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ABA Commission on Women in the Profession

Women Trailblazers in the Law

ORAL HISTORY

of

ZONA HOSTETLER

Interviewer: Joan Goldfrank

Dates of Interviews:

October 18, 2006
November 15, 2006
December 5, 2006
January 24, 2007

ORAL HISTORY OF ZONA HOSTETLER

FIRST INTERVIEW

OCTOBER 18, 2006

This is the first interview of the oral history of Zona Hostetler which is being taken on behalf of Women Trailblazers in the Law, a Project of the American Bar Association Commission on Women in the Profession. It is being conducted by Joan L. Goldfrank on October 18, 2006.

Ms. Goldfrank: Today is October 18, 2006. Zona Hostetler and I are together at her home at 3011Albermarle Street, N.W., Washington, D.C.

Please state your name.

Ms. Hostetler: I am Zona Hostetler.

Ms. Goldfrank: What was your maiden name?

Ms. Hostetler: Fairbanks.

Ms. Goldfrank: Spell it.

Ms. Hostetler: F A I R B A N K S.

Ms. Goldfrank: Was that your father's name?

Ms. Hostetler: Yes.

Ms. Goldfrank: What is your date of birth?

Ms. Hostetler: March 30, 1936.

Ms. Goldfrank: Where were you born?

Ms. Hostetler: New York City.

Ms. Goldfrank: Which borough?

Ms. Hostetler: I haven't any idea. I think it was an Army hospital. My father was in the military and he happened to be stationed at Governor's Island at the time.

Ms. Goldfrank: How long did you stay in New York?

Ms. Hostetler: Not very long, maybe a few of months. I don't know exactly.

Ms. Goldfrank: Where did you move?

Ms. Hostetler: We often moved every few months. I don't have an exact chronology. Before the age of nine we lived in Denver, Colorado, Panama, Stockbridge, Massachusetts, Gales Ferry, Connecticut, and Alexandria, Virginia. I once lived at Walter Reed Hospital for several months with my brother and baby sister because that is where the military put us while my mother was recovering from complications from childbirth from my younger sister. My brother and I were taken by the nurses to visit the famous General Jack Pershing who also lived at Walter Reed. We moved around quite a bit. At the end of my ninth year, we moved to rural Virginia. I grew up from about age 10 in rural Virginia. My formative years were in rural Virginia.

Ms. Goldfrank: Where in Virginia?

Ms. Hostetler: Charles City County. It is an entirely rural county. There were no drug stores, no theaters, no restaurants, no retail stores, although there were a handful of general stores. Life revolved around the high school and the churches. It was an 80% black county. Of

course, it was very segregated. The schools were segregated. I went to segregated schools in Virginia. It was the late 1940s and early 1950s and that was what Virginia was like in those days. I remember when I was about twelve or so, I once stood up in the church that I went to at the time which was a Methodist church and asked why it was that the black children had to go to a separate church if we were all God's children. I remember getting this gobbledy-gook answer, complete gobbledy gook, which made no sense at all. It wasn't too many years after that I left the Methodist church. (laugh)

Ms. Goldfrank: Were you with your mother and father when you asked that question?

Ms. Hostetler: No. My mother didn't go to church at all. My father had left the family a couple of years after arriving in Virginia. Soon after that he got cancer and a few years after that died. He was in Texas. I didn't see much of him growing up because he was in the Army Corps of Engineers and he would travel all the time. Then he left the family for good when I was about eleven. I don't have much of a recollection of him. A little bit but not a lot.

Ms. Goldfrank: How did you end up in rural Virginia?

Ms. Hostetler: My father was stationed at one of those Virginia bases down there in the Norfolk area.

Ms. Goldfrank: After your dad left you stayed?

Ms. Hostetler: We stayed there. We really had very little money. My mother commuted sixty miles a day to Richmond to work at various secretarial jobs.

Ms. Goldfrank: Did your mother find out you asked this question in church?

Ms. Hostetler: Probably not. She wasn't very interested in what went on at the church. (laugh)

Ms. Goldfrank: Why did you go the church?

Ms. Hostetler: That is where all the young people went for social activities. That is where the hay rides and square dances took place. To the extent there was any social activity at all, it was at the school or at this church, which was next door to the school. (laugh)

Ms. Goldfrank: Did you know your grandparents?

Ms. Hostetler: No. Neither side. My father was thirty years older than my mother, and his parents were not alive. My mother had grown up largely in an orphanage in New York, and to the extent she had relatives she had estranged herself from them. So I had no grandparents or cousins or aunts or uncles.

Ms. Goldfrank: How do you think that affected you?

Ms. Hostetler: I don't think at the time I was growing up I knew what I was missing.

Ms. Goldfrank: Did it impact what you did?

Ms. Hostetler: Probably. Because while I was happy to become a lawyer and wanted to be a lawyer, I also very much wanted to have a family.

That was very, very important to me. Throughout my career, unlike some of my friends who were driven solely towards goals in their chosen profession, I was always balancing my legal work with family. If there was a choice that had to be made at different points of my career, I usually chose family. I worked a lot of jobs part time so I could be at home.

Ms. Goldfrank: Did your mother support your decision to go to law school?

Ms. Hostetler: Sure.

Ms. Goldfrank: I don't mean financially.

Ms. Hostetler: She didn't support me financially because she couldn't. But she liked and admired lawyers and the legal professions. After several kinds of secretarial jobs, my mother became the secretary for a law firm in Richmond called Allen, Allen, Allen and Allen, consisting of a father and three sons. This was the leading personal injury firm in Virginia and one of the leading personal injury firms in the country, but keep in mind that this was in the early 50's, so it was not an era when law firms were huge and paid large salaries. Most firms were small in those days. This was a family firm, and my mother was the only employee for several years. In the summers, I would help her, so I would be the second employee. My mother, although she had not gone to college, was very, very smart with an off the charts IQ. She figured out that she, and the other secretaries that gradually were hired, could do a lot of the work

that the lawyers were doing. As a result, she became a pioneer in Richmond, in Virginia, and maybe even in the country in the creation of the paralegal profession. The law firm she worked for grew and prospered. (It now has some 250 employees.) The father of the firm was a co-founder of what was then called NACCA, National Association of Claimant Compensation Attorneys, which is now the American Trial Lawyers Association. Anyway, my mother figured out that secretaries could draft form documents for the lawyers to review, that they could interview witnesses and could conduct investigations. She streamlined the way cases were taken in. She would interview the clients and write up statements. She would line up doctors to examine them. This was a revolutionary thing at the time. In fact it was so revolutionary that some lawyers lodged charges of unlawful practice against the law firm on the ground that only lawyers were supposed to do "legal" work, and what my mother and the other secretaries were doing was "practicing law" without a license. My mother eventually became office manager of the Allen firm and was in charge of hiring other secretaries. She became a good friend of Mary Ann Aultman, who was later the founder of Aultman and Weil, the law firm management consulting organization. Mary Ann put my mother on a speaking tour around the country to talk about what my mother was doing at the Allen firm. Lawyers began coming

from all over the country to the Allen firm to see how she was using secretaries to carry out some of the law firm's work. But some lawyers around the country started complaining. The American Bar Association had before its ethics committee a proposal to outlaw this work and say it was unethical. But there were also Senate hearings before the Senate Antitrust Committee. I think Senator Bayh chaired the committee, and my mother testified, along with one of the partners in the Allen firm. Senator Bayh indicated in his comments that he thought the bar's interference with what my mother and others were doing might be a violation of antitrust laws. The ABA backed down. That was the start of the paralegal profession in Virginia at least. Soon law schools and business schools started creating paralegal schools to train paralegals. My mother gave the graduation address at Georgetown Paralegal Institute soon after it was founded.

Ms. Goldfrank: Were you still at home then?

Ms. Hostetler: I would have been out of the nest when that happened. She started in the 50's, but I went to college in 1953.

Ms. Goldfrank: Do you think her working in the law firm and being such a pioneer influenced your decision to attend law school?

Ms. Hostetler: Probably but I also worked at the Allen firm. We moved from Charles City County to Richmond when I was 16. I was a senior in high school because I had skipped third grade and the Charles City

County school did not have an 8th grade. I knew I wanted to go to college so I talked the Richmond school into letting me take an extra year and postpone the required English course until my new senior year so that I would not have to graduate at age 16. I took only the one English course my senior year so that I could work nearly full time in Richmond, partly for the Allen firm and partly for another firm, in order to save money to go to college. Then I went to the College of William and Mary, which was 60 miles away. I put myself through college by working pretty much full time, 30 to 35 hours a week, for a solo practitioner while college was in session. In summers, I would work full time for the Allen firm. So I had been exposed to working in a law firm first by helping my mother out after school when I was 14 or 15 and eventually longer runs after we moved to Richmond. My sisters and my brother all worked at the Allen firm. It was a very family oriented firm, and the Allen lawyers helped all of us by giving us work to do.

Ms. Goldfrank: Tell me about your siblings.

Ms. Hostetler: My brother became an engineer but unfortunately died when he was 35 and left 3 children, who at the time were something like ages one, seven and nine. We played a significant role in helping raise them. My husband became their surrogate father. My sister also went to William and Mary. She was very religious. She

received a license to be a Methodist preacher. But she, unfortunately, died of breast cancer when she was 37. She was unmarried. My youngest sister became a lawyer and received a master's degree in tax law. She became a tax lawyer and moved to San Francisco when she married, where she still lives. She is more than a decade younger than me, and she lives on the west coast so we don't see each other very much. She hasn't practiced law much. Now she is in the business world working for a bank. She and her husband have four lovely, lovely children, of whom I am very fond.

Ms. Goldfrank: Where does your mother live now?

Ms. Hostetler: She died just this year. She lived in Richmond until maybe 15 years ago, and then she moved to a retirement facility in Northern Virginia, not far from where I live.

Ms. Goldfrank: Would you say there was one individual who influenced you to go to law school?

Ms. Hostetler: No. I would say I was just very familiar with law firm settings because I started working in a law firm at the age of 14 and then worked for a law firm all through college. In those days, in Virginia, you were considered something of a failure if upon graduation from college you were not engaged to be married. When I graduated I was not engaged to be married. I was not even "pinned," as they called it in those days. (laugh) So I had to do

something with myself. Going to law school was a logical thing for me to do. The solo practitioner for whom I worked during college was also a justice of the peace so he was gone from the office a lot. So, like my mother, I did a lot of the law firm's work. I searched titles, interviewed people who wanted to have divorces, drafted complaints, etc. I did all the kinds of things that my mother was doing at the Allen firm, which seemed very natural to me and which the lawyer whom I worked for was very happy to have someone do. The nitty-gritty of local law practice was like second nature to me. Of course, I didn't know anything about "the law" and its philosophical underpinnings. I had this notion that I would go to law school and do something that would save the world. At one point in my earlier youth, I thought of being a missionary, (laugh) and then in college I decided that I didn't want to do that but that I would become a lawyer and go overseas to "do good." (laugh) I didn't know really what I was talking about but international legal principles, the United Nations and all of its work was very appealing to me.

Ms. Goldfrank: In high school, you didn't have a lot of free time given you were working, but were there activities you were involved in?

Ms. Hostetler: Yes. I went to public schools in rural Virginia and then in a suburb of Richmond. They were not rigorous schools. It was very easy to pass the tests. (laugh) So I was in lots of activities. I was in plays

and in the debate club. I played on basketball and softball teams. I ended up as class valedictorian and being voted "most likely to succeed" after a year and a half in the Richmond school (laugh).

Ms. Goldfrank: Are there friends from high school that you still keep in touch with?

Ms. Hostetler: From the high school in Richmond not so much. Although we did have a class reunion a few years ago, and it was fun to get reacquainted, and as a result since then I have seen two or three of the people that I met again at the reunion.

Ms. Goldfrank: Are you in touch with friends from Charles City?

Ms. Hostetler: The high school had 40 students, and I think there were maybe only ten in my class. One of my classmates came to my mother's funeral this year, whom I hadn't seen for 55 years, and he gave me the news of other classmates from those days. Since then I have heard from some of the others in that class and I hope to see them in the near future.

Ms. Goldfrank: Had your mother had an influence on his life?

Ms. Hostetler: No, there was just an obituary in the paper that he read and he remembered me from when I went to his school.

Ms. Goldfrank: What made you decide to go to William and Mary?

Ms. Hostetler: I had to go to a school in the state because I couldn't afford to go out of state. In my high school, there weren't many people in my class who went to college and of those that did, virtually all of

them went to one of the local Virginia colleges. I should note that I was not in a high school in the city of Richmond but in the county outside of the city because the cost of living was less there for my mother. So these were not the more affluent families who went to my high school. I had never heard of Harvard or Yale or any of these places outside the state. There were no guidance counselors in my high school to advise me where to go or tell me about scholarships I could apply for. I remember that I decided that I didn't want to go to Mary Washington, which was an all women's school where many of my classmates were going, because when I visited there all they did was talk about boys and parties at men's schools they hoped to be invited to and they never seemed interested in serious subjects. I remember thinking this was very boring. (laugh) I mean I was as interested as anyone in boys but not to the exclusion of everything else. William and Mary seemed like a more interesting school and I also liked the fact that it was coed. So that is how I ended there. And I could just take the bus there from my home in Richmond.

Ms. Goldfrank: So you lived at home?

Ms. Hostetler: No because it was 60 miles away but I could get there easily on the Greyhound bus. I lived in a dormitory.

Ms. Goldfrank: What did you major in?

Ms. Hostetler: History.

Ms. Goldfrank: American History?

Ms. Hostetler: As I recall, the history department didn't have subdivisions of American and World history. I took some World history courses as well as American history.

Ms. Goldfrank: Was there a particular period?

Ms. Hostetler: I had lots of American history but particularly colonial history. Colonial Williamsburg is very fond of colonial history so I had a lot of colonial history. (laugh)

Ms. Goldfrank: Did you have a favorite professor?

Ms. Hostetler: I had several in the history department I liked. I don't know that I could choose one as a favorite. There were several. There was a Mr. Lowenheim, who had us read the transcripts of the Nuremberg trials, which was very mind expanding to say the least because in general, southern schools didn't focus on that. Because he was Jewish he brought the whole Nazi era to light for me. I remember being very impressed with that. He was there only one year. There were very few Jewish students at William and Mary. It was a very southern school. It was also segregated because it was (and is) a state school and state schools in Virginia were still segregated in the 1950's as Virginia refused for some time to abide by the Supreme Court's decision in Brown vs. Board of Education. So there were no blacks. Almost everyone belonged to a sorority or a fraternity… me too. I didn't know any better (laugh). I will say that

my sorority was the only one that would admit Jewish women on the campus. There was one Jewish woman on campus that I know of and she was in our sorority.

Ms. Goldfrank: Do you remember any other professors?

Ms. Hostetler: Yes. There was Bill Abbott, who was a wonderful history professor, and Jim Fowler, who was the head of the department, and Ludwell Johnson, who is retired but still lives in Williamsburg. Bill Abbott eventually left and went to Charlottesville. He was from Athens, Georgia and he was very supportive of me.

Ms. Goldfrank: In what way?

Ms. Hostetler: Well, for example, it was really Dr. Abbott and Dr. Fowler who persuaded me to go to law school outside the state. When I was applying to law school, I submitted applications to William and Mary, which had a very tiny law school, the University of Richmond, and the University of Virginia. I can remember Dr. Abbott saying to me, "Well, Zona, Jim Fowler and I think that you should get out of the state of Virginia and go to law school somewhere else." I said, "Okay, where do you think I should apply?" They said, "You should apply to Harvard because it is the best." Dr. Fowler had gone to Harvard College, although not to law school. By then I had at least heard of the name of Harvard, and I knew it was a fine institution although I didn't know anything about the law school. William and Mary has this running

feud with Harvard over which school was founded first. I think the historical fact is that William and Mary received its charter from King William and Queen Mary first but sat on it for awhile whereas Harvard had a tutor and two students and so actually began classes first. So, the name Harvard was known to me but I did not know, as everyone does today, that you give up your arm, your leg and your future children to go to Harvard and that you try to game it, that you study for it, and you take tests for it, etc. I didn't know any of that. I just knew it was supposed to be a good school. So I said, "okay," and I applied and was accepted.

Ms. Goldfrank: Did you participate in activities in college?

Ms. Hostetler: Yes. I don't know how I did it. I guess I didn't study as much as I should have. I actually participated in a lot of activities. I was in student government, on the Honor Council and ended up being the Chair in my senior year. I was on Mortar Board, and I was an aide to the President. I was in the Debate Club and I played basketball. I have forgotten all the activities but there were a lot.

Ms. Goldfrank: Which was your favorite?

Ms. Hostetler: The Honor Council took a lot of time and was challenging. It is interesting because later in life I became involved in ethics work. I must have some gene inside me for this or else all those Methodist sermons about people should be good and obey the rules became a part of me (laugh). Because I was on the Honor Council, and

became the Chair of the Honor Council in my senior year, I was invited to various functions to represent the college or meet with the President of the college. It was interesting at the time although in retrospect, it was a terrible system because we were the prosecutors and the jury and the judge (laugh).

Ms. Goldfrank: Was it all students?

Ms. Hostetler: All students. We were supposed to investigate whether someone had cheated, for example, then have a trial, and then recommend the punishment. We had a kleptomaniac in our class who was stealing things from other students. So we planted money… we did a sting operation… and we caught her and we then tried her. I mean it was a terrible system. At least in that case, I don't know whether we had the good judgment or the Dean finally had the good judgment to say this is really an illness maybe we should deal with this case in a different way and we turned the matter over to the College administration.

Ms. Goldfrank: What other kind of offenses did you handle?

Ms. Hostetler: Cheating was the main offense. I don't know whether there were any other stealing incidents. That one sticks in my mind. Also, you were supposed to turn someone in if you saw them cheating and failure to turn someone in was also an Honor Code violation. The Honor Code was developed in Virginia, as I recall, at the

University of Virginia, and other Virginia colleges also had honor codes.

Ms. Goldfrank: What did being aide to the President involve?

Ms. Hostetler: Not much. Just going to functions really. He asked for student advice occasionally.

