t—I can’t get anybody to replace me? So that afternoon I got a call back from his secretary who said an assigned judge will be to your courtroom. So, then you asked me to come down for 90 days. I came down for 90 days, like the man that came to dinner. I stayed another 90 days. I stayed another 90 days, another 90 days and another 90, then another 90. I was there—

Roger Boren: We just couldn’t get rid of you.

Robert Mallano: (00:43:19). You couldn’t get rid of me. And I must confess—I’m grateful for you for the training you gave me and everything you taught me because—

Roger Boren: It worked two ways, you know—you were kind of born to be an appellate justice.

Robert Mallano: Well, I don’t know, but anyway, it’s a different animal being on the trial court and being on the Court of Appeal. And I must confess, you know, I didn’t want to embarrass myself. I was working seven days a week. I’d go to the library, the local library, on Saturday and Sunday. I just wanted—

Roger Boren: Well, you didn’t have a staff, did you? We didn’t give you a staff, did we?

Robert Mallano: For the first three months I did not have a staff. I wrote everything from scratch myself and that’s when I was getting into the process. And then our dear friend [Justice] Morio Fukuto retired, and then I took over his staff, but I was working real hard, then I got familiar with the procedure and everything and then, like any job, it gets easier once you learn it. But I stayed there a year and nine months and then I got appointed to Division One and I remember with the appointments secretary, I said, gee, can I stay in Division Two? I really like it there. No, you got to go over there. He says, there’s a—we need another man over there. You’ll be the second man and there’s two women, it’s like Noah’s Ark, you know. They got to have an equal number of males and females. And I said, okay. I wasn’t going to argue with him. So, I went over to Division One and left you but you—we weren’t that far.

Roger Boren: What was that like when the division had a sort of a history then, a public— (00:45:03)

Robert Mallano: Well, let me just say this. You might not get this—the public might not get this later, but my predecessor described our division as the Branch Davidian division. The Branch Davidians being the group that ended up killing each other, getting killed, or whatever. So, there was kind of internecine warfare that I don’t want to get into any difficulties so—but—

Roger Boren: Things calmed down when you got there, didn’t they? I thought they did.

Robert Mallano: Well, I got along very well with Vaino Spencer. She was the first black woman appointed to the bench in the State of California. She was lovely. She was very kind to me and very gracious and beautiful. I mean, she was 30 years my senior, but I enjoyed working with her. Had a very good relationship with her, so I enjoyed her very much. And she wanted to me to succeed her as presiding justice and she got her wish.

Roger Boren: Yeah. I remember that very clearly. You’d been appointed to the trial court by Jerry Brown and Gray Davis appointed you to Division One, and then when you became presiding justice for the first time, you had a Republican governor appoint you to the presiding justice position.

Robert Mallano: That was a surprise to a lot of people but—

Roger Boren: Let’s just get the dates in there. You became an associate justice in Division One in August of 2000, you became presiding justice of that division in June of 2008, as I have it here.

Robert Mallano: If I can digress a little bit.

Roger Boren: Yeah.

Robert Mallano: Before I was appointed to presiding justice by Governor Schwarzenegger, I was in a funeral for the father of our court clerk in the Court of Appeal and my phone started buzzing. I had the ringer off, so—and the priest was in the eulogy talking about the decedent’s fishing trips. Now, I wasn’t going to get out and answer the phone. I could see it was my college roommate who lives in Washington, D.C. So, after the funeral, I called him back. And then I couldn’t get a hold of him. Then he called me that afternoon. He said, when I called you, I was sitting next to Arnold Schwarzenegger at a luncheon at the Shriver house—my roommate is a neighbor of Shriver’s—and I remember something about you wanting to be—I want an elevation, wants some kind of judgeship. You still want that? And he says, well, I told Arnold—he called him Arnold (00:48:04), he claims to have introduced Arnold to Maria Shriver at the Special Olympics. My roommate was a Davis Cup captain and was involved in the Special Olympics. Anyway, so Schwarzenegger said, well, listen, if he’s interested, you call this guy and I’ll give his name. This name doesn’t get out to the public and tell him about it so (00:48:29)—and then later I got the appointment. So, there you are.

