

ORAL HISTORY OF JULIA PENNY CLARK
Third Session
October 23, 2018

Ms. Upadhyava: Okay it's October 23rd, 2018, and this is the next session of the oral history of Julia Penny Clark held at the offices of Bredhoff & Kaiser. I am the interviewer, Moxi Upadhyaya, and Miss Clark is here. So we're going to pick up right where we left off, which is that you had made the decision instead of going to Baylor to, which your mom made you tour, to go to UT Austin, and I think that at the beginning of your college career you had considered studying journalism but quickly pivoted away from that. Could you speak to a little bit what it was like kind of this first, you know, first year or two at UT Austin and how you ultimately landed on what you wanted to major in and focus your studies on?

Ms. Clark: I don't have a very clear memory of making the decision on the major. I took some courses in the journalism school, certainly my first semester, maybe the first two semesters and they just felt rather not academic, they felt more trade-craft. And I was more interested in the academic side so I, what I don't remember at all was making the decision that it would be English instead, but that's where I moved my focus. I started taking more courses in the English department. I also ended up with a double major in Spanish. I liked the language and they gave me an opportunity to study Spanish literature as well as just the mechanics of the language, and that was something I really enjoyed. So I did the double major, English-Spanish, I worked through my second, third, and...so I finished mid-year of my fourth year. So I was on a, I guess a somewhat accelerated schedule. I stayed and took courses every summer. And

that made the difference in my being able to graduate a little bit early.

Ms. Upadhyava: And so this would have been December of '68?

Ms. Clark: It was January of '69. In those days, the exams weren't until after Christmas. They made that...

Ms. Upadhyava: For better or for worse.

Ms. Clark: ...reform much later, yes. So, I, it was January '69 when I graduated, and just purely by happenstance, I ran across an advertisement, about that time, for a bilingual secretary at the local Legal Aid office. So it was Travis County, the county where Austin is located. And the advertisement said we need a secretary who speaks Spanish to be both a translator and a secretary. And I had been thinking I would go onto graduate school in English, after I finished my undergraduate, but I was sort of tired of always having something to study when I wasn't working or in class. And I thought it would be nice to just take a little time off and do a job that paid me a little more than I was making as a typist for the doctors. So I went and applied and interviewed for that job. The Director of the Legal Aid office who, I have a fairly clear recollection of his face, interviewed me personally and said "You know, you're terribly over-qualified for this job, and I know you won't stay very long, but I really think you'll be good for us while you're here so I'm willing to take a chance on you." And so he hired me and I was the secretary for three lawyers in their downtown office, which was right in the county courthouse. And I stayed there for long enough to decide I wanted to go to law school.

Ms. Upadhyava: Was this the first real interaction you'd had with the law, or total practice of law?

Ms. Clark: Yes. I had never, no one in my family had any background in the law, I had never encountered anyone else except, you know maybe now and then I would meet somebody who was a law student, but that was really my total exposure to the law. So I started, you know, day one I'm typing away and they had a huge docket of divorce cases and child custody cases and other domestic matters. They had forms, pleadings forms that they would use like a form complaint and a form judgement and the like. And I re-wrote them all because they just didn't seem like English and everybody was fine with that. So they started using my forms, you know it had the substance in it, it was just re-worded so that it read like English instead of legalese. And I did translations in the office, I had one occasion when I was able to translate in the courtroom for a client who spoke only Spanish. Typically, the courtroom translation was done by a full-time investigator they had in the office who was a native Spanish speaker, and also he spoke extremely good English, so he was the go-to person, but for some reason or other he was unavailable that one day. So I got to be the courtroom translator. Which went very smoothly until the lawyer for the husband who was resisting divorce asked the client, our client, "And isn't it true that you were extremely nervous after the hysterectomy you had following the birth of the twins?" And I go, oops, what's the...

Ms. Upadhyava: What's the word?

Ms. Clark: And I did the best I could and she understood me and she responded and everything was fine. But that was a memorable moment.

Ms. Upadhyava: Medical terms weren't covered in your Spanish major

Ms. Clark: No.

Ms. Upadhyava: So you worked for three lawyers and you said was it mostly civil cases, all civil cases?

Ms. Clark: All civil. They did no criminal work. They had a few non-domestic relations cases but not very many, it was just mostly divorces and child custody matters and child support.

Ms. Upadhyava: How long were you at the Legal Aid office?

Ms. Clark: I started law school in September of 1970, so I was there about a year and a half.