Ms. Goldfrank: Would you say you have fond memories of college?

Ms. Hostetler: Yes. For one thing, I was free because at home, as the oldest, I had to do a lot of house work because my mother commuted to work. In fact, I did really all the cooking, cleaning and housework. I was active in the 4-H Club and because of all my cooking at home, I received 4-H club awards and blue ribbons at fairs. I was selected the Virginia food preparation champion, and received a trip to Chicago one year. While in Chicago for some reason I was chosen to hold the flag with the spotlight on me and while I did this John Foster Dulles, who was the guest speaker, gave his major Cold War speech about containing Russia. I have to tell you I am not sure I understood a word of his speech. I am not sure I was even listening (laugh). I was in the 4-H Club for some 9 years. I did not have animals. Of course, most of my friends had pigs and chickens and things. But there were kind of Girl Scouty sort of things you could do if you didn't live right on a farm … good citizenship kinds of things so I did those. I guess maybe I did some canning and sewing and a few other girly things (laugh).

Ms. Goldfrank: So when you got to college your life was a little simpler?

Ms. Hostetler: Well, it didn't have all the drudge. It didn't have all the housework. To this day I don't like housework (laugh), even though I have to do it. It was a great relief to be free and to do what I wanted to do and it was exciting. There were very interesting women there. It was also a college of choice for lots of military families and so there were lots of female students from outside of Virginia. I made many good friends. The classes and professors were very interesting and offered so much more than I had ever been offered in high school. My mind was being opened up. I had all sorts of challenging philosophy courses. There was a David Miller, one of my favorite professors; he was head of the philosophy department. I took lots of philosophy courses and loved them. It had a pretty good English department. In those days, we were reading lots of Hemmingway and Faulkner. Sartre was also a big favorite at the time. And activities were fun. The men on the campus in those days were largely Virginia boys. With some important exceptions, the men spent their time in fraternities drinking a lot (laugh). I didn't drink, again perhaps a holdover from my Methodist and Baptist days, and I wasn't very interested in the fraternity life. I didn't date a lot although I had several good male friends and enjoyed classes with the more academically minded men students.

Ms. Goldfrank: Do you have friends from college?

Ms. Hostetler: Yes. My college roommate and I are in very close touch.

Ms. Goldfrank: Do they live here in D.C.?

Ms. Hostetler: No. One lives in Williamsburg. She married a man who became head of the physics department, and they are both retired now. She was the voting registrar for Williamsburg for many years.

Ms. Goldfrank: Were you involved in politics during college?

Ms. Hostetler: No. These were the Eisenhower years. My sons always got a big laugh out of the fact that in my high school year book there is a picture of me as chair of the Hermitage High School Students for Eisenhower. They think it is hysterically funny since I have not been a Republican since (laugh). At that time, to my mind, the Republicans were the good guys because the Democrats in Virginia were the Byrd-machine which was opposing racial integration. E. Pickens Miller from Roanoke, Virginia, who was the Republican candidate for governor, and I think ran for the Senate also, was for integration. The whole western part of the state, at that time, was more progressive. The Democrats were the good ole boys who wanted to keep the blacks in their place. It actually was more liberal to be a Republican (laugh). I didn't know anything about the national scene. I didn't know anything about Adlai Stevenson, for example, except that he was a Democrat, and Eisenhower was this war hero. He came to Richmond, and we all

waived at him. Apart from that one election, I don't recall being involved in any politics at all. For one thing, the information base that we had was very, very narrow. We did not get the New York Times or any other non-Virginian newspaper. We did not own a television set …very few people did I think in those days, in my county anyway. Interesting, the professors I had, if they were involved in politics or they cared about it, they didn't talk about it. Maybe because they were in a state school that was a conservative school run by a board appointed by the Virginia legislature, they felt they couldn't. Now it is all very different at William and Mary but that was the scene in those days. I don't recall any of my fellow students being involved in politics or any of my professors.

Ms. Goldfrank: What was the first election you voted in?

Ms. Hostetler: After law school. When I came to Washington in the fall of 1960 and I voted for John F. Kennedy. Remember at that time you couldn't vote until you were 21, and I wasn't 21 yet in the fall '56 election.

Ms. Goldfrank: Did you have to take out any loans or did you get any scholarships in college?

Ms. Hostetler: No, I didn't get any loans. I did get a scholarship of I think $200. The tuition was about $1200. Plus room and board. But by working in law firms all during college and then in the summer I managed to get by. I also sold movie tickets and made sandwiches

and sold them in the dorm. I did a lot of little things … babysat for example … to pick up extra money. Somehow I managed to get through college without loans.

Ms. Goldfrank: Were you in a different situation economically from your friends?

Ms. Hostetler: None of them were working. A lot of the boys worked, mostly as waiters. I don't think any of the women worked. I don't know that I thought about that particularly. We were all friends. There really weren't economically based social cliques. There were groupings of course … the smart kids, the party girls, and so forth. But I never felt disadvantaged socially because I was working.

Ms. Goldfrank: Interesting.

Ms. Hostetler: If anything, I think I got sort of brownie points, if you will, because I was working my through college. I think I did with the faculty members too. When I graduated I received something called the Algernon Sydney Sullivan Award at the graduation ceremony. I think I was given that because I managed some how to work and get by academically and get into Harvard (laugh).

Ms. Goldfrank: What is it given for?

Ms. Hostetler: I don't know. It is just a general good citizen sort of award.

Ms. Goldfrank: Did you graduate Phi Beta Kappa?

Ms. Hostetler: I did not. I was inducted into Phi Beta Kappa later (laugh). They have an alumni induction for those who didn't quite make it and managed to do okay in life (laugh). I was invited back a number of

years after graduation and inducted into the Alpha Chapter. So I am now a member of Phi Beta Kappa but I wasn't at the time. I guess I couldn't work and do all those social activities (laugh) and get good grades too. I don't recall that I cared that much. I loved my courses for the most part and I loved what I was learning but I missed a lot of classes (laugh).

Ms. Goldfrank: Because you were working?

Ms. Hostetler: No because they were at 8 in the morning and I was tired. Also because I thought some of them were easy and I didn't have to go to classes. I recall I received a C in one class, a sociology class, which was a real gut course, I thought, very common sensical. I never went to class. I did fine on the test, but I didn't realize that not going to class irritated the professor quite a bit. So he marked me down for not attending (laugh), which he should have. I was constantly cutting corners trying to pack it all in and not really having enough time to pack it all in well.

Ms. Goldfrank: Do you know what your grade point average was when you graduated?

Ms. Hostetler: It was good enough to get into Harvard (laugh) that is all I can remember. I was on Dean's List every time, but I don't remember that we were given grade point averages. We didn't have numbers. We had letter grades, and I usually had A's and B's.

Ms. Goldfrank: Were there any female professors?

Ms. Hostetler: There were a few but very few. There was only one that I can remember with whom I intersected.

Ms. Goldfrank: The one with whom you intersected did you like her? Did she have an impact on you?

Ms. Hostetler: She was a theater professor. I took one theater course, but I wasn't in the theater. That wasn't one of my college activities. My classmates who were in the theater idolized her. They were very close to her but I can't say I was.

Ms. Goldfrank: Do you remember whom you asked to be a reference for law school?

Ms. Hostetler: The two history professors who urged me to apply to Harvard wrote. I don't recall that I asked them actually. I think they just said "we are writing letters for you." I don't remember now exactly how that happened but they did write. I could tell you a funny story. When I arrived at Harvard Law School, I took the train up by myself; I went over for the first day of orientation and walked into a room of some 500 students. They looked as if they were all male and that is because they mostly were (laugh). There were only 12 women who were admitted in my class, and we graduated with 7. I walked in and just sat down in the first seat with these men all around. The Dean of the Law School, Erwin Griswold, gave his infamous opening day speech to the class and said, something like, "We have no glee clubs here. This is hard work. I

know you are all high achieving students, and you are used to being at the top of your class but I want to tell you everybody here was at the top of their class. We have 300 Phi Beta Kappas in this class, 200 Magna Cum Laudes, and 100 Suma Cum Laudes. We have a Doctorate in Philosophy from Budapest and a Doctorate in Economics from Oxford." And, he said, after a pause, "We also have Miss Apple Dessert Queen from Virginia (laugh)." Of course, the place went wild … hoots and whistles and cheers (laugh). I am sinking into my chair. Everyone is looking around. The men are looking around to see the beauty queen. I was the Apple Dessert Queen of Virginia all right, but it was a 4-H title, not a beauty queen title (laugh). Five years later, I went to a reunion at William and Mary, and my two professors, Drs. Abbott and Fowler, come up to me and they were laughing and laughing as they said, "We heard about the Apple Dessert Queen Story." I said, "Oh, really." They said, "You know how the Dean knew about the Apple Dessert Queen." I said, "No." They said, "We put that in our letter. No woman from William and Mary had ever gone to Harvard Law School. We were afraid you wouldn't get in and so we figured we better spice up your record." (laugh)

Ms. Goldfrank: You were the first woman from William and Mary to go to Harvard Law School?

Ms. Hostetler: Yes and I think the first woman who came from below the Mason-Dixon Line. They had an admission quota of 12 women in those days at Harvard Law School and they had admitted women for only 7 years prior to my going in 1957. I think they were probably saying, "oh, good, we have one from New York, here is one from below the Mason-Dixon Line, we haven't had one of them, we might as well give one of those 12 slots to her." (laugh). That is my guess. (laugh).

Ms. Goldfrank: Did Dean Griswold know when he referred to the Apple Dessert Queen that it was you?

Ms. Hostetler: I think his speech writer aides gave him an over view of the class and said, "oh, and there is a Miss Apple Dessert Queen." Dean Griswold was a very dour person, not given to small talk, and certainly not given to making jokes very often. So this introduction was somewhat unusual. As it turned out, he and I became big friends. He became really one of my principle mentors. He judged my moot court case my first year, and gave me an A, and was very complimentary, perhaps because he was astounded that someone who was Miss Apple Dessert Queen could write a brief too (laugh).

Ms. Goldfrank: Do you remember what the issue was?

Ms. Hostetler: It was a criminal law search and seizure case and involved the issue of whether evidence from an unlawful search could be introduced at trial.

Ms. Goldfrank: Did you have a southern accent?

Ms. Hostetler: No.

Ms. Goldfrank: Why is that?

Ms. Hostetler: Because I really wasn't southern even though I lived in Virginia from the age of 9 or 10 on. My mother was from New York. My father was southern. He was born in Georgia but then he wasn't around very much. I did have a little more of a southern accent than I do now but I wasn't really southern in outlook, culture or background. But, of course, Harvard Law School didn't know that when it admitted me (laugh).

Ms. Goldfrank: It is interesting that you state Charles City County was segregated. Do you think you recognized that then?

Ms. Hostetler: Yes. I was very aware that it was a segregated society and I thought it was wrong. That is why I was for Eisenhower because he was a Republican and Republicans were better on this issue than the Democrats. It just struck me as wrong. I don't know why. I didn't get it from my mother because she was a person who acclimated herself to whatever social setting she was in so she became rather southern in outlook after we moved to Virginia, although she became more liberal in the later years of her life. As

the South evolved, she became much more progressive but she wasn't at the time I was home. I wasn't in a red neck part of Virginia. Charles City County and Richmond were very segregated but they were not red neck. Charles City County is a plantation kind of county. It is the county between Richmond and Williamsburg along the James River that has those big plantations... the William Byrd Plantation and the President Tyler Plantation, for example, that tourists visit. There was a lot of *noblesse oblige* on the part of those who owned the plantations. Notwithstanding that, their children went to the same little Charles City County public school that the sharecroppers' kids went to. It was very democratic in certain ways. But there definitely was segregation between the blacks and the whites. So I grew up in those days with a kind of *noblesse oblige* attitude myself. It was an attitude far removed from the modern day concept of every human being having inherent rights and being of equal worth. It was more of an attitude of why are we not nicer to these poor people who have nothing. Again, I did see that there was this disconnect between what the Methodist church and the Baptist church, which I sometimes went to, would preach, that is, loving thy neighbor as thy self and being kind to the poor, and what the reality was. But, yes. I was very aware that it was a segregated society. I was at one point in the late 1940's crowned Queen of the

Tidewater Fair. I think I was about 13 or 14. I recall standing on a stage in my strapless ball gown, having finished my talent presentation (a Dorothy Parker monologue and being crowned by Lindsey Almond who was then state Attorney General and later became governor of Virginia as a member of the Byrd machine that vigorously opposed desegregation. I recall standing there and being cold because I was in a strapless ball gown while Almond harangued the fair crowd for about 45 minutes about the dangers of integration. You'll recall that the Byrd machine advocated massive resistance to federal court orders mandating the integration of schools. It is very surreal to think about it now.

Ms. Goldfrank: What did you think then when you were listening to him?

Ms. Hostetler: At that point, it was like when I was holding the flag at the 4-H Conference in Chicago when John Foster Dulles spoke about the need to contain the Soviet Union. I was too young to understand all that was being said. I remember being cold and tired, and wondering why I had to stand there and listen to this guy go on and on (laugh). But unlike my peers, I did think segregation was very wrong.

Ms. Goldfrank: Did you have any interaction with blacks?

Ms. Hostetler: In the county, yes. We were all "farm kids." Even though I didn't live on a farm I did chores on farms. I played with the neighborhood black kids. Maybe that is why I didn't understand

why they had to go to a separate school … a much inferior school. My school was pretty rural and didn't have many amenities, but it was like a palace compared to the school the black kids had to go to. I don't think there had ever been any lynchings in that county. There was no out right cruelty. It was just a "they know their place" kind of attitude. In fact, in the late 1960's, the Civil Rights Commission, that Dean Erwin Griswold coincidentally was the co-chair of, did a study of several communities around the country and one of them was Charles City County because it had such a high proportion of blacks. Some 80 % I think. David Isbell, a partner at Covington and Burling who has since become one of my dear friends, happened to be the lawyer who did the chapter on Charles City County. I think he was also surprised to find that it was not a red neck kind of community but rather was more like the old south plantation kind of place with a "we take care of our 'darkies' mentality."

Ms. Goldfrank: You said you were the valedictorian of your high school class in 1953. Did you give a speech at graduation?

Ms. Hostetler: Yes.

Ms. Goldfrank: Do you remember what it was about?

Ms. Hostetler: I remember that the teacher basically wrote it. (laugh) She said you should say this and you should say that, and I said, "Okay." (laugh)

Ms. Goldfrank: What was it about?

Ms. Hostetler: I have no idea. I think there was a line about the future is not ahead of you, it is creeping up from behind. Something like that. There were a lot of platitudes. (laugh) It was not anything earth shaking, I can tell you (laugh).

Ms. Goldfrank: You said your youngest sister was 12 years younger than you, and your older sister and brother, what was the age difference?

Ms. Hostetler: The three oldest were all 2 ½ years apart.

Ms. Goldfrank: Growing up were you close with them?

Ms. Hostetler: Sure. As children, we all played games together, except not my younger sister because she was so much younger.

Ms. Goldfrank: Unfortunately, they both died young.

Ms. Hostetler: Very young.

Ms. Goldfrank: Would you say you were the smartest?

Ms. Hostetler: Well, perhaps I don't know how much of it comes from being the oldest, but I certainly was the better student. I don't know how you equate smartest. My brother was a born engineer, like my father had been, and he could do anything with his hands. He was also a chess champion. I haven't done any of those things. I was academically a better student but I don't know about being smartest. My sister who became the minister was by far the sweetest member of the family. She was a very loving, caring person.

Ms. Goldfrank: Did your mother have a favorite?

Ms. Hostetler: The youngest. She was too busy to have close relationships when we three oldest were growing up. She was working too hard. She was 19 or 20 when she married, and was a very young mother when I was growing up. She hadn't figured things out for herself yet.

Ms. Goldfrank: How old were you when you had your first child?

Ms. Hostetler: 27.

Ms. Goldfrank: Did you want to be an older mom or did it just work out that way?

Ms. Hostetler: No, it just worked out that way. I was ready to be married (laugh) at 21, but most of the guys were just so unappealing in college. The one thing I knew all along though is that even though I wanted to get married and to have a family, I wasn't going to get married just to get married. I wasn't going to get married unless I fell in love with someone and wanted to spend my life with that person. I can remember when I was about 25, living in Washington and working for the law firm of Covington & Burling. I can remember not being engaged, not being married and walking along the canal path and giving myself little pep talks, "You're going to be an old maid" (because that is what we were called in those days) and you're not going to be married but you know how to take care of yourself. You have a law degree. You have a job. You'll probably always have a job. It is not the worst thing in life not to be

married, you just have to come to terms with that." (laugh). I would give myself these little pep talks (laugh).

Ms. Goldfrank: Did your mother articulate her wishes, "Zona, I want you to be married; I want you to have kids; I would rather you worked, that is more important, have a good career?"

Ms. Hostetler: No. I really was not close to my mother and didn't get or seek guidance from her. To the extent she had goals, they were very materialistic goals, maybe because she hadn't had much in the way of material goods. She always wanted her children to be rich. She never understood the kind of public interest law that I became interested in and that doesn't make any one rich. If she had any advice to give, I usually didn't agree or didn't listen to it.

End of first interview.

ORAL HISTORY OF ZONA HOSTETLER

SECOND INTERVIEW

November 15, 2006

This is the second interview of the oral history of Zona Hostetler which is being taken on behalf of Women Trailblazers in the Law, a Project of the American Bar Association Commission on Women in the Profession. It is being conducted by Joan Goldfrank on November 15, 2006.

Ms. Goldfrank: It is November 15, 2006. Zona Hostetler and Joan Goldfrank are at 3011 Albermarle Street, N.W. Washington, D.C.

Ms. Goldfrank: We had begun to talk about law school. Do you remember how many women faculty you had in law school?

Ms. Hostetler: I had not a single woman teacher when I was at law school. I don't really recall any. I think there might have been one in the International Department but I am not sure. It is not someone who crossed my radar screen. I remember hearing students and faculty talking about Sonja Menchecoff from the University of Chicago who had been there for a year as a visiting scholar and how wonderful she was. But that was before I arrived.