Roger Boren: Well, a much appreciated appointment too. I’d like to go back looking at your Court of Appeal career as a whole. Is there anything that stands out in your mind about the cases that you wrote or anything that particularly—I mean, if you look at the list of hundreds of cases that you did, there are every kind I could think of that the Court of Appeal handles. Is there anything that stands out in your mind about a case or a series of cases that you handled that you felt were particularly important?

Robert Mallano: Not one particularly, Roger. I was asked that question when I retired but what I’m proud of writing, and I told them the Mallano Bob Onallam, forward and backwards it’s the same, it’s a palindrome. That’s the writing I’m most proud of, that palindrome [laughs]. (00:50:00)

Roger Boren: Well, you know what? I have to say this even though I’m not the one being interviewed is that when you’re in this pro tem justice on our division, Division Two, one of the things that stood out in my mind was that you will always speak your mind in the most collegial way even if it was completely at odds with what the other two members of a panel of justices might be wanting to do. And as a pro tem justice, you never were a yes-man. You were always somebody who had the highest integrity. And I always felt that was really important to the Court of Appeal to have somebody like you there. And that proved to be true, I think, throughout your whole career.

Robert Mallano: Well, thank you, Roger.

Roger Boren: No, your career wasn’t over. At least concerning judges when you retired in February of 2014, was it?

Robert Mallano: No, because of my— (00:51:01)

Roger Boren: And it wasn’t because you went into private judging or anything, because you did not.

Robert Mallano: No, I did not go into private judging. No, not my cup of tea.

Roger Boren: What was your cup of tea?

Robert Mallano: Well, I—

Roger Boren: I’m talking about the Mallano lawsuit, of course.

Robert Mallano: I filed a class action lawsuit. I was a class action plaintiff on behalf of every judge in the state and every retired person in the state for back pay and back pension benefits.

Roger Boren: What got you to do that?

Robert Mallano: Well, in November of 2013, I got a letter from—all judges got a letter from Steve Jahr, my good friend, the head of the AOC and the president of the California Judges Association, that said effective July 2013, we’re going to start paying you a salary based on the raises that state employees got in 2008 to, I think, 2013. So, what happened was this, the law states that judges’ pay is raised every year based on the average raise of state employees. In 2008, the state employees got 0.97 percent raise. Judges didn’t get that. They got it in 2013. Well, the question is, what happens if the pay should have been higher in ′08? It should pay us from ′08, not start in 2013. But the Finance Department said, oh, that’s not fair, or something. I couldn’t see how if they recognize that we’re entitled to it, that we shouldn’t have it for those five years. So, I called Steve Jahr, I wanted to give him a heads-up, and said, Steve, I’m about to write the State Controller Chiang and demand back pay. But I wanted to give him a chance to say, don’t do it, we’re going to take care of it, or whatever. And also, so he’d have a heads-up so he could—if he wanted to tell the Chief Justice, so he would know what’s going on. And he said, no, we’re not going to do anything about it. He said I agree with you, you’re entitled to the money, but we’re not going to do anything about it. Okay. And then I call as a courtesy the head of the California Judges Association. He was out. I said, well, I’m going to do something. I had a long talk with Steve Jahr, talk to him. So, I wrote the controller and said on my judicial letterhead, that was the email, but used the court computer, and I identified myself. I’m talking about my pay. So, it’s not a personal grievance. It’s about my pay as a judge. And to this day, I never heard from him, which I thought was rather poor on his part, okay? When I was presiding judge or supervising judge, I answered every letter anybody wrote me, and basically the controller ignored me. I thought for sure, he’d just say, we got your email, we’re looking into it or something, but I never got it. So, I decided to sue. So, I need a lawyer, right? So, my colleague Justice Cheney recommended Raoul Kennedy and Skadden, Arps. Skadden, Arps is a huge firm. Raoul Kennedy argued a big case in front of me, a class action case. So, I talked to Raoul Kennedy, and I said, just so you’ll know, here are my litigation goals, the judges get paid 100 cents on a dollar. They get interest at 10 percent. Attorney’s fees and costs under the Private Attorney General [Act] statutes. I said, I want the judges to get all our pay. (00:55:00)