Ms. Upadhyava: Okay. And one question I had about your studies at UT, why did you decide, was there a particular reason that you were accelerating your studies such that you finished about five months, six months, well I guess about five months early? Or did you just want to be done with school and start working?

Ms. Clark: No, I think it was just that I was there during the summers. I had the job and I didn't want to give it up, the job typing for the doctors. So I was going to be in Austin for the summers anyway and they had some good courses that they offered in the summer. Some of the good professors would be there and the classes tended to be a little bit smaller, and so I just enrolled in those classes and got some more credits. It never sort of occurred to me, this will necessarily mean you'll graduate early or whether that was a good thing or a bad thing, it was just natural to work through the summers and take classes as well.

Ms. Upadhyava: When you, is it safe to say that during your time at Legal Aid that's when you decided that you wanted to go to law school?

Ms. Clark: Oh, absolutely. Yeah.

Ms. Upadhyava: So what was it about the experience, if the two are correlated, what was it about the experience that made you head in that direction instead of go to graduate school?

Ms. Clark: I think it was that what the lawyers were doing seemed much more practically useful than what I imagined I would be doing as an English graduate student and ultimately an English professor, supposedly that would be the career path that I would suppose I would have been following. And I've always had a bent toward the practical. I like things that are useful. My major hesitation once I started thinking about "I could do this and it's more fun than what I'm doing now" was that the women lawyers in Travis County at that time, there weren't many, there might have been three, were all doing divorce work. And while I thought the law looked interesting, I could see enough of the divorce practice that I knew I didn't want to do that. It was highly repetitive. The whole idea of form pleadings, for example. And so I gave a lot of thought to that, you know I could go to law school, three years, I come out at the end and there's nothing there for me except being a divorce lawyer. And I ultimately decided I was willing to take that chance and figure that maybe when I came out at the other end I could forge my own path and do what interested me rather than just divorce law.

Ms. Upadhyava: Did you speak to anyone at Legal Aid or elsewhere about the decision or was there any particular person who was particularly influential on you at that time to, when you made the decision?

Ms. Clark: I might have talked to one or two of the lawyers. They were young men, they were a year, two years, out of law school. And it's possible that I talked

to them about it, but I don't specifically remember.

Ms. Upadhyava: So when did you start to take your, did you take the LSATs and start preparing for that at some point?

Ms. Clark: I don't remember when I took them, it was probably the summer before I started law school, maybe the spring.

Ms. Upadhyava: And so how did you decide where to go to law school?

Ms. Clark: It was just kind of natural. I was living in Austin and I was there, it was in-state tuition, it was a good law school. I knew it had a good reputation. And I was fairly confident that I'd be accepted so I didn't apply anywhere else, I just applied to the UT law school. And the, it's kind of interesting, my assumption was I'll do what I did in undergraduate school and I'll work part-time while I'm in school. And I went into the financial aid office after I got my letter of acceptance saying it, and applied, saying you know, "I'd like to apply for any financial aid that's available to me" and they gave me the surprising news that they really don't like their students, their law students, to work especially not in the first year. And I'm thinking, "You know, I don't have a lot of savings," I had some, but secretary for the Legal Aid Society wasn't being paid a whole lot of money in those days.

Ms. Upadhyava: Or these days I guess.

Ms. Clark: And not, probably not even these days. And so I said, "well, I'll apply for any legal aid, I mean any financial aid you can give me" and they said "well we have some one-year aid, we don't have any, some one-year scholarships, we don't have any full three-year scholarships but we'll consider you for whatever you're eligible for." And then a few weeks later I got a letter saying I'd been

awarded a three-year scholarship.

Ms. Upadhyava: What? Amazing!

Ms. Clark: So I went back to the legal aid office on the day I was starting school to sign up for this scholarship and get the first year's check, and I met the woman who was in charge of the financial aid office and she said "We had a donor, a widow of a lawyer who lived in Beeville Texas" B-E-E-V-I-L-L-E just like it sounds, "and she came to us and said she wanted to provide a three-year scholarship for a student, and for a deserving student who was very good and would need it", and so we chose you. But when we told her, she said "Oh no you can't give it to a woman because she'll never practice law! My money would be wasted. She's just coming to law school to meet a husband!" And the scholarship office, to their credit, stood their ground and said, "This is the student we've chosen, and we're going to give her the scholarship." Whereupon the widow said, "Okay, then I'm gonna give you another identical scholarship, but you have to promise me it's gonna go to a man." So they did, they agreed, they awarded it to a man. And I've been married to him almost 38 years, yeah.