Ms. Goldfrank: Who was your most influential professor? We talked about the Dean.

Ms. Hostetler: The Dean was my mentor. I don't know that any one professor was more influential than others. I had several whom I was admiring of and in awe of. I never had more than one course with a professor. I had many, many wonderful professors – Al Sachs comes immediately to mind - but none that I especially knew outside of class. In those days, you really didn't know your professors outside of the classroom, and the classes were large.

Ms. Goldfrank: Do you think you, as a woman, were treated any differently by the professors?

Ms. Hostetler: (sigh) I am not quite sure how to answer that. I know that a lot of my classmates felt that they were treated differently, that they wanted to speak and weren't called on. I didn't want to speak (laugh). I came from what was then a rather provincial southern college. I had not been to an Ivy League school. I was totally intimidated and awed by my fellow students, as well as by the professors. Except in small classes, seminars for example, where I volunteered, I didn't volunteer. I was quite relieved not to be called upon and made fun of, as some of the professors were wont to do but with a few glaring exceptions they did that in a gender neutral fashion (laugh). I know that there are a lot of stories of how Erwin Griswold and his wife Harriet would have the women law students over for dinner one night a year, and they recall that he would ask them, "Why are you here in law school? You are

taking the place of a man. What are you going to do when you graduate?" I know that many of my fellow women law students resented that a lot. Since I was a friend of Erwin's in later years, I came to give him the benefit of the doubt when he said to me that he was in fact one of the faculty members advocating the admission of women and that he was afraid that we wouldn't vindicate him, that we would not be serious about using our legal degrees later in life. I don't think he cared much what we did with our law degrees, but he didn't want us just to sit on them and not do anything. That may have been revisionist history on his part. I am not privy to the faculty notes of the meetings prior to when I arrived and when women were admitted 7 years before me so I can't prove it one way or another but that is what he said to me later in life. I do know that he went to bat for me and helped me get a job and was quite supportive of me in many ways throughout my career so I am giving him the benefit of the doubt on that issue. But it is certainly true that many of my fellow women law students did not appreciate his comments. From time to time, a few of the men students would also say something to women students. "Why are you here? You are just going to get pregnant." (laugh) In fact, my third year in law school, I was nominated to be secretary of the class, and there were two or three male students running. One of them who was on the Law Review, and who later became a

prominent law professor, was circulating the word that the class should vote for him and not for me because I would just get pregnant and have children and not be a good class secretary. One of my friends drew up a little pretend flyer that said, "Vote for Frigid Zona." (laugh) Any way, I was elected class secretary and I am still class secretary years and years later, although I don't have any real duties. I write the introduction to the reunion newsletter. That's about it.

Ms. Goldfrank: You said seven women graduated with you. Have the seven of you stayed close?

Ms. Hostetler: No, we have pretty much splintered, although I see many, if not most of them, from time to time. I actually was closer to several women in the class after me and have stayed in touch with them. Some of them are very close friends of mine actually. I don't know why but my class just went off in very different directions. At least one of them has remained a very good friend, and we see each other quite a bit, and three others I see from time to time, and the other three I have lost track of.

Ms. Goldfrank: How did you become so friendly with women in the class after you?

Ms. Hostetler: Because there were only 12 of us in each class, all the women knew each other. There was only one bathroom in each building for women so you met all the other women in the ladies room.

(laugh). The facilities were not yet geared up very well for women students at the time I went. Also, I was a bit younger than most of the women in my class having come to the law school right after college at the age of 21.

Ms. Goldfrank: Did you live in a dorm?

Ms. Hostetler: No. I lived with a family, and I was their au pair. I almost became an au pair for Professor Abe and Toni Chayes, which would have been great fun. I have forgotten how that did not happen. That was one of the possibilities. Instead, I was an au pair for a college professor, who taught comparative literature. His name was Albert Guerard who was a very well known expert on Gide and Hardy, and later went to Stanford to teach. His wife Maclin was also a writer and had grown up in Williamsburg, Virginia. When I was first accepted into Harvard, I wrote a letter saying, "I would like to come but I don't have enough money. Do you have any scholarships?" Harvard Law School wrote back and said, "No." (laugh) "Period." I guess they thought they were doing me enough of a favor to let me in in the first place much less give me any money.

Ms. Goldfrank: Did Harvard Law school give any scholarships?

Ms. Hostetler: Yes, but not to me. I told my two history professors who urged me to go to Harvard that I probably would not be able to go because it was so much more expensive than the Virginia schools. They then

did two things to help me. They found a patron in Williamsburg, a lovely elderly woman, Mrs. Ware, to loan me some money, and they found Mrs. Bocock whose daughter was Maclin Guerard and every year hired an au pair. I went to live with the Guerard family on Hilliard Street, which is just two blocks from the law school. It is a lovely little street off of Brattle Street. I took care of the three Guerard children, washed dishes, polished silver, worked in the garden, and did various homemaker things. The deal was that I would have a room, a very lovely room on the top floor with its own bath, and I would be given breakfast, but I would not be given other meals. That was the deal. Sometimes I was very, very hungry because I had so little money, but I didn't tell the family because a deal was a deal. I am sure they would have fed me had they known how hungry I was because they were very, very kind people. I can remember sometimes I would clear the table when they would have dinner parties and would wash the dishes. I remember that they would sometimes have very fancy dinner parties with guests like McGeorge Bundy. After dinner, they would put the left over steak bones in the dog dish. So sometimes this big black lab named Suki and I would race each other to get the steak bones out of the dog dish (laugh). They were very good steaks. I wasn't starving all the time. I just didn't have any extra money. I also did typing to earn extra money and sometimes ran

out. Albert Guerard was an aspiring short story writer. He was a very revered professor and excellent literary critic but he couldn't easily sell his own stories. (laugh) I would type his stories sometimes.

Ms. Goldfrank: Did you live there all three years?

Ms. Hostetler: Yes.

Ms. Goldfrank: Do you still have a relationship with them?

Ms. Hostetler: They both are now deceased. I did have a relationship with them. They were a lovely couple. One of their three daughters became an accomplished lawyer and lives in Washington.

Ms. Goldfrank: Do you see her?

Ms. Hostetler: From time to time.

Ms. Goldfrank: Does she remember you?

Ms. Hostetler: Yes. She remembers me making cookies for her and her sisters.

Ms. Goldfrank: Did you have flexibility in which courses you took?

Ms. Hostetler: The first year was all required courses: Contracts, Torts, Property, Criminal Law, Civil Procedure; those were the required courses. I think there were a couple of courses required in the second year too, I have sort of forgotten, and then you could take whatever courses you wanted to. I took several international law courses, at least one with Kingman Brewster, who later became President of Yale. I took a wonderful state and local government course with Al Sachs, I remember that one particularly. I think tax law was

required the second year. I remember I did well in that to my amazement. My favorite course was Constitutional Law. I just loved Constitutional law.

Ms. Goldfrank: Who was your professor?

Ms. Hostetler: Sutherland. I don't think Larry Tribe was yet teaching. I have since read Larry Tribe's Constitutional law book that he uses to teach just for fun because it is so well written. I love reading Constitutional law books and about those issues.

Ms. Goldfrank: Were you on Law Review?

Ms. Hostetler: No. In my first year I was just struggling to get with the program. William and Mary in those days was a school where to get good grades you just memorized your notes and spitted them back on the exams, repeating what the professor had lectured. I was able to memorize reasonably well so I got good grades doing that. I hadn't really learned to think for myself, to analyze, or to propound something different from what the professor was saying and certainly hadn't learned that it was okay to argue with the professor. I had not had the overall good education that a lot of my classmates had so I was struggling my first year. I think I had maybe a C+ average. My second year, I was finally getting in the grove and at the end of my second year, I was in the top ten percent of my class for that year, but then it was not enough, when averaged with my first year, to earn a place on the Law Review. In

those days, you didn't write for Law Review. It was strictly according to grades.

Ms. Goldfrank: Did you have to take out loans?

Ms. Hostetler: I had the one loan from Mrs. Ware. I don't think there was a federal loan program then. But I didn't have to pay for room and board or room and breakfast since I lived with the Guerard family. I worked in the summer time and I picked up extra money by typing. I also was able to borrow from the law school my second and third years. I still had some law school debt to pay off when I married my husband three years after law school.

Ms. Goldfrank: What jobs did you have in the summer?

Ms. Hostetler: Mostly, I went back to the Allen firm in Richmond that I had been working for in high school and summers while I was in college. They always gave me a job when I wanted it. I worked there over the Christmas break too to earn some money. Between my second and third law school summers I also was the leader of an Experiment in International Living group. We went to Italy for six weeks. I was paid and all my travel expenses were paid. That was fun.

Ms. Goldfrank: A group of teenagers?

Ms. Hostetler: College girls. I was barely older than they were and infinitely less sophisticated than they were (laugh).

Ms. Goldfrank: Other than studying hard were you involved in other activities?

Ms. Hostetler: In law school, no, not really. I was a member of the moot court club, but everybody had to join a moot court club. I was in the Griswold Club. I think I might have been a member of a social club or two. I think I was a member of the Southern Club because I was asked to be but I don't recall doing anything. I think it was just social.

Ms. Goldfrank: The Southern Club because you were from the south?

Ms. Hostetler: Yes. I did have a wonderful time going to the museums and the symphonies, exploring Boston, and having all the kinds of mind-opening and mind-expanding experiences that I had not had the chance to have had yet in life.

Ms. Goldfrank: Tell me about your relationship with Dean Griswold. You said that he was very supportive of you in many ways. Can you expand on that?

Ms. Hostetler: He just always checked up on me. When I first started working at Covington & Burling, he would call me up when he was in Washington and take me out to lunch and see how I was doing. I remember some twenty years later when I was practicing public interest law, I had a Supreme Court argument. I worked on a few Supreme Court briefs but I had only one argument. It was a snowy day, the first snow of the winter. Dean Griswold, who was getting on in years, schlepped through the snow and came up to hear my argument. (laugh) He was just always there for me, writing letters

on my behalf when I needed them. We had lunch together from time to time, and he and Harriet came to dinner at our home. We always stayed in touch and talked about different things.

Ms. Goldfrank: Why do you think he so admired you and felt close to you?

Ms. Hostetler: Because I was Apple Dessert Queen (laugh). I think he took a shine to me, as they use to say, when he judged my first year moot court. I think he liked my argument and my brief, even though he personally disagreed with my arguments. He took an interest in me after that but I don't know why exactly.

Ms. Goldfrank: Do you remember the issue of your moot court argument?

Ms. Hostetler: It was a search and seizure case. As I recall, Erwin and I had several arguments over the years about the exclusionary rule. He was much more of a hardliner on criminal justice issues than I was. I was a bleeding heart (laugh).

Ms. Goldfrank: Even then?

Ms. Hostetler: Even then.

Ms. Goldfrank: What was your social life like in law school?

Ms. Hostetler: It was wonderful! I felt so deprived during college because I didn't enjoy fraternity parties that were the heart of college social life. In law school, there were all of these very, very interesting men, mostly Harvard Law students, but sometimes also medical students from Tufts or engineering students from MIT (laugh). I had a very active social life. I enjoyed it enormously.

Ms. Goldfrank: Not many people can say that about law school.

Ms. Hostetler: Probably not. (laugh) Because others would have been studying and being more serious than I was. My law school experience for me was what, I think, college is for a lot of other women and men. I loved law school. Most of my fellow students, men and women, hated it. I think the men particularly hated it, especially those men who had been in the army, were older, and were ready to get on with their lives. They didn't like being treated as children by professors and being in that master/servant relationship. I was only 21 when I came to law school. I was so excited by all these intelligent people, by the great ideas that were being discussed in and out of class, by being forced to analyze issues, to think about them, and to form my own opinion on them. It was a great awakening for me intellectually and socially.

Ms. Goldfrank: When you first came you said you felt a little intimidated.

Ms. Hostetler: I was intimidated about speaking up in class, initially, because I was unsure of myself and always, because I was never as prepared as I should have been, in part because I was working and in part because I was socializing so much. (laugh). Eventually I would get prepared, but I was never prepared at the time of the class.

Ms. Goldfrank: Did you have a small study group?

Ms. Hostetler: I did the first year.

Ms. Goldfrank: Do you remember the people in the group?

Ms. Hostetler: Not really.

Ms. Goldfrank: It didn't stay together after the first year?

Ms. Hostetler: No.

Ms. Goldfrank: Did Dean Griswold help you get your job at Covington?

Ms. Hostetler: When Covington checked with him, he gave me a good recommendation.

Ms. Goldfrank: You went to work at Covington right out of law school?

Ms. Hostetler: Yes, but that was a fluke (laugh).

Ms. Goldfrank: Explain.

Ms. Hostetler: When I was at law school I didn't interview any law firms because I did not want to go to a law firm. I had this romantic notion that I was going to do good in the world, and that meant coming to Washington and hopefully working at one of the international agencies. I had no interest in commercial practice. I was not especially interested in making a lot of money so I didn't interview any of law firms at law school. I came down my third year of law school to interview government agencies. It was between Christmas and New Year's and of course, not much was happening then. I remember I went to an agency that was called ICA, the name of which was later changed to AID, the international development agency that we still have. They were very nice to me. They practically offered me a job on the spot. In fact, I think they did, and they said, "We are so happy to have you apply." I don't

think they had many applications from Harvard Law School women graduates since it was still something of an oddity in those days for women to go to law school at all. They said, "We need someone to take care of the legal problems of the wives and the dependents of the men lawyers we send overseas." I thought that did not sound too interesting. (laugh) Then I went to the State Department, where I had a similar welcoming reception. They said, "We would be delighted to hire you. In fact, we have been looking for someone like you. We have this elderly woman, a spinster, who runs our library, and none of the men can get along with her, and we need to reorganize our library. We think you could work with her." Again, I was rather dismayed. This is 1959, well before the women's movement really got going. I don't know enough to get angry or to protest (laugh) but I was really rather dismayed.

Ms. Goldfrank: This is what year?

Ms. Hostetler: Christmas 1959. Eisenhower is in the presidency; Kennedy has not yet been elected. So then I went to a few other agencies in the social services area, HEW, and a couple of others. Again, I was received very well but no one seemed very excited about their jobs. They talked about the perks and the vacations. I think it might have been because it was between Christmas and New Year's and the best people in the agencies were off or maybe it was just a holiday period and people were in a holiday mood, or maybe because it

was the sleepy Eisenhower years. I don't know exactly but no one seemed very interested in the substance of their jobs. Again, I was feeling that the work being offered wasn't sounding very interesting. I was telling this story to a fellow student who was also in D.C. and he said, "I think you should interview a law firm. You haven't interviewed any law firms." I said, "Okay, where should I interview?" He said, "I think I am going to be hired by Covington & Burling so why don't you interview there." I said, "Okay." I walked down the street and went into the reception area and said, "Hi. (laugh) Do you have any one here that I could talk to about working here? I am student from Harvard Law School." I didn't know that you weren't supposed to do that. (laugh) I still was very much an innocent (laugh), even though I was now in my third year of law school. They sent out a junior partner, whose job I guess it was to get rid of people who walked in off the street (laugh). He and I talked for awhile, and after a bit, he said, "You know I think you should talk to my boss, the senior partner, Howard Westwood." He ushered me into Howard Westwood's office. Howard was a senior lawyer who was a transportation lawyer, representing airlines, and wrote airline regulations for the government. He was a character. He had an office decorated with old Civil War mementos, including muskets and an antique Civil War desk. He and I talked for quite awhile. He had worked his way

through law school, and he was interested that I had done that also. We were getting along very well, and finally he said, "Well Miss Fairbanks, why do you want to work for Covington & Burling?" I said, "Well, Sir, I don't really. I want to work for the government. But I haven't found the right job yet." (laugh). Howard Westwood was a very profane man. He was very well known for uttering profanities and being quite a character. He started pounding on the desk, and he said, "Damn it, sweetheart. Don't you know that every damn lawyer in the country wants to work for Covington? Of course, you want to work for Covington. Let me tell you why you want to work for Covington." Then he started telling me with great passion and excitement about all the pro bono work the firm did and the fact that it was the only law firm in the city that had a full time lawyer at the Legal Aid Society, and that the firm took ACLU cases that practically no one else in the bar would take. And he was very enthusiastic and passionate about what his firm did. It just so happened that he was the President of the Legal Aid Society and the President of the National Legal Aid and Defenders Association. He really was involved in that world and cared a lot about it. I guess not too many law students came in and said that they wanted to work for the government so they could "do good." He decided I should be at Covington. He took me by the arm and we walked down the corridors and he introduced me to Mr.

Covington and then he introduced me to Mr. Burling. And then I left. I got on the train at Union Station and went back to Boston to law school. About a week later I received a letter saying that they would like to hire me as a first year associate. I was rather embarrassed about this because Covington at that time was the number one firm that the Law Review students wanted to work for. I think everyone else who came from Harvard that year was on the Law Review (laugh), except me. I had made such a to do about how I wasn't going to interview law firms when they came to the law school and now I was going to work for one after all – and the one that was considered at the top of the list. I was so confused that when my classmates would ask me what I was going to do after I graduated, I would say, "I'm going to Washington." (laugh) I wouldn't confess that I was going to work for Covington & Burling.

Ms. Goldfrank: How many other women were in that entry class at Covington?

Ms. Hostetler: None. There was one other older woman who preceded me as a permanent associate, having come with a solo practitioner when he merged his practice with Covington's. Another woman was hired after I was there and a woman law clerk who later became an associate. They had had a few other women lawyers before me but they were no longer there at the time I came. They had never had a woman partner. At that time, women generally didn't become

partners in law firms, and many law firms wouldn't hire women at all. I didn't want to work for a law firm in the first place so it wasn't important to me whether I became a partner or not. It wasn't one of my career goals to become a partner at Covington.

Ms. Goldfrank: Did Harvard impact or change your social philosophy?