He said okay. He said, we’d do it for nothing. I said, I don’t want you to do it for nothing. They should pay. It’s a private attorney general case. They ended up going in five years over a million dollars in fees. But anyway, so we said, okay. So, I filed a lawsuit. I was the first in January of 2014. I was the named class action plaintiff and then they started the attorney general demurrer, did this, did this, just delayed, drug their heels, did whatever they could. So, we won the first trial, hands down, boom, everything. Then to the great shock to me, the California Judges Association, and I’ll call it cahoots with the Department of Finance, amended the statute regarding judges’ pay to say that any interest would be on a judge’s salary claim would be at such and such a fund, which is half percent rather than 10 percent. Well, as you know, a 10 percent interest doubles every seven years, all right? So, this was a big, big amount. As it ended up, the interest was just about equal to the back pay. The California Judges Association sent out this memo saying, we saved the day, we agreed to this to save the statute with automatic increases, not saying that we gave up your, what amounted to for me anyway, about $10,000 in interest and maybe because I’m on the Court of Appeal—Supreme Court judges will get a little less, but not that much less. So that kind of bothered me, more than bothered me, that the C.J. would do that. And while the bill was pending, I was in communication with the Alliance [of California Judges], which is a rival group for the California Judges Association. We’re trying to defeat the statute, I’m contacting L.A.’s city councilman, saying your pay is linked with the judges, so you ought to be worried about this. Contacted a retired supervisor to tell him the same thing. And I was told that the literature said, well, the judges agreed to it, so we’re not going to get involved. And the judges being the California Judges Association. So, the statute purported to strip the interest rate out, okay? So, I thought it was unconstitutional. I said so publicly. I said, every employee that sues for wages gets 10 percent penalties except judges. What’s the justification for that? So, in the first appeal—we wanted to avoid two appeals if we could, to get this thing done without two appeals. So, my lawyers asked the Attorney General to brief the issue of the constitutionality of the statute so that we can get it done in the first appeal. So, they agreed to do that. What they did was they raised the issue in a footnote. You don’t raise an issue in a footnote, according to appellate practice rules, procedures, and whatnot. It’s got to be in the body. It’s got to have a separate chapter, I mean, a separate heading and everything. So, the Court of Appeal in the decision ruled in our favor for all things and said, we’re not deciding this because the Attorney General waived it by not raising it properly. Well, that was a bummer in my mind. Turned out, it was a great deal because—I’ll get to it in a minute. So, then the time passes, the Attorney General does not ask for petition for review in the Supreme Court. So, the appeal is final. We won. Yay. We go back to court and we just say, basically, where is the money? We don’t raise any issues. We won everything. It’s a final judgment. Where’s the money? But they raise a whole bunch of arguments that had been decided, most of them had been decided against them in the first appeal, which you’re not supposed to do that. We made a motion to dismiss the appeal as frivolous, but the court never ruled on it, but it was frivolous, all right? So, we go to a second appeal. Basically, when we went back to the trial court, the AG made all kinds of arguments why we shouldn’t get paid. They never raised the amendment, knocking out the interest rate. They never raised it. We didn’t raise it. Wasn’t going to raise anything. We had a final judgment. So, on the second appeal I told my lawyers, I said, look, there’s a principle on appeal that you decide issues on nonconstitutional grounds if you can and only if you can’t, you do the constitutional issue. 01:00:07)

But I said, we should really push this waiver argument. The Court of Appeal said they waived it in the first appeal, that’s final decision on the merits. They didn’t raise it in the trial court. So, we argued that, and the second appeal comes down— I mean opinion comes down, finds waiver again, which is really great because, had they reached the constitutional issue under past practices and protocol, the Supreme Court should review the case, okay? Any time a statute is declared unconstitutional it’s a big deal and expect the Supreme Court to take. Okay, but this case is not a big deal. It’s just a waiver argument. All the other issues were decided in the first appeal. There is a rule that the Supreme Court can, in a second appeal, can go back and look for important reasons or something that issues were decided in the first appeal but weren’t reviewed. But anyway, there’s no reason for them to do that since it’s just a run-of-the-mill case. No new precedent and no new nothing. So, I’m feeling real good about that, alright? So, the Supreme Court this time, not the first time—I don’t understand to this day why they didn’t ask the first time for a petition for review. I don’t understand to this day why they didn’t raise the statute, knocking our interest out and if properly in the first appeal or in front of the trial judge. So, I’m sorry, I lost my train of thought.

Roger Boren: Okay.