Ms. Hostetler: No, I don't think it impacted it one way or another. I was just learning how to think like a lawyer, how to analyze problems, how to write, how to research the law. Remember again, this was the Eisenhower years. There wasn't a lot of ferment about any public issues. I remember (laugh) that in my first year of law school Fidel Castro had ousted Batista in Cuba and for some reason was making a tour of the United States. I have forgotten exactly why. A victory tour. He appeared at the football stadium at Harvard. Thousands of us went out to cheer him (laugh) because he had ousted the dictator, Batista. That is the most political thing that I can remember happening. We were almost oblivious to the Civil Rights movement that was just getting started in the South. We were really in our little cocoons. I don't remember any professors ever raising any current or real world problems outside of cases where they might be discussed. We didn't even discuss the problems of the criminal in criminal law or why a criminal class existed or how prisons operated or sentences were meted out, or anything like that. We were just studying what the Supreme Court

said about the search and seizure rule or other evidentiary rules. It was just a different time.

Ms. Goldfrank: Did you take the DC bar?

Ms. Hostetler: I did.

Ms. Goldfrank: Did you take any other bar?

Ms. Hostetler: No.

Ms. Goldfrank: Are you a member of any other bar?

Ms. Hostetler: No.

Ms. Goldfrank: You started at Covington in the summer of 1960. How much did they pay you?

Ms. Hostetler: I know it was considered the highest paying job in the city, comparable almost to New York salaries. It was around $4,800. In December, they gave out bonuses. I received another $1,000. I thought I was the richest person in the world.

Ms. Goldfrank: Were your male classmates receiving the same amount?

Ms. Hostetler: I have no idea. I think everyone was paid modest salaries. It was more than government lawyers were earning, a little bit more. As far as I know, we were paid the same starting salaries at the firm but I don't really know.

Ms. Goldfrank: Was there a special kind of law you practiced?

Ms. Hostetler: I was assigned for the most part to terrific partners who practiced corporate and antitrust law. One was John Douglas, and one was Paul Warnke. I never felt that I was treated any differently than

any other associate. Initially, I was doing what other associates did which was doing the backup work on cases, such as research, but after a year or so, I met with clients and was sent on trips to meet with clients and review client files. I never felt the least bit discriminated against at Covington. But, of course, if I had wanted to be a partner, I don't think I would have been able to be a partner. They didn't have women partners at that time, that came later. Several years after I left. When I was at Covington, it was one of the larger law firms in the city. It had one hundred lawyers, and I knew them all. They were first rate people. I liked them. It was a terrific law firm. Most importantly, they let me become the firm's Legal Aid lawyer, which is what I wanted to do. At least fifty percent of my time was devoted to Legal Aid work. That is how I really learned to be a lawyer, not from researching in the library, and not from Harvard Law School (laugh). At the Legal Aid Society, the cases were my own, and the clients were mine. I had to do everything on the cases, from soup to nuts. I had to plan the strategy, interview the client, and develop a rapport. I had to decide to negotiate with the opposing side or go to court, depending on what I thought would be the better thing to do. I had to devise the arguments if I were going to court. It was a wonderful experience. That is how I really learned to be a lawyer -- through

Legal Aid training, not by being the fifth or sixth person on an antitrust case.

Ms. Goldfrank: Did you have your own secretary?

Ms. Hostetler: I had a secretary whom I shared. Everybody shared a secretary, except the senior partners.

Ms. Goldfrank: The secretary was a woman?

Ms. Hostetler: Yes.

Ms. Goldfrank: How was your relationship with her?

Ms. Hostetler: Fine. I actually have always had very good relationships with women I worked with, whether they were paralegals or secretaries. They didn't seem to mind that they weren't working for a senior partner (laugh).

Ms. Goldfrank: And they didn't seem to mind that they were working for a woman?

Ms. Hostetler: No, they didn't.

Ms. Goldfrank: How long did you stay at Covington?

Ms. Hostetler: I stayed three years, until my first child was born.

Ms. Goldfrank: Then did you stay at home?

Ms. Hostetler: Yes, I was at home until my children were both in school all day. However, I kept working out of the home, at least part time.

Ms. Goldfrank: For Covington?

Ms. Hostetler: No, not for Covington. Neither Covington nor other law firms hired women lawyers part time in those days, though that soon

changed. But in those days, there were lots and lots of opportunities to do part time legal projects. Judge David Bazelon had a study on mental health law. For example, that I worked days for the D.C. Circuit Court of Appeals. The Senior Citizens Council was looking for someone to do a study of the nursing home laws, and I did that. The Urban Institute was doing a study on bankruptcy that I worked on. There were many opportunities to do interesting things. I was able to keep my hand in the law and be at home too. I also kept some of my legal aid clients for years after I left Covington.

Ms. Goldfrank: What was the most interesting project during that period?

Ms. Hostetler: The development of the OEO legal assistance program, which later became the Legal Services Corporation. As a result of my working at Legal Aid, I wrote some papers, and gave some speeches about the short comings of Legal Aid because at the time it really provided only "band aid" justice or worse. The Legal Aid Society that I went to had one part time staff person, an elderly gentleman who sometimes came to work and sometimes didn't. If he didn't come and there were no volunteers there, and there weren't many volunteers – whoever was the Covington lawyer at the time was the main volunteer. The doors would just be locked. It did not advertise. It didn't even list itself in the yellow or white pages. Low income people would have no way of knowing that there was

a Legal Aid Society by looking in the telephone directory, and no idea when or if the doors would be opened, and no idea what kind of cases the Society would take. It was just really pitiful. Then when they arrived at the Legal Aid office they came into a decrepit falling down office with ugly falling down furniture. For the most part, the clients would be given a pat on the head. Maybe a call would be made to a creditor and a payment schedule arranged. No one took the cases to court or tried to change the system in any way in those days. I remember that one of my best negotiating ploys while I was at Covington handling a landlord-tenant case or debtor/creditor kind of case would be to say to the landlord's or creditor's lawyer, "This is so interesting. You know Covington & Burling is paying me to handle these Legal Aid cases in any way I think best. I think there is maybe an important potential precedent in this case that could go all the way to the Supreme Court." (laugh) That often worked very well in getting satisfactory settlement results. In other cases, I went to court. I received an award, a little plaque, as the Legal Aid Lawyer of the Year, and I think it was just because I went to court in some cases (laugh). I wrote a 200 page paper for the Family and Child Services about the short comings of legal aid in the city of Washington and how the Family and Child Services Board should authorize hiring its own legal aid lawyer because its clients had a multiplicity of

problems, social and legal which is often the case in low-income families who have no access to justice. At the same time, my law school classmate and friend, Gary Bellow, was working with Edgar and Jean Cahn, and they were light years ahead of where I was. They were true visionaries. They had worked for the Ford Foundation funding pioneer legal services programs in New Haven and they were creating what would become our national legal services program. Gary had seen my paper and invited me to hang out with them (laugh). I was so inspired with what they were writing and thinking. They were going to bring about complete systemic reform of the delivery of legal services in this country. They dreamed of establishing a network of neighborhood legal services program, with back-up law reform centers, and of bringing law suits to change the law that affected low-income people, both substantively and procedurally. At the outset, they were developing a plan for a national conference on legal aid to float the idea of having a federal legal services program in the U.S. Office of Economic Opportunity that President Kennedy's brother-in-law Sargent Shriver headed up. I helped out a bit in the planning for the conference. All sorts of people came to the conference: social welfare experts; bar officers; judges; professors and lawyers. Many of those who came were astounded to learn that poor people even had legal problems! Lewis Powell came representing the

American Bar Association (ABA). He was then president or president-elect of the ABA, and he became very interested in the concept of establishing a federally funded legal services program. He decided to make the concept one of his priorities in the ABA. This of course was before he went on the Supreme Court. He was very helpful because the organized bar was opposed to having a legal services program and having federal funding go into it because they feared the program would take clients away from them and interfere with their livelihood. Powell was very helpful in arguing that the people to be served were so poor that they didn't go to lawyers, and if they did, they wouldn't have the money to pay the lawyers. The organized bar relented but insisted that no one could be represented who had any assets that could be used to pay lawyers' fees. They had to be really dirt poor. After the conference, the OEO legal services program eventually got off the ground, and I went to work for Clint Bamberger who was the first director. I became his special assistant or principal assistant; I have forgotten the title. I did that for about three years, I guess. That was on a part time basis because I still had children at home. That was great fun, getting that program underway, finding new programs that were buying into this new way of thinking and new way of delivering legal services to low-income people, and then shoveling the money out to the new programs. These were very heady days

in Washington generally and there was great excitement among many lawyers about this work in particular. It was in the Kennedy years that initial thinking about a national legal services program first began but it was implemented as part of President Johnson's War on Poverty. The Kennedy-Johnson years were a period of great excitement for people who had come to Washington and wanted to do good things on behalf of people who had low incomes.

Ms. Goldfrank: So you finally got to work for the government?

Ms. Hostetler: So I finally worked for the government (laugh).

Ms. Goldfrank: How long did you stay with that project?

Ms. Hostetler: I stayed about three years on the staff but I kept being a consultant and doing things for the program for years afterward.

Ms. Goldfrank: At what point did you go back to work full time?

Ms. Hostetler: When my youngest son began school full time I went to work for a public interest law firm headed by Bruce Terris, called Bruce Terris and Associates. But it really wasn't full time in the sense that I had to be at the office full time. I probably put in as many hours as a full time person but it was a public interest firm, and allowed for flex time work. I still did a lot of the work at home. I was worked on environmental law cases and women's and government employee rights cases. I represented some government labor unions. The firm was one of the country's first public interest

law firms. It represented Allison Palmer. She was a foreign service officer at the State Department, and she brought a class action discrimination case on behalf of women foreign service officers. I was not the lead lawyer but I had a hand in it. I represented several other women employees in the State Department and USIA, but they were not as famous as the Allison Palmer case. Palmer brought this law suit against the State Department because it was not promoting women in the same way it promoted men. The Department was giving them dead end jobs. The women were not getting to be deputy chief of missions or ambassadors. It took many, many years but Allison Palmer ended up winning her law suit. She also in her later years brought a law suit against the Episcopal Church because she had decided to be ordained as an Episcopal minister.

Ms. Goldfrank: Were you involved in that case?

Ms. Hostetler: I wasn't involved in that one. She and another group of women eventually became the first ordained ministers. In the Episcopal Church.

Ms. Goldfrank: Did her State Department case go all the way to the Supreme Court?

Ms. Hostetler: It didn't go to the Supreme Court but it went to the Court of Appeals. In fact the case went back and forth to court on various

procedural grounds for several years and was won after I had left the firm.

Ms. Goldfrank: Did you know Bruce Ferris from law school?

Ms. Hostetler: No. Bruce had also had a hand in putting on the OEO legal services program conference and that is where I met him. He would have been a few years ahead of me in law school.

Ms. Goldfrank: He graduated in 1957.

Ms. Hostetler: And I graduated in 1960.

Ms. Goldfrank: After working with him where did you go?

Ms. Hostetler: While I was working for him, I had a call from some members of the Board of Governors of the recently-established mandatory District of Columbia Bar. This would have been in 1977. The Bar was established about five years earlier. I have forgotten the exact date, but it was a relatively new mandatory bar. I had been a participant in its beginnings a little bit. The Bar Association of Washington, a private bar association that was the only bar that existed when I came to Washington, had invited Robert Mardian to be the featured speaker at the Bar's annual Law Day celebration. Mardian was deputy associate Attorney General and was a part of that whole Nixon crowd that was trying to cover up Watergate. A lot of the "young Turks" in the bar were quite offended by this invitation and decided to have a counter Law Day meeting with a different speaker. Senator Harold Hughes of Iowa was invited to

the counter gathering. It so happened that we met in a room right next to the Bar Association's meeting. There were hundreds of us, and there were maybe thirty, mostly gray haired white males in the room next to us listening to Mardian (laugh). That was sort of the beginning of a take over of the bar by a new group of lawyers who were younger and more liberal than the leaders of the voluntary bar association. Subsequently, a new mandatory bar came into being. I have forgotten the exact details of how that happened since I was not one of the ring leaders in bringing it about. But, in essence, the Young Turks decided we should have a new bar that every member of the D.C. Bar would be required to join. The voluntary bar association went along with that idea because its leaders believed that if every lawyer in the city would have to be a member of the bar, the bar would have a lot more resources. This turned out to be true. They also thought that they would continue to have the leadership positions. That turned out not to be true because with the help of all these new bar members, the Young Turks voted themselves into power (laugh). So there were wonderful progressive lawyers like Florence Roisman, David Isbell, Monroe Friedman, Alan Morrison and Marna Tucker who were elected to the new bar's Board of Governors. These were pioneers in the fields of public interest law, civil rights and civil liberties who were elected to the first Board of Governors of the

District of Columbia's new mandatory bar. I was working at Bruce Terris' when all of this happened. The leaders of the new mandatory bar wanted to establish a public interest office to provide pro bono help to low income persons. Ann McCrory was a driving force behind this idea and got the new office off the ground. She would have stayed and run it but she moved to Japan with her husband a few months after the office was established. So the bar needed someone to be the Director of this new program and I agreed to take the position.

Ms. Goldfrank: Let's go back for a bit to the period when you were living in Washington and practicing law. What was your political involvement?

Ms. Hostetler: Like all my friends, I was against the Vietnam War. I marched; my whole family marched and did the usual things to protest the war. I also had a chance to represent some of the activists. I remember going to an SDS meeting or two in the basement of All Souls Unitarian Church where Tom Hayden was holding forth. I represented some federal government employee unions whose members were protesting against the war. In one case, a group of government employees had invited Michael Tigar to lecture. Mike Tigar, a brilliant young lawyer (who later became a nationally known law professor and trial lawyer) was quite well known at the time for lecturing on how you could avoid the draft: what the law

was: what the loop holes were; what the exemptions were. He gave a very lawyer-like talk. There were flyers all over the agency about Tigar's coming to speak. President Lyndon Johnson got wind of this and called Wilbur Cohen, who was then head of the Department of Health, Education and Welfare (HEW), where Tigar was to speak. Johnson told Wilbur Cohen to retract the invitation and that Tigar was not to be allowed to speak. I went to court representing Mike. I lost before Judge Sirica, who took a very skeptical view of anyone giving a lecture about avoiding the draft. Judge Sirica agreed with President Johnson that this kind of speech was unpatriotic. I remember I sat up all night and prepared an appeal and went before the Court of Appeals the next day and asked for summary reversal. In those days, D.C. had a very liberal U.S. Court of Appeals that included Judges like David Bazelon and Skelley Wright. The summary reversal was granted.

Ms. Goldfrank: Did they rule from the bench?

Ms. Hostetler: They ruled from the bench, and then they issued a short opinion afterwards. My argument was that since the government allowed lunch groups to meet on government property for all kinds of purposes and to have discussions about all kinds of subjects, the government was required under the Constitution to be content neutral. It couldn't say, "Well, we don't like this particular subject of avoiding the draft." It had to deny the use of its facilities to all

groups or it had to allow the use without interfering with the content of what was spoken. It was a straight forward First Amendment/free speech argument. About a year or two later Dr. Benjamin Spock was invited by some U.S. government employees to speak against the war. By that time, Dr. Spock was a famous pediatrician who was also a national spokesman against the Vietnam War. He and Bishop Sloan Coffin were two of the most well known advocates against the war in Vietnam. President Johnson once again became agitated that Dr. Spock was going to come and speak to United States government employees. This speech was to be held at lunch time for all HEW employees, including the employees of the National Institutes of Health (NIH). In fact, NIH employees against the war were really the lead group inviting him. In those days, NIH had lots of medical school graduates who were activists and who also wanted to avoid the draft. They were able to avoid the draft by going to work for NIH as public health specialists or doctors. They were very much against the war and printed articles in a newsletter advocating an end to the war, held seminars and participated in anti-war marches. They were actually pretty courageous in speaking out as government employees and it later turned out that the FBI was listening to their conversations and compiling files on them. When President Johnson told these employees Spock could not speak to

them, even at lunchtime, they asked me to go to court on their behalf to overturn that order.

Ms. Goldfrank: Did they come to you because of your past representation?

Ms. Hostetler: Perhaps. I think the government employee union leaders knew me because of my representation of government employee unions generally and also because I had been involved in handling free speech cases for the ACLU. In any case, once again, Judge Sirica turned me down. Once again, I stayed up all night. (laugh) Once again, I went before the Court of Appeals, and once again, the Court summarily reversed Sirica. This made the front pages of the Washington Post with the headline "Spock to Speak." (laugh) It was a very exciting day. Thousands assembled to listen to Dr. Spock speak out against the war. That night, we had a little dinner with Dr. Spock to celebrate.

Ms. Goldfrank: Were you a member of the ACLU?

Ms. Hostetler: Yes, I joined while I was at Covington and Burling. I had been at the firm for a couple of years, when the local chapter of the ACLU was having difficulty with a Congressional Committee, particularly with Congressman Dowdy from Texas. The Congressman wanted to outlaw the Mattachine Society in Washington, which was the first gay rights organization in the city and one of the first in the nation, founded by Frank Kameny, who was also a member of the ACLU board. By the way, just a few weeks ago, there was an

article in the Washington Post about how all of Frank Kameny's papers are now in the Library of Congress, as he is considered a father of the gay rights movement. Dowdy was putting pressure on the D.C. government to rule that the Mattachine Society could not solicit contributions to its organization, even though it was a 501(c)(3) charity, on the grounds that the organization was "immoral." As it later turned out, Congressman Dowdy himself was very interested in pornographic literature (laugh) and was later defeated in disgrace. (laugh) David Isbell and other ACLU members, including Ralph Temple, had testified on behalf of the Mattachine Society before Frank Dowdy's Congressional committee, and were constantly being referred to as counsel for the "perverts" and subject to other demeaning comments. I was 27 at the time and as it happened, I was quite pregnant with my first child. Ralph and David decided that it would be a good idea if I represented the "perverts" because I was obviously pregnant (laugh) and perhaps I would be a better received as a spokesperson for the ACLU than them. At that point I did not belong to the ACLU. So I joined the ACLU and I argued the solicitation matter before what was the District of Columbia Board of Commissioners. This was before Home Rule, and D.C. was governed by an entity called the Board of Commissioners. I presented First Amendment arguments and the Board to its credit

supported me. Of course, if they hadn't, we were going to go to court. Shortly after that Dowdy got into trouble himself, and the Mattachine Society was allowed to continue its work unimpeded by Congress. I was asked to serve on the ACLU's governing Board. I was on the Board for quite a number of years, and after I was no longer on the Board, I stayed active in a number of committees. I am still somewhat active.