Robert Mallano: Let me just collect myself here. Alright. Oh, that’s right. So, the Supreme Court has 60 days to rule, okay? And I don’t expect them to take the case because it’s unimportant, okay? Sixty days goes by. The court rule says if they don’t decide in 60 days, it’s automatically denied, okay? Yay, we won, right? No, we didn’t, because they did a (01:02:16) nunc pro tunc order. And after the 60 days ran and extended another, I think 30 days, they had the right within 60 days to do an extension of another 30 days. But they didn’t do it within 60 days, okay? And that’s not my understanding of what a nunc pro tunc (01:02:32) order is, but who am I going to complain to? Because there’s nobody over them.

Roger Boren: They don’t have anybody over them. [Laughs.]

Robert Mallano: There’s nobody over them. So that’s—they’re okay. No, but then what they did was really threw me a curve. The whole court recused themselves for financial interest, okay? Now, if they had a financial interest, so did the trial court judge, so did the Court of Appeal. Everybody had a financial interest.

Roger Boren: It’s the rule of necessity.

Robert Mallano: When the case started, back in January, Judge Berle, who did a magnificent job, said, what about—isn’t there a conflict? And do I need a stipulation, and both the plaintiff, my lawyers and the Attorney General said no. Under Olson v. Cory, it’s rule of necessity. There’s nobody else to hear it, or there wasn’t anybody else to hear it then, because just 99 percent or so of the judges were affected. It was everybody that had been a judge before July 1, 2013. But five years later, they’re basically saying the rule of necessity didn’t apply. So we petitioned them and said, could you clarify this? Because, if you got the rule of necessity here and if you recuse yourself, how does that impact the trial judge and the Court of Appeal deciding it? Well, they didn’t hear anything back from them. When they recused themselves, they appointed six judges to sit on the Supreme Court. There was a vacancy for some reason that didn’t apply for them. There were six sitting judges. They appointed six judges, none of whom had been on the bench more than a year, to sit on the Supreme Court, to resolve this case for all purposes, okay? So, these six neophytes, that’s a polite word, I mean, they’re brand new judges. They’re asked to decide this case, whether or not, who’s going to get—all their colleagues, 600 colleagues are going to get basically a little over $20,000 and all retired people got a boost in all their retirement. The ones that were tied to the JRS 1 [Judicial Retirement System 1] and JRS 2 were impacted because anybody that retired after ‘08 would have got their base salary set. (01:05:08)

What are the judges going to do? Okay, well, the short of it is they denied the petition for rehearing, okay? The case was final. Hooray. This is October, November or so, okay? We go back to court and say, where’s the money? And the controller said, we got limited staff and we might be able to pay. It will take over a year to pay the judgment. Okay? A year, a year and a half. Well, there’s very little you can do against the state, okay? You can’t hold a state out of contempt, you can’t levy on their property. There’s very little you can do. But, you know, it’s kind of like if they didn’t honor a final judgment, it’d be kind of a crisis, right? I mean, a constitutional crisis. So, Judge Berle on his own, we don’t know—I don’t know what to do. Judge Berle says, okay, I’m going to appoint a—I’m going to entertain appointing an auditor to come in and tell the state controller how to do this right. In the meantime, the state controller is getting beat up in some newspapers because the judgment amounting to $40 million and the interest is running at 10 percent. So, she’s getting a bunch of flack, and she’s not the one I sued in the first place, okay? She’s a successive controller. So, we come up with somebody. In the meantime, the controller contacts a Sacramento firm, a politically connected firm, Manatt Phelps, who had some experience in doing and handling this kind of thing, okay? And the controller files this response, and we filed, we asked the court to appoint this person to do. So, Manatt Phelps says, give them a month or two and they’ll tell us when they can pay, when the controller can pay. Just give us a month or two. So, Berle says, okay. In the meanwhile, I recognized one of the names of the attorneys, which I’ll kind of get back to in a bit—and somebody I’ve known for 25 to 30 years, and I consider a good friend, and he’s a real good guy. So, they come in, Manatt Phelps says, come in. This Mark Chambers, says, we can pay the judges by June. Everybody else in August. Wow, rather than a year or more, a year and a half, and they did it. They did it. So, the judges got paid in June. Let me see. The retired people got in June: the rest of the judges got in August. So, we got paid finally.

Roger Boren: First week of August.