Ms. Goldfrank: During the Kennedy and Johnson years were you involved in the Civil Rights movement?

Ms. Hostetler: I did a few things. I took part in various civil rights marches, although not in the South. I think it was my first year at Covington, when one of my law school classmates, Bill Higgs, a white man from Mississippi, who was very involved in the Civil Rights movement in Mississippi, asked me to do some research and help out on a case to force Robert Kennedy, who was then Attorney General, and the Department of Justice to enforce the civil rights laws in the South. By then, the Civil Rights movement was really underway and Civil Rights marchers were being beaten and even killed. The case was Moses v. Kennedy. We lost on the ground that there was well established precedent that prosecutors have discretion about which cases to prosecute and if they didn't choose to bring actions against those people in the South who were beating up marchers they didn't have to.

Ms. Goldfrank: Who was Moses?

Ms. Hostetler: Robert Moses. The Civil Rights leader who then went to Africa, and has been in Africa ever since. He was one of the principal Civil Rights activists at the time.

Ms. Goldfrank: What was it like to live in Washington in those days?

Ms. Hostetler: It was very exciting. It was the Kennedy-Johnson years. It was the age of public service. Working for the government was considered a good thing then. People weren't pilloried for working for the government. The consumer law movement was getting under way with Ralph Nader. The women's rights movement was getting under way. My consciousness was being raised. It was a very exciting time. The Vietnam War was a huge problem though. The Cold War wasn't over yet. Everyone worried about that. We went around with a huge black cloud over our heads worrying about whether our children were going to survive a nuclear war. But still it was exciting because we felt, lawyers and others, that we were working to solve problems. We were rolling up our sleeves and we were filled with optimism that we could solve the problems of the day. I participated in the 1963 March on Washington. I remember a lot of people saying, "Oh, you better not go down there. There will be trouble." But, of course, I went (laugh) and heard Martin Luther King's inspiring "I have a dream" speech. There was such hope among the participants. Everyone was sharing their food.

Everyone was in a picnic mood. We thought the world is going to be okay and all we have to do is role up our sleeves and work on the problems. We are going to make the world better. We are going to get rid of war. We are going to have civil rights. We were going to end poverty

Ms. Goldfrank: Did you ever go to the South?

Ms. Hostetler: No t to the deep South – only to Virginia.

Ms. Goldfrank: Not Mississippi?

Ms. Hostetler: No, I didn't go there. At one point when I was working on the Moses v. Kennedy case, Bill Higgs said, "There is some one you have to meet. There is this wonderful woman from Yale Law School who is going down to Mississippi. I'm going to take you to meet her" So we drove to Northeast Washington. There, in the parking lot of an abandoned gas station was an old dilapidated bus that was ready to go to Mississippi and people who were going to get on the bus were milling about. Sitting over on the curb was this little thin waif of a woman, and her name was Marion Wright (later to be Marion Wright Edelman). She was on her way to do wonderful things to ease poverty in Mississippi. As we all now know, she changed Robert Kennedy's attitude toward civil rights when she gave him a tour of the desolate rural areas of Mississippi and she later became a well known national advocate for children's welfare.

Ms. Goldfrank: Did Dean Griswold suggest that the women who followed you at Harvard Law School talk to you?

Ms. Hostetler: I don't know whether Dean Griswold did but over the years I talked to many, many women from Harvard Law – and from other law schools too. They did seem to find me, perhaps because there were so few women lawyers who had preceded them in law school. I really enjoyed talking with them, particularly the ones who were interested in public interest careers. I have to say, though, that in recent years, in the last ten years or so, I have not been very enthusiastic about women - or men - going to law school, unless they know what they want to do and are very clear-eyed about it. It seems to me that in recent years so many young people don't know what to do with themselves and simply think they will go to law school and make a lot of money. So they go because they think law school is a nice safe, secure bet. I am annoyed at law schools too, particularly large law schools like Harvard, that charge way too much tuition I think and keep raising the tuition in the belief that their graduates will all go work for large law firms and earn huge salaries. Of course this belief is self fulfilling and there are fewer and fewer graduates who can afford to enter public service law.

Ms. Goldfrank: Did you teach law?

Ms. Hostetler: I taught legal ethics at American University Law School for a few years as an adjunct professor.

Ms. Goldfrank: Was that satisfying?

Ms. Hostetler: Yes and no. I liked teaching generally. But the ethics course was a required course and two thirds of the class was not interested in the course. They were there only because they had to be. Although I tried to make the course as interesting as I could, and found the sexiest, juiciest, (laugh) most relevant issues to discuss, they just didn't see how that an ethics course was going to help them succeed in their law careers. Of course, some students were interested, and it was very satisfying for me to have them in the class. When I taught a night class, it was generally more interesting and satisfying. The students were older and understood the real world circumstances I was describing. Ethical lapses were apparent in the newspapers everyday and they tended to read newspapers. They also intended to be more engaged than the younger students just out of college for the most part.

Ms. Goldfrank: Did you have to take legal ethics or professional responsibility when you were in law school?

Ms. Hostetler: No. Never. There were no classes nor did any professor raise the subject that I can remember.

Ms. Goldfrank: Did students ever raise the issue that a course like that was not taught?

Ms. Hostetler: When I was in law school? No. I don't think it was on the radar screen of anyone at that point. I think Watergate was the first time that law schools and the legal profession began to think seriously about legal ethics when so many of the people involved in the Watergate scandal in the White House were lawyers and were convicted and also disbarred. That was sort of a wake up call. There was many calls for legal ethics courses to be taught. That was the beginning of those calls, I think.

Ms. Goldfrank: When you were a new young lawyer at Covington was there a particular person you worked with?

Ms. Hostetler: No. I worked with whomever I was working with on the cases I was assigned to. Associates shared offices in those days. My office mate was David Shapiro who then went on to teach at Harvard Law School. He was a great buddy, and we talked about all kinds of things.

Ms. Goldfrank: Was he about your age?

Ms. Hostetler: He was a few years older.

Ms. Goldfrank: He didn't complain that he had a female lawyer as an office mate?

Ms. Hostetler: No, not at all. As I said earlier, I personally never felt any discrimination at Covington. Covington was a liberal law firm whose lawyers were very active in pro bono matters, the ACLU and other progressive things. And I think the kinds of lawyers chosen by Covington in those days were not threatened by having

women around. Of course, Covington, like most law firms then, had few women lawyers, no women partners, and few minorities, as well, but on a one-to-one basis, I was personally well treated.

Ms. Goldfrank: There wasn't an older attorney who mentored you?

Ms. Hostetler: Well, Dean Griswold was always a mentor, although he was not at Covington. David Isbell and John Douglas with whom I worked at Covington were mentors. I worked with David Isbell on ACLU matters, and John Douglas I worked for as an associate. They were terrific role models as good citizen lawyers. I remember talking about lots of political issues with them. They were older and had more life experiences than I did. Outside the law firm, Gary Bellow and the Cahns were my heroes. I had come from the South with this "Lady Bountiful" notion of doing good, and they opened my eyes, and raised my consciousness, to a whole different level about how to change the world in a way that we who were lawyers weren't giving something on a silver platter but we enabling others to be empowered and be their own advocates. Gary and the Cahns were also about challenging the status quo, challenging the way the laws were drafted and the way they were implemented. They completely opened my mind to a whole new way of thinking about the law and how the law could be used as a force for good than what I had learned in the past, including at Harvard Law School.

End of Second Session

ORAL HISTORY OF ZONA HOSTETLER

THIRD INTERVIEW

December 5, 2006

This is the third interview of the oral history of Zona Hostetler which is being taken on behalf of Women Trailblazers in the Law, a Project of the American Bar Association Commission on Women in the Profession. It is being conducted by Joan Goldfrank on December 5, 2006.

Ms. Goldfrank: It is December 5, 2006. Zona Hostetler and Joan Goldfrank are at 3011 Albermarle Street, N.W. Washington, D.C. I wanted to go back to have you expand on a few things. I am not sure we flushed everything out. I wanted to go back to your legal aid work and the OEO legal services project, what your thinking was, and specifically, the issues you worked on.

Ms. Hostetler: I had been doing Legal Aid Society work when I was at Covington in the early 1960s. Did I mention that I had written an article about the band aid justice that it dispensed? This article later became the basis for a chapter I wrote in 1964 for a book entitled Poverty As A Public Issue. I wrote the chapter in 1964 but it wasn't published by Free Press until 1965. In those days, it was thought that poor people really didn't need lawyers because they didn't have legal problems. Since they didn't own property it was thought they didn't have any property issues. Tenants' rights were unheard of at

the time. It was thought that poor people had no reason to use lawyers, except every once in awhile to negotiate a payment schedule with a creditor or to prepare their papers for welfare or food stamps and even that was thought to be a social worker's job and not a lawyer's job. It was not generally understood that there might be legal issues involved, and that one might have a legal interest in a welfare payment. It became clear to me that the Legal Aid Society was not really handling the problems of the poor very effectively. Here in Washington, it had an office with one part-time retired lawyer and whatever volunteers would help out. In those days there were very few volunteers. Covington & Burling was the main volunteer. It sent one lawyer down, full-time, and I was, at my request, the volunteer lawyer for about six months but when my six month stint ended, I had taken so many cases that my clients stayed with me for many years afterwards, even after I left Covington. The office did not advertise in the yellow pages or the white pages so there was no way to know it existed except by word of mouth. One never knew whether the office would be open or not. Even if a potential client got to the office and it was open, he or she might find out that the particular claim or problem that he or she might have was not handled by the office.

Ms. Goldfrank: Where was it located?

Ms. Hostetler: On G Street. I think there is still an office there but of course now the Legal Aid Society is entirely reformed and provides excellent services to its client. There were all kinds of obstacles that poor people had to overcome back then. Often a low income woman needed a divorce because under the laws at the time she could not get welfare if she were married. Even if the husband had not been around for twenty years and the wife had no idea where that husband was, she would not be eligible for welfare. In addition, because there usually were no legal aid lawyers to represent the absent husband, the court required her t hire a lawyer to represent him and to pay that lawyer. Women were constantly being thrown off welfare if they saw any evidence of a man around the house. I remember once they insisted that there had to be a man in the house who could support my client because there were big shoes under the bed. We said that those were her son's shoes, her 13 or 14 year old son. They said they were too big for a son. We brought in the son, this big hulky kid, with a huge frame and who had huge feet. That is what you had to go through in those days. It was just amazing how many problems there were. At the time, no one thought, for example, if a tenant were being evicted, to raise the issue of code violations and constructive eviction. It wasn't until the Legal Services Program came along and legal services lawyers like Florence Roisman raised those issues that landlord-tenant law

was reformed to provide fairness to tenants as well as to landlords. The judges were also in those days not very sympathetic to the problems of low income people and were not very sympathetic to women lawyers either, I might say. The first case that I handled that went to jury was a personal injury case. Mr. Barney Nelson was permanently injured in his shoulder after being hit by a pie truck on Bates Street Northeast, which was one of the worst slum streets in Washington at the time, not too far from Capitol Hill. The pie company said that he had walked out in the middle of the street, against the red light, and right in front of the truck. The police report said the same thing. The case was in federal District Court and the judge said to me, "I advise you to accept the insurance company settlement of $2000 because in my judgment juries will not relate well to a woman lawyer and will not return anything more than that and you are asking for $25,000 (which in those days was a lot of money – equivalent to several hundred thousands now)." (laugh) I thought that shouldn't be the case, and that Mr. Nelson deserved more than that. He was in his mid-50's and was a concrete worker, doing construction work. He had to use those heavy machines that break up the concrete and had to carry heavy equipment. His shoulder was so badly injured that he could not do that any more. This was all the income that he and his wife had, and he was not able to do his job any more. The pie company

lawyers claimed that Mr. Nelson was drunk and that he had darted out in front of the truck. Mr. Nelson had a speech impediment, and it was very difficult to understand him. He kind of slurred his words together and it was very difficult to understand him, but he was not a drunkard. I went out to the construction site in the suburbs were he had worked. His employer was a wonderful old blue collar white guy who said, "Barney has been working for me for twenty five years and he has always shown up and he has never been drunk and he has never missed a day of work." I asked whether he would testify to that, and he said, "Yes." I found the head of the employment security office here in D.C. who said he would come and testify that Mr. Nelson was one hundred percent handicapped from doing his job, which was the only job he was qualified for and had experience doing. I think he had finished the third grade of school, and he had this speech impediment, and now he was physically handicapped. I found witnesses who said that they saw the pie company truck driver taking pies out of their truck and putting them in the police officers' cruisers (laugh). We had measurements that showed, and people who testified, that there was an alley between Mr. Nelson's house to the street light and that he always invariably came down that alley to the corner and crossed with the light. We were able to get some data from the D. C. transportation authority that showed when the lights changed to

demonstrate that the light had to have been green because of where the truck was at the previous stop. The policeman did not show up for the trial. I was up against one of the major defense firms in the city because it represented the pie company's insurance company. After the first day of trial, the junior lawyer in the firm who was handling the case for the pie company asked if he could have a continuance because Miss Fairbanks (I wasn't married yet then) was obviously very well prepared and he wasn't (laugh) and he would have to get his senior partner to handle the trial. The judge, who had said that juries wouldn't like female lawyers, gave him the continuance (laugh). So the jury heard only one day of our testimony and then we had a recess until the senior partner could come in and handle the case (laugh). After we put all the witnesses on, and had closing arguments, the case went to the jury. As I was in the middle of my closing argument, one of the jurors has an epileptic seizure so we had to stop the trial again. The judge sent the jury home, and we came back the next day. To make a long story short, the jury gave Mr. Nelson the full $25,000 that I had asked for, which was then the largest verdict ever given for a separated shoulder injury. It doesn't seem like a lot of money now but it was a lot of money then. Mr. and Mrs. Nelson were then able to leave Bates Street and buy a house near Catholic University and spend the rest of their lives in a nice middle class neighborhood.

That judge – a federal Court judge - didn't think this man deserved anything because he was poor and just a concrete worker, and he couldn't speak well, and his lawyer didn't deserve to go before the jury because she was a woman. It was very satisfying (laugh) to take that case and win that case.

Ms. Goldfrank: Do you want to say who the judge was?

Ms. Hostetler: I don't remember his name. He was quite elderly, but I actually have forgotten his name. The case was in federal court because the amount of $25,000 being sought brought it within the federal court's jurisdiction at that time. The Superior Court with expanded jurisdiction didn't exist yet. The Court of General Sessions had limited jurisdiction at that time. The federal courts took all the important cases and cases involving $25,000 or more.

Ms. Goldfrank: Did you keep in touch with Mr. Nelson?

Ms. Hostetler: I did for quite awhile. I went over and visited him and his wife in their new home. It was very nice. About the same time that the chapter in "Poverty as a Public Issue" was published, lots of people were getting interested in the problems of the poor. David Harrington wrote "The Other America." David Caplovitz wrote about the consumer problems of low income persons. There were many others that wrote books about specific issues affecting the poor. Most importantly, Gary Bellow, whom I mentioned the last time we talked, and Edgar and Jean Cahn were writing seminal

articles. The Cahns wrote a seminal article in the Yale Law Journal, as did Yale Professor Reich, called "The New Property," and pointed out that things such as social security, food stamps or welfare were in fact property in which low income people had rights and that there should be a mechanism for them to establish those rights or to defend those rights when they were taken away. Then in the early 1960's there was a conference at the Department of Health, Education and Welfare (HEW) on the legal problems of the poor. I presented a paper and other people did as well, including Gary Bellow and the Cahns. About that time, President Lyndon Johnson was setting up the Office of Economic Opportunity, which we talked about last time. As we discussed last time, the Cahns, Gary Bellow, Jack Murphy, who was then a professor at Georgetown Law School, Bruce Terris, and a couple of other people and I were working on holding a conference on legal services. We were hoping to persuade the federal government to establish a federally-funded program of neighborhood offices across the country to represent low income people. Patricia Wald, later to become a prominent federal court judge, took all these articles and papers that everyone had been writing, pulled them all together and wrote a brilliant pamphlet to be used at the conference. She did this late at night after she put her five children to bed (laugh). It was really a tour de force. Her paper and the

speakers at the OEO conference so impressed important people like Lewis Powell, who was the President of the American Bar Association at the time, that momentum began to build to establish a legal services program. The big stumbling block was the organized bar because bar members were sure that free lawyers would take away business. Lewis Powell (later to be Supreme Court Justice Powell) and the rest of us had to persuade the bar that the people who would be represented would be so poor that they would never under any circumstances pay a lawyer. The bar grudgingly agreed that a legal services program could be established. We were concerned about all the substantive issues that affect low income people: housing law, consumer law, and family law. We wanted to have not only lawyers across the country to represent these people but also we wanted them to engage in systemic reform rather than just handling matters case. We wanted them to bring class actions and raise issues that would reform the law itself. For example, in the housing law area, we wanted to establish a doctrine of constructive eviction that would require landlords to fix premises that were rat ridden, had leaking plumbing, and were unsafe and unsanitary and that would allow tenants to withhold rent until repairs were made. These were all new and novel ideas at the time. It was very satisfying to help get that program going. I wasn't the leader. I was just part of the group

that worked on this. Then I was hired by Clint Bamberger, who became the first Director of the OEO Legal Services Program, to be his principal assistant. There was a staff of maybe five people at the beginning. It was fun because we got to set up the whole program and try to identify programs that would engage in new thinking about legal services to low income people and to find lawyers who would create new programs. For example, I worked on finding the California Rural Legal Assistance Program (CRLA), which was one of the new programs that we set up at the time. Jim Forens was the head of it, and Gary Bellow went out to be number two. CRLA is the program that represented Cesar Chavez and the migrant workers and that sued the state of California so frequently that Ronald Reagan then tried to get rid of the entire Legal Services Program. When he became President, severe restrictions were put on the Legal Services Program, which by then was no longer at OEO but was a chartered Legal Services Corporation. In Ronald Reagan's administration, the restrictions became more and more draconian, and they continued even after his tenure when other Republicans were in power. For example, class actions were forbidden altogether, and representation of people who were not citizens was forbidden. The Board of the Legal Services Corporation whose members were appointed largely by the Reagan White House tried to get rid of the Corporation all together by

defunding it. But by then, lawyers around the country in virtually every state had become great advocates for the program. For one thing, it relieved them of having to accept court appointments to represent low income people (laugh). The efforts to defund the program entirely failed, but lots of restrictions were put on. In the early OEO days, there were no restrictions so all kinds of law reforms were brought about by the Legal Service lawyers around the country.

Ms. Goldfrank: When you were the First Assistant to Clint Bamberger were there specific issues you worked on?

Ms. Hostetler: The work was generally administrative and management work: getting the program under way; monitoring the programs, etc.

Ms. Goldfrank: You talked about the new guard of the D.C. Bar. Explain more what the differences were between the old and new guard.

Ms. Hostetler: Well, for example, the old guard usually recommended people for judges who then got the judgeships (laugh), and they were themselves, of course. When the new guard came into being, the "Young Turks" nominated entirely different people. They started nominating women, women like Gladys Kessler and Pat Wald. They started nominating public interest lawyers like John Ferren. These were public interest lawyers the old guard didn't even know existed (laugh). That was one thing that was very different. The new Bar also set up a public interest office which the old Bar

association never had. That was the office that I was asked to be director of. First we had a mandatory dues check off which is now a voluntary dues add on to fund legal services for the low income people. Some of the members of the old guard brought a law suit when it was mandatory, saying it was an improper use of Bar dues. There was a big fight over this. We had an argument before the D.C. Court of Appeals because the D.C. Court of Appeals has jurisdiction over the mandatory Bar. In hindsight, I have to say that the proponents of taking away the right to use mandatory dues did have a point, in that, dues were mandatory and there could be no end in sight for the good things -- or bad things depending on who was governing the bar at the time -- that dues could be used for. But, they also just did not like dues money to be used for law reform issues, in part, because we were funding lawyers who were bringing suits against the landlords or creditors in town whom they represented. There was also personal antipathy between the old guard and the new guard. In some measure the new guard, the "Young Turks," brought that on because they were so young, aggressive and eager. They weren't polite to their elders (laugh) and they would make snide comments about them publicly that didn't sit very well with them. When this matter came to be a court case before the D.C. Court of Appeals, the judges on the D.C. Court of Appeals at that time were for the most part the old guard.

They were still smarting from all these things that had happened (laugh). They not only struck down the mandatory dues add on but they also made it very clear in their statements from the bench and in their opinion that they didn't think very much of these Young Turks (laugh). I helped David Isbell and Steve Pollock with their brilliant briefs defending the Bar's public interest program and the ways in which it was helping low income people and many other things, quoting the Canons of Ethics about how it is the responsibility of lawyers to help bring about a system of justice in which everyone has access. The brilliant briefs did not persuade the Court.

While I was Director of the Public Interest Office at the D.C. Bar, we did some things that we were able to continue. For example, we set up a Bar Foundation to which lawyers, law firms and others could make contributions. We decided that the Foundation would use all of its funding, every penny, for legal services for low income and vulnerable populations, like the disabled. This was a first in the country. While most state bars had foundations, they tended to use their Foundation resources to build bar buildings – very nice bar buildings – for the bar officers and bar staff – and they often commissioned portraits of themselves (laugh). This was the first time that a state bar foundation had been established to support legal aid to low income people. That Foundation continues

today. I served as its Board secretary and in effect its director for almost twenty five years, and we raised in that time about $10 million for all the various legal aid programs in the community. Now lots of state bar foundations do the same thing. The add-on dues, which then became voluntary after the Court's opinion striking down the mandatory dues add-on continues to this day for the D.C. Bar. It also was the first in the country. Now many bars have dues add ons for public interest purposes. We set up a lawyer referral program in a way that was meant to be different from any other bar's then existing lawyer referral program. It was meant to be a program that would provide everyone including low income people with a referral and would, as a practical matter, be principally used by low income people. We in fact did that as long as I was at the bar. If people really needed a lawyer but they couldn't afford a lawyer, we referred them to panels of pro bono lawyers that we had pulled together. (By the way, Dean Griswold volunteered to be on one of these panels.) If problems could be solved without going to a lawyer, we would help them get to the right person. We tried to make friends with all the social service agencies so we knew someone personally in all the agencies. We would send someone down to that person and that person would try to straighten out the problem. If the person had a problem that we kept seeing all the time, police misconduct let's say in a

particular precinct, we would then not send that client to an individual lawyer but we would try to bring in an organization like the ACLU. The organization then might bring a class action or bring publicity to the issue, or might promote and find sponsors for legislation, if that was called for, or otherwise generally bring about systemic reform. It was very satisfying, and a lot of fun, to be able to set up this bar program. To some extent, it still exists but not so much as at the beginning because it is a very time intensive and very expensive program to run. I had a dedicated staff that worked late at night. I can remember one of the young women on the bar staff, a law student, running down to the court after hours to help a woman who was abused to get a temporary protective order. In those days, there was not a single agency in town that represented abused women. The law student stuck out her hand to shake hands with the judge, and he said, "The court does not shake hands." (laugh) She came back, and said "Oh, I made a mistake. I tried to shake hands with the court." (laugh) One of the things we did was help obtain a grant to establish a program at the Women's Legal Defense Fund under Rita Bank, who is now one of D.C.'s most prominent family lawyers, to represent abused women and to draft new guidelines for the U.S. Attorney's Office to use. In those days, the U.S. attorney's routinely dismissed all spouse abuse complaints as "frivolous." The mindset of the U.S. Attorney's

Office, and the D.C. Corporation Counsel's Office (now called the D.C. Attorney General's Office), which were populated by mostly men lawyers, was that these women just get into fights with their boyfriends and then usually kiss and make up. They said that there was no point prosecuting the boyfriends or husbands because in their experience, if we bring an action, the complaining women won't show up in court. I later learned from a lawyer who was in the U.S. Attorney's Office that they had something called "the club." Every once in awhile one of them would say, "Oh, dear, John just joined the club." The club was when some woman that had been turned away by the U.S. attorney was murdered. They said that they did feel rather badly about that. So there was much to be done in this city for physically abused women. Under the program that was established at the Women's Legal Defense Fund, (and later housed at other places) there was a wonderful paralegal named Michelle Thomas, who would go the Corporation Counsel's Office to pick up the summons for the husband and pull together all the paper work and bring everything to court because frequently the paper work never made it there, and the summons was never served.

Ms. Goldfrank: At some point you were Acting Director of the Women's Legal Defense Fund?

Ms. Hostetler: For a very short period. Judith Lichtman, who had founded the Women's Legal Defense Fund, and was its inspiring and effective director for many years, was to take a sabbatical in 1982, and someone was needed to be acting director while she was gone. I was Acting Director for six months. One of the issues that came up while I was Acting Director was whether the Women's Legal Defense Fund should accept money that was being offered to them out of the blue from Hugh Heffner's Playboy magazine. The staff and Board were split right down the middle with half saying this is a gross offer, we are about promoting women's self esteem, not having considered solely as sex objects which is all Playboy is about. It would be hypocritical and worse for us to accept this money. The other half of the staff said yes, they are disgusting but we really need money and we should take it. It was a significant sum in view of the limited budget of WLDF at that time. I was in the half that thought we should not take Playboy's money and that we should figure out how to manage without it. When I left, the issue had not yet been resolved. I think I heard that they did take the money (laugh).

Ms. Goldfrank: Did Hugh Hefner or Playboy contact the WLDF?

Ms. Hostetler: Yes. Their offer came unsolicited out of the blue. The women's movement was really getting going at that time, and Playboy magazine was getting attacked by a lot of women's organizations

around the country. Playboy wanted to show that they supported women, that they weren't bad guys who just put women down, that they really loved women (laugh).

Ms. Goldfrank: When you were at the Women's Legal Defense Fund is that when you were involved in the Supreme Court's Mississippi University for Women v. Hogan case?

Ms. Hostetler: I think I handled that matter before I became Acting Director. I was asked to draft an amicus brief for the Women's Legal Defense Fund and a consortium of other women's organizations (the National Women's Law Center, the Women's Legal Defense Fund, and NOW were some of the principal consortium members). That case had been brought by a Mississippi lawyer for his client, a male nurse, who wanted to go to the Mississippi University for Women nursing school. That was a women's college but it had the only nursing school within two hundred miles of where he lived. He wanted to get an advanced nursing degree. It was not practical for him to travel two hundred miles to nursing school and back because he worked where he lived. The nursing school said that only women could attend. The women's organizations decided that they should help this male nurse out because they didn't want a precedent established that women can't go to some law schools or medical schools because they are only for men. They decided to support the side of the male nurse and establish the precedent that

one should be able to go to a professional school regardless of gender. We were not the lawyers who argued the case for this male nurse; the lawyer in Mississippi argued but he had never argued a case in the Supreme Court and had never handled a Constitutional law case. The women's groups were very concerned that he would not argue it in such a way as to support the broader interests of women generally, and that if he lost the case, this could establish a bad precedent for women who wanted to attend all male professional schools. A couple of weeks before Christmas I was asked if I would work on the case and write a brief. The brief had to be filed in early January which meant that someone would have to work over the Christmas and New Year's holiday period. I was asked if I would do that as everyone else was going on vacation. I said that I would and I dropped everything to draft an amicus brief. Thereupon ensued some very interesting discussions with representatives of the Seven Sisters colleges, Vassar, Smith, Wellesley, Bryn Mar and the others. They became quite concerned that if we prevailed, the case would set a precedent that would require that they admit men come to their historically all women's colleges. They certainly didn't want that. (laugh) After many high level discussions about this issue, we agreed that we would stress that we were arguing to end gender admissions into graduate and professional schools and not into undergraduate colleges. That was

the compromise we reached. Justice Sandra Day O'Connor wrote the Court's opinion, in our favor. She relied heavily on our amicus brief, and in her opinion, she used language from our brief to the effect that "Work should not be considered women's work or men's work" and concluded that professional schools should be open to both men and women. The American Lawyer magazine subsequently concluded that our brief was the amicus brief of the year for having had the most important impact of any *amici* briefs written that year.

Ms. Goldfrank: Did you ever get to do a Supreme Court argument?

Ms. Hostetler: I argued an age discrimination case before the Supreme Court on behalf of State Department employees who were subject to mandatory retirement at the age of 65. This was one of the many cases I handled for State Department, AID, and USIA employees when I was working in the Bruce Terris public interest firm. We had an argument before a three-judge federal court first, which we won, but then we lost soundly in the Supreme Court with only one dissent by Justice Marshall. The Court's majority opinion concluded that it might be unwise policy to have Foreign Service officers retire at the age of 60 but it was a problem for the legislature to fix and not a denial of a Constitutional right. So, after we lost, we worked with Florida Congressman Claude Pepper who was the head of the House aging committee and legislation

was passed raising the retirement age to 65. The Solicitor General, who only picks two or three cases a year to argue, was under such pressure from the Reagan administration to give this case priority that he himself argued the case for the government. The Foreign Service had a system in place modeled after the Navy Department of "up or out." That meant that you either had to be promoted or you would be dismissed from the Foreign Service. It was Peter's Principle in practice where people had to be promoted to jobs they might not do well from jobs they were doing very well, and if they didn't get promoted, or if they were promoted but didn't do the new jobs well, they would be forced out of the Foreign Service and there was a pyramid structure in place. Every year people had to be forced out because there were fewer slots at the top of the pyramid than at the bottom, with the top of the pyramid reserved for ambassadors. The State Department was quite upset about this case and so the Solicitor General argued it for the government. The argument was held during the first snow fall of the season, and my old friend and mentor, Erwin Griswold, came to the argument. He was quite elderly at the time but he came down to the Court to hear my argument. When the case was over, Erwin Griswold came up to me and said he had two things to say. One was to compliment me on how I dressed. Let me back up. When I was getting ready for this argument I spent a great deal of time preparing for the

argument of course but I also spent a great deal of time figuring out what I was going to wear. (laugh) I scoured the department stores and found a very severe looking black pin stripe suit. It was not a pant suit because women were not supposed to wear pant suits to court at that time. I came home with this black pin stripe suit, and my husband looked at it and said, "that is the most God awful outfit I have ever seen and I hope you burn it after the argument." After the argument, Erwin said to me, "Zona, I want to complement you on how well you looked. It is just disgraceful how women lawyers are dressing to argue in the Supreme Court these days." (laugh) The second thing he said was "You gave a fine argument and your brief is excellent, but you know you will lose. It has nothing to do with the merits. It has to do with the system." (laugh) And I did lose, although Justice Thurgood Marshall wrote a wonderful dissent in my favor (laugh).

Ms. Goldfrank: How were you treated when you were presenting your argument?

Ms. Hostetler: Fairly, and there were a number of questions. The Court seemed very interested. I did notice that when I was pointing out that aging has no relevance to doing well at the kind of work that Foreign Service officers do (negotiate, exercise judgment, analyze situations, write) that some of the 60-plus year old Justices on the Supreme Court were smiling (laugh).

Ms. Goldfrank: Did you have your family come watch?

Ms. Hostetler: Oh, yes. In fact, my family helped moot court me. (laugh) My two children, young boys at the time, asked very good questions. (laugh) They came to Court. It was fun for them.

Ms. Goldfrank: Do you remember who the Solicitor General was?

Ms. Hostetler: Wade McCree.

Ms. Goldfrank: Did he treat you with respect?

Ms. Hostetler: Yes. He was very professional and very cordial. There was no problem. By then, more and more women were graduating from law school and coming to court. It wasn't quite the oddity that it was when I first graduated from law school in 1960.

Ms. Goldfrank: You mentioned a couple of other cases that you handled when you were with Bruce Terris. Tell me about the Regina Nunnes Correria case.

Ms. Hostetler: She was a secretary for the Foreign Service. She married a man from Portugal. The Foreign Service said he had to become a U.S. citizen, and he did not want to become a U.S. citizen. The Foreign Service said that she would have to leave her job. She had been there for seventeen years or so. We did discovery of the Foreign Service personnel files and were able to show that men Foreign Service Officers were married to women from other countries. And that while occasionally, the wives became U.S. citizens many times they did not. In fact, the men FSO's married women from other countries at a very high rate. In fact, about one-third of the

Foreign Service Officers were married to women from other countries, which was not surprising since they were stationed around the world. The men Foreign Service officers were never fired because their wives did not become U.S. citizens, but the State Department was going to fire the secretary because her husband wouldn't become a U.S. citizen. We prepared our briefs and argued that equal protection principles should apply. The government, the Foreign Service, backed down and changed its rules, and Mrs. Nunnes Correria kept her job.

Ms. Goldfrank: Did you file a complaint?

Ms. Hostetler: I think we filed a complaint and even briefs and then we settled. I can't remember. I think there was a temporary ruling of some sort in which the judge indicated we would probably win, but I don't think there was a decision.

Ms. Goldfrank: The last place you worked was at O'Toole, Rothwell, Nassau & Steinbach?

Ms. Hostetler: It started off as Goldfarb, Singer and Austern, and then it was Goldfarb Singer, and then the firm split and Ron Goldfarb continued on his own to do publication work, representing authors in negotiating their book contracts, and the rest of us went on as a law firm under the name of, O'Toole, Rothwell, Nassau & Steinbach.

Ms. Goldfrank: What kind of work did you do there?

Ms. Hostetler: It was a general practice but all of the partners had come from a public interest background and the firm's work had a public interest flavor – death penalty representation, immigration and consumer law, etc. I was doing some civil liberties work and also had some clients who had a variety of general legal problems in connection with their employment. There was no major case worth talking about. I was also still managing the D.C. Bar Foundation.

Ms. Goldfrank: You were a partner?

Ms. Hostetler: Yes.

Ms. Goldfrank: When did you go to an Of Counsel position?

Ms. Hostetler: About five years ago in 2002. I am really retired from the law firm. I am listed on the letterhead as Of Counsel but I don't really practice law any more. Occasionally I give advice to the others about matters they are handling.

Ms. Goldfrank: Of all the legal jobs that you have had which would you say was your favorite?

Ms. Hostetler: I don't think I had a favorite because it wasn't the job but rather the content of each of the jobs that was interesting. I can't think of a bad job I have had. I have been doing the same sorts of things that I wanted to do but in different settings. I have been lucky to live in a time and to be in circumstances where I could do that. I wasn't under financial pressure to take one job and stick to it the whole time. I have always had jobs where my time was quite

flexible, and I could decide for the most part how I would spend my time, and that has been very helpful. I have been very lucky. I have never really had to handle a matter that I didn't want to handle because I could always refuse to handle it. I either was in a situation where all the issues were white-hat issues, and I could feel good about it, or I was in a situation where I could say, "No, I don't want to do that."

Ms. Goldfrank: In your professional career were you ever forced to make a tough decision on a legal ethics issue?

Ms. Hostetler: Oh, I forgot to mention that when I was at O'Toole, Rothwell, Nassau & Steinbach, I handled a lot of legal ethics issues for the firm and also for law firm clients and that is also when I taught legal ethics at American University. Because I had been on various legal ethics committees, the D.C. Bar Ethics Committee and the American Bar Association Ethics Committee, and I taught legal ethics, I was hired frequently by lawyers and law firms to represent them in various ethical matters. I don't think though that my firm ever had an ethics problem and I never personally had an ethics problem. I remember though being amazed at how many times lawyers and law firms, including the best lawyers and the best law firms in this city (laugh), were getting into ethical difficulties. I am sure that is something you know a lot about. It constantly stunned me. And it was mostly the senior partners in the firms who had the

most difficulty knowing about and understanding the Codes of Ethics. I think it was because they went to law school and began to practice law at a time when legal ethics was almost a joke because there were no professional counsels offices, codes of ethics were rarely enforced, and legal ethics wasn't taught in law schools. I can remember a couple of situations in which it was the junior associates who were blowing the whistle so to speak and saying, "My firm is engaging in practices that are against the code of legal ethics and I have tried to persuade the senior partners, but they don't believe it."