Robert Mallano: The guy? Okay, the background is this. This is a long story now. The person that the controller contacted, [at] Manatt Phelps, is an old friend, okay? I’d just call his first name Tom. I’d met Tom 25 years earlier, when his grandpa was my scoutmaster. Took me up in the High Sierra for a month at a time. We were the first Boy Scout group to go on the (01:08:37) John Muir Trail. I spent a lot of time with my scoutmaster. He’s a great guy. Took all his days, weekends, whatnot, camping, whatever. He’d take us down to the beach and we’d march in our—we all bought war surplus combat boots, you know, for hiking boots. I mean we’d march through the sand and get our feet toughened up in the boots. Anyway, he wanted me to meet his grandson, who had just graduated from law school. So, I got to know him, young man, Tom. And we kept in touch. And one time, Tom was a young associate, he had to get a speaker for his law firm down in L.A., in Westside. So, I said, I’d do it for him. And he went and says, well, I got a speaker who is out with the presiding judge in Los Angeles Superior Court. Well, how did you get him? He said, oh, he’s a friend of my grandpa’s. So, I kept in touch with this guy. Then he moves up to Sacramento to do some political stuff, okay? So, when I’m trying to get appointed to the Court of Appeal for the first time, I called Tom and said, hey, Tom, can you help me? He says, well, it just so happens that Gray Davis is coming to my house tonight for a fundraiser so, yeah, yes, I will help you. So, that was my—he helped me with my appointment to the Court of Appeal. (01:09:55)

Well, when I last saw Tom was his mother’s funeral. His mother went to grammar school two years ahead of me, and my best friend lived right next door to the scoutmaster and her, and so she’s, Tom’s mother, great athlete, anyway. I’m at her funeral, and I’m talking to Tom. And he said, you know, I got contacted by the controller in that case. And he said, well, I’m trying to pay these judges. And he says, would you take the case? Then Tom told me, told her, I’m not taking the case unless you can do the right thing and pay the judges. And the controller says, that’s what I want. Well, that’s kind of like a small world, you know. I helped his career, he helped me out twice, okay? Small world. So, everybody got paid. And I hope it doesn’t happen again when the judges don’t get paid. But if they do, maybe if they know about this, they’ll listen to this. It might give them some little help or clues or how I went about it, not necessarily the right way, but it worked out okay for us. So, I wanted to give this message.

Roger Boren: To me, it always looked like it was the David and Goliath undertaking, and you prevailed as David.

Robert Mallano: Well, if I was David, I had these top-notch law firm, top-notch lawyers. So, I never felt like—

Roger Boren: To have the guts to undertake it when there was so much flack on all sides from every direction on that thing. People were afraid. A lot of people are afraid, that you shouldn’t rock the boat, that things could get worse for the judges.

Robert Mallano: Well, that’s right. Some, oh, yeah. I’m going to make it worse for judges, the Governor will get mad at us. We’re entitled to our pay. I don’t care what—if he gets mad or not. It’s not like we’re asking for a raise. It’s not like we’re asking for something. We just want our back pay, which I thought was a legitimate request and I would not shy away from asking or telling any employee.

Roger Boren: Everybody is for you now.

Robert Mallano: Okay. So, that’s about all I have to say other than I love being a judge. I love being on the Court of Appeal and it’s a great career.

Roger Boren: Well, I think you are going to be remembered for more than the Mallano case, but the lawsuit is certainly a way to finish your career, I think. It’s doing something on behalf of the judiciary as a whole. It started out with something you were personally confronted by. It ends up being something that affected everybody who was in this business.

Robert Mallano: Well, I was happy to do it for the other judges and especially for the widows. My secretary in the Court of Appeal, Carol Fieldhouse, was a widow of a superior court judge and she got some money from it. And I know other widows of the superior court judges and they got some money from it. So, that made me feel happy.

Roger Boren: Yeah. Well, you’ve had a great career in all respects, I would say, and certainly something about every stage of your life could be emulated by others with no regrets.

Robert Mallano: Thank you, Roger. Thank you for your kind comments. Thank you for being my interviewer.

Roger Boren: Well, it’s a pleasure. I’m just happy to be able to do this, and I wish I could do better, but I’m glad that we had this talk, and I think I’m going to always cherish the time that we’ve had together.

Robert Mallano: Well, the feeling is certainly mutual.

Roger Boren: Okay, well, I guess this concludes the interview and I wish you a happy day. I’ll talk to you later.

Robert Mallano: Okay. Well, thanks, Roger. (01:13:58)