Ms. Goldfrank: Were you at all involved in the first Code of Ethics?

Ms. Hostetler: No. The Codes were built on the old American Bar Association's Canons of Ethics that go back a long time, maybe to even before I was born.

Ms. Goldfrank: The modern Code?

Ms. Hostetler: Yes. I was appointed to the American Bar Association's Ethics Committee in 1977 at a time I wasn't even a member of the ABA. I was Director of the D.C. Bar's Public Interest program, and I had been arguing in the D.C. community that the Code of Ethics' exhortations to the bar to provide equal justice to all and to lawyers to take time to provide legal services to those who cannot afford it should be taken seriously, and if not mandatorily enforced, at least should be implemented as a policy matter. I had written some

articles on this subject. It was at a time when the ABA did not have many women members. It was a District of Columbia lawyer, Marna Tucker, who stood up in the House of Delegates at the American Bar Association and argued on behalf of a resolution that urged all ABA committees to add women to them. It was facing opposition from some of the delegates on the grounds that it was not necessary because women had all the opportunities they needed in the bar and in the ABA. Marna said to the assembled delegates, most of whom were men, in a very sweet way, "But you know, just look around you, there aren't many women here, are there?" After that there was a push to put women on committees. I suspect that Marna is the one who recommended me. So every ABA committee had to have at least one token woman. I received a letter from ABA President Leon Jaworski appointing me to the ABA Legal Ethics Committee. At the time, the "Kutak Commission" (named for its chair Bob Kutak) was giving birth to its first draft report to amend the existing Code of Professional Responsibility. This draft caused great consternation in the legal world generally because it was considered a radical departure from the old ABA Code of Responsibility upon which most state codes were based. The report recommended strict ethical rules (laugh), too strict for many of the delegates and many of the lawyers around the country. Because I was on the ABA's Legal Ethics

Committee, I was a member of one of the groups that reviewed the Kutak drafts and participated in the discussions and the debates, but I was a new member and I was not one of the lead people.

Ms. Goldfrank: If you look back to when you were graduating from law school would you have thought that the next forty years of your practicing law would look the way it did?

Ms. Hostetler: I would have had no idea how my life in the law would unfold.

Ms. Goldfrank: Do you think that being a woman gave you a benefit in how it unfolded?

Ms. Hostetler: That is a good question. I don't know. I think the times were certainly different when I graduated for men and women. Law firm graduates were intent on finding a good law firm to join, with the expectation that they would make partner, and be with that law firm for the rest of their lives. In those days, lawyers did not go from job to job. You married a law firm for better or worse. Partners were supportive of each. You had years that were profitable, and years that weren't so profitable. You weren't kicked out because you had a nonprofitable year. Partners were for the most part people who were collegial, who liked each other and did things outside of the law with each other. But women didn't have as many opportunities to join law firms when I graduated so they did lots of other things. It is just a whole new world now. I have to say I see both men and women lawyers now caught up in the rat

race that the legal profession has become. At the same time, the newspapers and magazines are still filled with articles about women not becoming partners at the same rate as men. I have seen lots of suppositions or theories about why this is so. One of the theories, which sounds creditable to me, is that many (though not all) women are somewhat more relaxed about achieving a particular spot on the totem pole, that they are more renaissance, if you will, in their outlook on life – that is, they have a lot of interests and values so that they want to have time for their families, for their children, and for themselves. They often want to have more than one career. They want to do different things. Conversely, while some men may also have those ideas in mind, it seems to me that more men than women feel the pressure to succeed at a particular legal job and to become partner or head counsel of an organization and to make money, even if it means sacrificing some other things in life. That is a gross generalization, of course. It obviously is not true of all women and all men.

Ms. Goldfrank: Would you recommend women to go to law school?

Ms. Hostetler: Not so much any more. This is not a woman thing or man thing really. I just think the legal profession is not what it was when I graduated from law school. It is not a very healthy institution. Certainly, the practice of law isn't in large firms. If a young woman or young man wants to have a law degree because he or

she wants to do something specific with the degree and knows that, I recommend going to law school, but if they are just going to law school because they have nothing better to do and they just assume that they will end up at a large law firm and earn a lot of money, I don't recommend it. Certainly, women have an easier time now getting into law school and in getting jobs practicing law than when I graduated and if practicing law is what they want to do, that's fine. I just think there are a lot of things in life that one can do other than practice law in a large law firm (laugh).

Ms. Goldfrank: You did.

Ms. Hostetler: I should amend what I said. Some women -- Brooksly Born and Marna Tucker come readily to mind, -- have become partners in law firms and have used those positions to do terrific interesting things for women and for the public at large. It doesn't mean you can't but it seems to me that it is the past generation of women that were able to do this to a greater degree than the current generation, but I might be a little too harsh on this subject – and like a lot of older people assuming that "the good ole days" were better.

End of Third Session.

ORAL HISTORY OF ZONA HOSTETLER

FOURTH INTERVIEW

JANUARY 24, 2007

This is the fourth interview of the oral history of Zona Hostetler which is being taken on behalf of Women Trailblazers in the Law, a Project of the American Bar Association Commission on Women in the Profession. It is being conducted by Joan L. Goldfrank on January 24, 2007.

Ms. Goldfrank: We are at 3011 Albemarle Street, N.W., at Zona Hostetler's home conducting the fourth interview. Let's discuss your work for the National Equal Justice Library.

Ms. Hostetler: The Library is the brain child of Earl Johnson who succeeded Clint Bamberger as head of the federal Legal Services program and has written many books about the Legal Services program. He is now a Justice on a California state appellate court. He has been the guiding spirit of an effort to preserve the history of the Legal Services movement, and Georgetown Law School has agreed to house the Equal Justice Library in its general law library - and to scan into its computer system the papers and recorded histories of lawyers who have been active in Legal Services. I am co-chair of the collections committee and helping to pull together those papers. There are already quite a number at the library. Because the grant for completing this work is only for two years, we are under some pressure to do this quickly. Also a lot of the people important to the development of the federal legal services program are getting very old, and in fact we have already lost a few of them. We also want to have videotaped oral histories of these people as well as collect their papers. I did the oral history of Gary Bellows whom I spoke about earlier and who is a great hero of mine. On his oral history, he talks about his role in creating the Legal Services program with Edgar and Jean Cahn. He also talks

about going to California to help set up the California Rural Legal Assistance Program and representing Cesar Chavez. It was that program's representation of migrant workers that incurred the wrath of Ronald Reagan who at that time was Governor of California. Then when he became President, Reagan and his conservative Congressional colleagues tried to eliminate the federal legal services program by defunding it. They were unsuccessful because the program was very popular in most states. The library also has the oral history of Sargent Shriver who was President Kennedy's brother-in-law and was appointed by Lyndon Johnson to head the Office of Economic Opportunity, the federal anti-poverty program of which the OEO Legal Services Program was a part. (Subsequently the OEO Legal Services Program became the congressionally chartered Legal Services Corporation.) Hillary Clinton, who later became New York Senator after her husband Bill Clinton's tenure as President, was the first president of the Legal Services Corporation Board. We have an interview of her on video. So the Library is capturing this history and it is interesting and also kind of fun. When you are an old lawyer you get to do library work (laugh). You remember I said that when I first graduated from Harvard Law School, the State Department offered to hire me but only to help organize their library, and I wasn't very impressed with that offer. But now at age 71, I am ready to do library work and actually enjoying it. (Laugh.)

Ms. Goldfrank: Where is the grant from?

Ms. Hostetler: The money comes from several foundations and individual contributions. It is all private funds. I am not in charge of raising the money.

Ms. Goldfrank: I had asked you last time whether in your practice you had confronted any ethics issues and you said you remembered one.

Ms. Hostetler: In large part it is true that I didn't have ethical dilemmas. In large part I chose not to represent clients whose views or goals I didn't agree with. I don't mean to be sanctimonious about it but I was lucky I was able to do that because I had a husband who worked hard and earned a decent income for the family and I was free to earn not very much money and to do what I felt was right. So I never had to represent tobacco companies or polluters or anyone whose policies were anathema to me. But I did have one ethical dilemma. I represented a woman in her late 70s. Her daughter and only child who was an artist had died while living in the Midwest. My client wanted to mount an exhibit of her daughter's artwork but first she had to get custody of the artwork which was out of state. So there was a fair amount to do to go through the out of state court system and close the estate there and get the artwork here. But that was all pretty straightforward work. Needless to say, however, my client was quite distraught by her daughter's death and the stress of closing the estate. She also became somewhat ill herself. One day she telephoned me and said she wanted to come talk with me about changing her will. She appeared with this 40-year old man – a very slick, used-car salesman type, and she said, "I want you to meet my fiancée and I want to change my will and leave everything to him." Well, it seemed clear to me from the outset that he was overly eager to get her apartment, her car, and whatever few goods and bank accounts she had. So, I temporized and said I would get back to them. I called a few of her friends and I learned that my client had an older brother who was in his

80s and in a nursing home on the west coast. So I asked my client to come back by herself without her fiancée to find out whether she wanted to leave anything to her brother. Well, no, she said, she was estranged from him, she hadn't communicated with him in many years and she had no interest in leaving him anything. Her two women friends who were very concerned about this new found fiancée conceded that the fiancée was actually giving her a good time. He was taking her to the Kennedy Center, to the opera, to art exhibits, and out to dinner, and she was having a wonderful time. The Code of Ethics says that a lawyer's ethical obligation is to do what the client wants. The client makes the calls. There is wiggle room when the client is *non compos mentis* but my client was not mentally impaired. It just seemed to me that she was being taken advantage of. On the other hand, she was having a good time. I finally decided that she was making a bargain: that she would have fun during her last days; and he would get her money. I did struggle with whether I should refuse to draft the will, but after I had a heart to heart talk with her, and she was adamant that that was what she wanted, I drafted the will according to her directions.

Ms. Goldfrank: Did you talk with any colleagues about your struggle?

Ms. Hostetler: I think I did but I am not sure they were ethics experts. It was interesting because the opinions were divided: "You can't let this fellow do this to her," said some, and "Hey, if she wants to have a good time with this fellow, and she is paying him for it, who are you to substitute your judgment, etc." said others.

Ms. Goldfrank: Did you ever question what you did or did you feel comfortable with it?

Ms. Hostetler: I am not entirely comfortable because when she did get ill a couple of years later and was in a nursing home, this so-called fiancée didn't even bother to visit her, much less help take care of her, which I later found out about. He was clearly interested only in getting his hands on her property. From a legal ethics standpoint I believe I did the right thing. I think that a lawyer does have to abide by the client's wishes. But from a personal point of view, I thought it was rather sad that in her last days she had to, in effect, buy friendship, which then turned out to be false friendship.

Ms. Goldfrank: How about your work with the American Bar Association (ABA)?

Ms. Hostetler: I got involved in ABA work in 1978. There were very few women members of the bar nationwide, fewer in the ABA, and even fewer in positions of leadership, either in the ABA or in state bars. This was becoming an issue in the late 60s and early 70s as the women's movement was getting underway. Our own Brooksley Born, here in Washington, D.C., a partner at Arnold and Porter, was pushing the leadership issue in the ABA. She had become very active. So had Marna Tucker, another member of the D.C. Bar who later would become President of the District of Columbia Bar. There is a famous story of Marna Tucker standing up in the House of Delegates (the legislative body of the ABA) to speak in support of a resolution that the ABA should not discriminate against women and that all ABA committees should be encouraged to include women. There was some opposition to this resolution on the ground, that it wasn't necessary, that there wasn't any discrimination within the ABA, and that women could already be in positions of leadership if they wanted to be. Marna looked out over the sea of faces – 500 or

1000 representatives of all the state bars – and 99 percent of them were white men. Marna, in a very lady-like voice, sweetly said, "Just look around you. You don't see too many like me do you (laugh)." The resolution was adopted and following that meeting and Marna's speech there was a big push to put at least one woman on every committee (laugh). I received a letter (in 1978 I believe) from the incoming ABA President, Leonard Janofsky, appointing me to the Association's Standing Committee on Legal Ethics, which was one of its principal and most prestigious committees. I think I was asked because I was working at the D.C. Bar in its public interest office setting up pro bono programs, and there were not many women involved in bar work at that time. I suspect that Marna or Brooksley, or both of them, nominated me. I wasn't even a member of the ABA at the time. So, I joined the ABA and the Ethics Committee. The Committee was all male, or nearly so. Betty Fletcher had been on the committee but was about to go off since her term had ended. She later became a judge on the U.S. Ninth Circuit Court of Appeals. Derrick Bell, a professor at Harvard Law School and an African American, also became a member of the Committee the next year. While, there were some issues that came up for discussion where a woman's point of view would be somewhat different from those of the men, for the most part the division on the committee would be more between a traditionalist, often conservative, way of looking at issues and a more modern outlook. Legal advertising was a big issue then, for example. I can remember arguing that I thought an ethics ban on lawyer advertising was probably unconstitutional, with the Committee majority insisting that it was not. But then, while I was on the

Ethics Committee, the famous Supreme Court decision in Bates, came down ruling such bans unconstitutional so that, of course, settled the issue. What I remember most about my committee tenure is that Derrick Bell proposed, and I seconded, an amendment to the Code of Judicial Conduct that would forbid judges to be members of private clubs that invidiously discriminate against minorities or women. This was becoming a big issue among women professionals particularly as it related to private clubs that were professional clubs, that is, clubs that weren't religious clubs or sports clubs but purported to be clubs for leaders or professionals in the community. Women professionals saw their inability to be members as holding them back from developing networks and business opportunities that would advance their careers. In addition, it was demeaning to say that the mayor of a city, for example, could not belong to the downtown professional club because she was a woman. I remember (laugh) when I first came to Washington, Harvard law School Dean (and later U.S. Solicitor General) ErwinGriswold, invited me to the Cosmos Club in Washington, and I had to enter through the back door because women were not supposed to step foot on the hallowed ground of the front lobby. We all ended up in the same place – the dining room (laugh), but we were forbidden to enter by the front door. It reminded me of my days growing up in the South where if you went to the drive-in movie, there would be a white entrance and a black entrance, and the white people in their car went in one way and the black people in their car went in another way, but we all ended up in the same place watching the movie in our cars. Digressing for a moment, I just two months ago became a member of the Cosmos Club

(laugh), joining Judge Pat Wald, Brooksley Born, Judge Judy Rogers and others who, like me, were not allowed to be members of the Club (or even enter the front door) when we first arrived in Washington. (laugh).

Ms. Goldfrank: What did Dean Griswold say when you had to enter through the back door?

Ms. Hostetler: That is a funny story. We had lunch, and when it ended, I said, "Dean, thank you and I'd love to have lunch with you again but not at the Cosmos Club because I really don't like coming in the back door." We had lunch many times after that for the next three decades, and we never went back to the Cosmos Club. Then, not long before he died, he called and said, "Zona, I would like to take you to the Metropolitan Club for lunch they admit women." He said this all in one breath. Now that was some thirty or so years later so he clearly remembered the Cosmos Club incident.

Well, I digressed. Back to the ABA and its legal ethics committee, it was in the late 1970's and the women's movement was in high gear as well as the civil rights movement. Most of the men on the committee, other than Derrick Bell, were discomfited with the proposal to amend the Code of Judicial Conduct banning judicial membership in private clubs that excluded women and minorities. They knew that clubs should not discriminate but they didn't want to make waves, which was a common attitude within the ABA culture at that point in time. It was a fairly conservative organization then and the social mores dictated that one did not go out of one's way to insult or antagonize other members. The other committee members agreed in principal with the concept of amending the Code of Judicial Conduct, but only Derrick and I pushed the issue.

Derrick was less politic in his rhetoric than I was, accusing the other members of being bigots, and the next year he was no longer on the Committee. Somehow I managed to stay on, probably because I argued with a smile and didn't inflame my arguments. I was then left alone to do the drafting and the lobbying for the amendment. The long and the short of it is that it took four years to get this amendment, first out of the committee, and then adopted by the ABA House of Delegates. The issue kept being deferred by the Committee. Once, I managed to shame the Committee into reporting it to the House of Delegates but it gave only lukewarm support to its own measure and the House tabled the measure after it was submitted. At one point, the Committee was visited by a delegation of state trial judges. We had been told that the federal judges and the appeal judges would support amending the Code of Judicial Conduct but that the trial judges would not. The delegation of state trial judges, which was dominated by a group from Texas, said, "Oh, please don't take our clubs away from us. This is where we get to hear what the common man is thinking about and to keep our fingers on the pulse of what is happening in our community." But, of course, the clubs they belonged to were all white and all male! Still, my fellow members of the Ethics Committee were very loath to take on these judges. So the issue dragged on for another year. Resolutions to amend the Codes of Ethics could only be passed at one of the two national meetings held each year. Finally, in the fourth year, I and other women in the ABA had lined up support within several sections of the ABA – the young lawyers division, the individual rights and litigation sections – as well as affiliated women's bar associations and also non-bar women's organizations.

One of the women's movement leaders who was a leader in the national effort to end discrimination against women by private clubs was Lynn Hecht Schafran of the National Organization of Women (NOW) of New York. She had initiated lawsuits against private clubs in New York City, but they were unresolved at that time. She also helped our ABA effort. But we needed to get the support of the governing council of the federal judges to have any hope of persuading the House of Delegates to adopt the amendment. However, the federal judges who were active in the ABA also didn't want to antagonize the state court judges. So we needed to persuade them. I remember well that a large group of women judges and lawyers gathered in someone's hotel room, sitting on the beds and the floor. Judge Gladys Kessler had called all her fellow judges and they all squeezed into this one small bedroom. There were perhaps thirty or forty of us who met in this bedroom to strategize how to get the clubs amendment through the ABA. The press had gotten wind of the proposal and publicized it so it appeared that this time the delegates would not be able to avoid a vote with the press watching them. The governing council of the judicial division consisted of all male judges and it was meeting the following day to discuss its agenda, including the question of whether it should support our amendment to the Code of Judicial Conduct barring judicial membership in private clubs that discriminate. It was decided that Gladys and her fellow women judges would go to the meeting of the Judicial Council the next day even though they were not on the Council. So, the next day, they did go, and upon arriving, sat down in the back of the room and one of them sweetly said, "Oh, we don't want to interrupt your meeting but we are so very interested in the

clubs amendment and we would like to hear your debate." So, with all the women judges in the ABA sitting in front of them, the Judicial Council voted to support the amendment! The House of Delegates was meeting I think the next day. I drafted a one-page leaflet, made a couple thousand copies and slipped them under every door at the hotel where the House of Delegates would be assembling. The honeymoon couple and tourists got one too because I didn't know which rooms the ABA delegates were staying in. On the day of the House of Delegates meeting, Ann Macrory and I stood outside the door handing out the leaflets. Martha Barnett, who many years later would become President of the ABA but was then on the Council of the Individual Rights Section, agreed to speak on behalf of the resolution, and we had several other bar leaders and judges lined up to speak as well. And so, after four years of unsuccessful efforts, the Clubs amendment was finally adopted by the ABA and the ABA's Code of Judicial Conduct was amended. This was a significant victory because once the ABA adopted the amendment, the U.S. Senate Judiciary Committee almost immediately began to use it in questioning nominees for judgeships. In fact, several potential nominees for federal judgeships had to resign from clubs of which they were members because the clubs had a "no woman" rule or they didn't have any minority members. In turn, these resignations from clubs began to influence the clubs to admit both women and minorities.

Ms. Goldfrank: Tell me about your work as Chair of the Individual Rights and Responsibilities Section of the ABA.

Ms. Hostetler: The section I was most interested in at the ABA and that I joined right away was the Individual Rights and Responsibilities Section (IRR). The work of that Section was the work I was most interested in. I wasn't a member of the Torts Section or Tax Section or any other bread and butter section which most of the ABA members belong to. The litigation section for example has over 100,000 members. By contrast, IRR has maybe 3,000 members. I always urge every ABA member to be a member of the Individual Rights Section because that section is the conscience of the ABA. The Individual Rights Section is the Section that has always, from its founding by Father Robert Drinan and others, spoken up for human rights and women's rights and against discrimination. But it was several years later that I was elected to the leadership council of IRR. When my Ethics Committee term expired, I was appointed Chair of the Professionalism Committee, and after that, Chair of the Immigration Committee. Eventually, I became more active in the leadership of the Individual Rights Section and was elected to serve on its governing Council. I served on the governing council of that section for about 10 years or more, and in 2001 I was elected Chair of the Section. As luck, or the lack of it, would have it, I became Chair in August 2001. In September the country was attacked by terrorists, and our work for the next year would be driven by the events that happened after those terrible attacks. We were immediately concerned that the Muslim population in this country would be the subject of hate crimes, would be discriminated against, and would be rounded up by the government without cause. The first thing we did was draft and publicize a resolution calling on governments and people not to make the

American Muslim population scapegoats for the attacks. We also saw almost immediately that the federal government under President George Bush was going to overreach in its efforts to defend against terrorist threats. The administration rushed through a so-called Patriot Act within weeks of the attack. Some of the provisions were reforms of security laws that were needed. For example, the existing laws required a warrant for each telephone line, but in the modern world homes often had several lines, as well as cell phones, and faxes, so that the law needed to be tweaked. But it was clear that the administration wanted to go beyond sensible tweaking and wanted to amend the laws so that it could round up people, particularly immigrants, and hold them for long periods without probable cause, without getting warrants. and without taking them before grand juries. The most dismaying thing at the time to us was that the opposing political party – the Democrats- were so shell shocked by what had happened on 9-11 and what public opinion would do to their own re-election chances, that they went along with the administration willy nilly and would not speak up against the administration's plans. And the same would prove to be true a few weeks later when the administration proposed to change the military tribunal rules. The Bush Administration suggested that they could detain terrorist suspects, not charge them, and hold them indefinitely, and without counsel. Again, the Democrats in Congress were not standing up to oppose this proposal in large numbers. Only a few Democrats spoke out against the Bush Administration plans. It was in this atmosphere that IRR took the lead within the Bar, speaking out against the Bush Administration's overreaching efforts to gut Constitutional guarantees of due

process and contravene the Geneva Conventions to which our government was a signatory. Our greatest allies were not the Democrats, but rather the conservative libertarians, such as representatives from the Cato Institute think tank. Much of the press also was either sympathetic to what the Bush Administration wanted to do or was indifferent. Interestingly, the Pentagon lawyers we talked with were in sync with us. The Pentagon lawyers were on our side of the argument that rules affecting terrorist suspects should be in accord with Constitutional due process and the Geneva Conventions that mandated that detentions and trials should be conducted in accordance with the same rules applied to our own soldiers in courts martial. The Pentagon lawyers, and the military brass generally, were concerned that if our government passed laws in violation of the Geneva Conventions, our soldiers would be in jeopardy when they were captured in wars overseas. However, they couldn't go public with these concerns because the Bush Administration's civilian leadership of the Pentagon, headed by Defense Secretary Donald Rumsfeld, was supportive of, and in some cases, the instigator of the Bush Administration policies. So I spent the Christmas holidays of 2001 to January 2002 drafting an emergency resolution for the February 2002 mid-year meeting condemning the administration's proposal and putting the ABA on record as supporting adherence to our traditional notions of Constitutional due process and to the provisions of the Geneva Conventions. After I drafted the resolution, others in the IRR such as Neal Sonnet, helped make it even stronger. The New York City Bar Association was especially helpful. That Bar Association had drafted the Code of Military Conduct decades earlier and had long been a home

for Judge Advocate Generals, so it could and did provide a lot of historical as well as legal arguments for our resolution. In addition, under the rules of the American Bar Association, state and city bar associations had priority in introducing emergency resolutions which meant that our resolution would be guaranteed a vote. We then lobbied the various sections of the bar but it wasn't a very hard sell this time, in large part because most lawyers, I think, had been trained to revere the rule of law and the right of suspects to have legal counsel, to know the charges against them, and to have an opportunity to refute the charges. Also, with greater numbers of younger lawyers, and especially women and minority lawyers, having joined the ABA in the 1980's and 1990's, the ABA had become more modern, and more liberal, than when I first joined it. The Bush Administration sent the Solicitor General, Ted Olson, whose wife had been killed in the plane that crashed into the Pentagon, to argue against our proposal in the House of Delegates debate. Olson argued that passing the IRR resolution would give comfort to the enemy. In spite of the force and public pressure of this argument, the ABA House of Delegates, only five months after 9-11, passed our IRR resolution by an overwhelming vote. So, while the country was very supportive of the Bush Administration's war proposals in general and didn't bother to ask about the details or legal niceties of them, the ABA stood tall. The ABA President at the time, Bob Hirshon of Maine, said in his farewell address a few months later that he thought that the proudest moment of his term was that the ABA stood up for the rule of law in passing our IRR resolution when the country was quite hysterical (albeit perhaps understandably so) because of the horrible 9-11 attacks.

Ms. Goldfrank: Did you have an agenda that you thought you would work on prior to 9/11?

Ms. Hostetler: Yes, but I am not sure I can recall now what it was. Whatever was on the agenda had to be subordinated to our efforts to halt the Bush Administration's anti-terrorist policies. We did manage to work on some other issues: I recall that we offered programs and resolutions supporting stem cell research and immigrant rights issues, for example, and a resolution urging our government to ratify the international Convention Ending Discrimination against Women (CEDAW.) We participated in several *amicus* briefs, most notably one for a case that went to the U.S. Supreme Court arguing for access to courthouses by persons with disabilities. There were a number of things on the agenda that we did manage to get to but what was happening to civil liberties in this country was the overriding concern. This concern got worse after my term as Chair, as the Bush Administration excesses continued: the War in Iraq, the torturing of suspects, etc. While no longer Chair I remained actively involved in these issues both within and outside of the ABA. I suggested to a group of lawyers called together by the nonprofit organization, Alliance for Justice, led by Nan Aron, that the ABA be asked to pass a resolution against torture and that Nan's organization ask leading lawyers and law professors to sign a letter against the indefinite detention of terrorist suspects at Guantanamo and publish it in national newspapers. These things were done but they didn't have much of an impact either on public opinion or on the policies of the Bush Administration which repeatedly demonstrated that it didn't care what lawyers or their bar associations though of them. Now, as we talk in 2007, it appears that finally the American public believes that we have

gone too far in dismantling civil liberties. But, I'm afraid the Bush Administration policies will have disastrous repercussions for our country for many, many years to come.

Ms. Goldfrank: When and how did you meet your husband, Jim?

Ms. Hostetler: Jim was in his third year of Harvard Law School when I was a first year student, but we did not meet there. We did not meet until we were both in Washington several years later in 1962. Jim was at that time working for the Department of Health, Education and Welfare (HEW) in the General Counsel's Office. In his spare time, he was a leader of a group of young professionals who went out to public housing projects in Northeast Washington to tutor and mentor grade school children and I had signed up for the program. Jim claims that he had met me at the beach the summer before. I vaguely remember being at a large party with a lot of people but I don't remember him specifically at that party. Part of our family lore is that when Jim called me to go out six months later and mentioned that he had met me the summer before, I thought he was someone else (laugh), and I accepted the date. But then I became very impressed with what he was doing with the children in the northeast part of the city. A few years later he helped to set up a tutoring program for the D.C. government.

Ms. Goldfrank: How long did you date?

Ms. Hostetler: Not long. I saw a good thing (laugh) and I didn't let too much time pass. We were married before the year was out, which was about ten months later.

Ms. Goldfrank: Where were you married?

Ms. Hostetler: We were married in Williamsburg, Virginia in the Wren Chapel where nondenominational services are held. I had gone to William and Mary and loved the Chapel. Also, I was relatively new to Washington and I didn't have any family here. You could say it was an early "destination" wedding.

Ms. Goldfrank: Was it a small wedding?

Ms. Hostetler: We thought it would be a small wedding. We thought our friends in Washington would not come all the way to Williamsburg- three hours away – for a wedding. So we invited all of our friends in the belief that most would not come. But it turned out that most of our invitees had never been to Williamsburg and they thought that that would be an interesting place to visit. As a result we ended up with a couple of hundred guests, more people than the chapel would hold. (laugh) We had a reception at the Williamsburg Inn with a string quartet dressed in colonial costume. It was a nice wedding.

Ms. Goldfrank: Did you wear a white wedding dress?

Ms. Hostetler: I did.

Ms. Goldfrank: Do you still have it?

Ms. Hostetler: I don't. At the time, I still didn't have very much money and I was still paying off debts from law school. So I borrowed the dress from a friend and then had to return it.

Ms. Goldfrank: When were your children born?

Ms. Hostetler: My first son was born a year later and my second son three years after that.

Ms. Goldfrank: You have talked about the importance of balancing your family with your career. How would you describe Jim's understanding and was he supportive of your career?

Ms. Hostetler: Part of the reason why I was attracted to Jim was that he was not threatened at all by the fact that I was a lawyer and was very supportive of my being a lawyer. This was at a time when that was not universally true of men. There were very few women in law school. (Only seven of us graduated from Harvard Law in 1960 in a class of some five hundred men.) There were professors in law school who didn't think women should be lawyers. There were classmates who didn't think that women should be taking up places in law school that they thought would otherwise go to men. Many law firms refused to hire women, and even if they did hire women, there were very few women who were made partners. There were extremely few women on law faculties. Jim was a very good lawyer himself, very self-confident, very comfortable with himself and with all other people. I have never seen Jim uncomfortable with anyone from any walk of life. He was very comfortable with me and my friends who were women lawyers. That made him extremely attractive to me. He was very attractive in a lot of ways. We share the same interests. We are both political junkies and interested in social justice issues. He is an avid reader. He is a much better reader than I am. I don't know how he does it but he reads probably a book every week, mostly nonfiction, and also reads three newspapers every day as well as several magazines and retains it all. Jim is an only child and right now he is providing a lot of caregiving for his soon to be 98-year old mother. He has been very supportive of every member of the

family. My brother died when he was 35 and left three small children aged one, five and seven, and Jim spent many years being the surrogate dad to those three children. (My sister also died at the age of thirty-seven after a two year bout with cancer and he was very supportive of her in her last years.) He was very attentive to my mother in her late years, and now he is incredibly supportive and attentive to his own mother in her declining years. He is quite a rock.

Ms. Goldfrank: When you married did you plan to have children?

Ms. Hostetler: I did. We both did. I really had a need to have children, to have a family unit, because I had not had what I thought was a very good family unit when I was growing up. So I really wanted a nuclear family with me, the mother, a father and children, that would do things together and would be supportive of each other. That was every bit as important to me as being a lawyer; probably more important than being a lawyer really.

Ms. Goldfrank: Did you take family vacations?

Ms. Hostetler: Yes. We had some very wonderful vacations visiting the National Parks. We first visited the local parks in West Virginia. Jim actually helped set up those parks. He worked for the Kennedy Administration at first for the Department of Health Education and Welfare and then as assistant to the head of the Area Development Administration (ADA), which later became the Economic Development Administration. President Kennedy had won West Virginia in the presidential election, and it was a key state in his victory. So, he wanted to follow through on his promise to West Virginia that he would do something nice for the state. What he did to fulfill that promise was to tell ADA to develop a system of state parks in

West Virginia. They were very successful, and we went to them a lot. We also went to the Rockies and the Canadian Rockies. We had a lot of very nice trips to parks and camping sites with our children. Eventually, we bought a cabin in Vermont on a little lake, where we have spent a part of each summer for the last thirty-five years or so.

Ms. Goldfrank: Is Jim in private practice now?

Ms. Hostetler: He has recently retired from his law firm but he still practices part time on behalf of some of his long standing clients. After we were married, and had a child, he left the government and joined a small firm, Gadsby and Hannah, a Boston firm. Later, he went to work for Oscar Chapman's firm, Chapman, Duff and Paul, another small firm. Oscar Chapman was Secretary of the Interior in the Roosevelt Administration and was the person who, at the behest of Eleanor Roosevelt, arranged for Marian Anderson, the African American opera star, to sing on the steps of the Lincoln Memorial when the Daughters of the American Revolution would not let her sing in their recital hall. After the demise of the Chapman Duff and Paul successor firm, he then joined a Chicago firm, Kirkland and Ellis, in the Washington office. He was in his early fifties at that point and he stayed there until he retired. He represented mostly small trade associations of scientists and laboratories. He also continued to do some economic development kind of work, and represented the New England Congressional Caucus. He also did the legal work in establishing the Women's Caucus on Capitol Hill and its spin-off, the Congressional Women's Research and Education Institute, which he represented for many years. His clients adore him, and several of the associations he has

represented have presented him with their annual awards that usually go to leaders in their professions, not to their lawyer. His clients have mostly been very interesting and were doing worthwhile work. For the most part, we have both been blessed in our practices.

Ms. Goldfrank: You two never worked together professionally?

Ms. Hostetler: No. I am not sure that would have worked. (laugh) That might have been a little too much togetherness.

Ms. Goldfrank: Would he ask your advice on issues?

Ms. Hostetler: Sure. We always talked with each other about whatever we were working on. When my boys were living at home we would include them in the discussions. I remember when I had a Supreme Court argument, I had a moot court before my family. My two young sons asked very intelligent questions (laugh).

Ms. Goldfrank: And your youngest son, Eric, is a lawyer?

Ms. Hostetler: Yes. He is a lawyer in the Justice Department, in the Environmental Section. After graduating from Stanford Law School, he clerked, worked for a law firm for a couple of years and then went to the Justice Department. He has always been very interested in environmental law.

Ms. Goldfrank: Were you happy when he went to law school?

Ms. Hostetler: Yes, but I did counsel him to consider other professions because the profession was changing when he went to law school. I wrote about these changes when I was Chair of the ABA's Professionalism Committee. I lamented the ever increasing tendency of law firms to over-emphasize the bottom line, the tyranny of the billable hour, the lack of mentoring and increased weeding out of associates

(and partners as well) if they were not bringing in an obscene amount of money. So I was not entirely sure that Eric should go to law school but he wanted to go, and, in fact, he is the best lawyer in the family.

Ms. Goldfrank: That is an objective mom (laugh).

Ms. Hostetler: Yes. An objective mom.

Ms. Goldfrank: Does he ever seek your advice about his work or his career?

Ms. Hostetler: I am very happy that we have a close relationship and do talk generally about his work and his career. We don't talk about his cases though, in large part because I'm not at all knowledgeable about his area of the law. He handles very complex cases in the environmental field involving complex scientific facts. When I read his briefs, I don't understand the words in them, let alone the overall meaning.

Ms. Goldfrank: When your boys were young what were the dinner conversations about?

Ms. Hostetler: Oh, a lot of the conversation was about politics, general issues of the day, and the social changes of the times. And, of course, we talked about what each of us was involved in at the time. We tried to have dinner as a family most nights and there were always family discussions about lots of things.

Ms. Goldfrank: Did you have help to care for the boys even though you were working part time?

Ms. Hostetler: When they were very young, I think I had someone help three days a week and when they were older that changed to one day a week. It is interesting how times changed during my lifetime. My sons grew up not being sexist. Everyone pitched in and did house work. Jim to this day does the laundry. Our older son, Randy, who died at the age of 32, was a pianist and composer, and while he was an undergraduate at Yale he was in line to be in the Whiffenpoofs. He had been the

leader of the first co-ed singing group at Yale and had composed several arrangements that are still being sung by it. But Randy decided that he didn't want to be in the Whiffenpoofs because it didn't have women and it had what seemed to him at that time to be a tradition of going around to gatherings of men alumni who were part of the old boy network that didn't want to admit women to Yale. So, he believed, as a matter of principle, he should not join the Whiffenpoofs, and I understand his decision was a topic of considerable discussion on campus.

Ms. Goldfrank: Did he talk with you about that?

Ms. Hostetler: He told me (laugh) what his decision was.

End of Fourth Session.

List of cases, statutes and other authorities cited in the oral history of Zona Hostetler:

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Lawyers' Statement on Bush Administration's Torture Memos.