Ms. Upadhyava: Oh my gosh!

Ms. Clark: Yes!

Ms. Upadhyava: Okay, well that opens, okay that opens a huge line of questioning.

Ms. Clark: No it was, it was, I mean it was...

Ms. Upadhyava: Oh my gosh!

Ms. Clark: ...such a coincidence, we met in law school of course, and so that was sort of the initial link that brought us together, and...

Ms. Upadhyava: So did you, what was the name of the scholarship?

Ms. Clark: It didn't have a name.

Ms. Upadhyava: Okay. What was the name of the lawyer and the widow?

Ms. Clark: I can't remember, I wish I could. And I can't even remember the name of the wonderful woman in the scholarship office. She died that year, mid-year, suddenly. She had wanted to take us down to Beeville to meet the donor in person, and it never happened.

Ms. Upadhyava: So did you meet your husband as the, you know you were introduced as the two recipients of this scholarship, or was it more of a, you met in class, or?

Ms. Clark: Well, we each knew that the other existed. She told me his name, and I promptly forgot it. So I went around just sort of wondering "Who is this man who has this other scholarship?" He has a better memory for names than I do, and he said, in modern terms you would say he stalked me for most of the first semester. He was just sort of trying to figure out, which classes was I in and what was I doing and so forth. And at some point in the spring semester, I was in the law school canteen, I forget what they called it, but it was just a little lunch spot. And I was sitting there between classes, maybe having a cup of coffee, and this man sat down next to me and said, "I have to, I have you to thank for the fact that I have a scholarship. I think I owe you a dinner at least." And we started talking and got to know each other, and before long we were dating, and...

Ms. Upadhyava: That's wonderful. And his name is?

Ms. Clark: William Bryson. Bill, for short.

Ms. Upadhyava: That's, what a great story.

Ms. Clark: But, you know, we would have met even apart from the scholarship. Even though it's a big law school with fifteen hundred students, we were both on law review and so that's a much smaller group of people. We would certainly have met in law review if nowhere else, but it's still, it's that she was so worried that I was going to law school just to meet a husband and, which wasn't the case, but in fact it was her scholarship that brought us together!

Ms. Upadhyava: I wonder did she ever know that story?

Ms. Clark: No.

Ms. Upadhyava: What a great...

Ms. Clark: No.

Ms. Upadhyava: What a great outcome.

Ms. Clark: Because we never had a chance to go down and visit her and tell her.

Ms. Upadhyava: Well, you know in a way your, in a way the circumstances did, you know, pave, allow someone else to go to school. So, that's wonderful.

Ms. Clark: It was good. It was, but that was, that year was really kind of the, excuse me I swallowed badly, the beginning of the women just kind of rushing, flooding into law school. When I started in the fall of 1970, the class that had just graduated, so May 1970 graduates, several hundred strong, because each entering class had five hundred students in it, had one woman graduate. She became a good friend of mine. My class was about 10 percent women.

Ms. Upadhyava: Oh wow.

Ms. Clark: And the following year there were so many women in the law school they had to convert one of the men's bathrooms into a women's bathroom. So it really

just began at that point and was moving at a very rapid pace, expanding in number.

Ms. Upadhyava: I had no idea that the growth was that intense and that quick. Do you know what it could be attributable to? At that time?

Ms. Clark: Well, the Vietnam War was underway, a lot of young men were overseas. Although not so many when you think about it as a percentage of the total population, it was not at all like World War II, where all the men were away, and the women had to work in the factories. But, I think it was the combination of just the, we'd gotten through the '60s, there was all of the talk about women's liberation and women being able to control their own destinies and have careers, and I think it just began to settle in at that point. It seemed like it was possible for us to do something other than be a teacher or a nurse or a homemaker, or a secretary, and those jobs seemed very interesting.

Ms. Upadhyava: Your class must have been about 150 women then? If I'm doing the math correct?

Ms. Clark: Well, 10 percent, probably about 50.

Ms. Upadhyava: Oh 50. Okay.

Ms. Clark: Somewhere in that range. I mean I definitely knew all the women in the class. There were not so many that I wouldn't recognize them all and have a name to put to their faces.

Ms. Upadhyava: And did you ever rub it in Bill's face that you got the scholarship before he did?

Ms. Clark: No, no, no, I was just...everything I was grateful for it all the way it worked out.

Ms. Upadhyava: You started dating you said around spring semester of your first year?

Ms. Clark: Summer.

Ms. Upadhyava: Summertime, okay. And what were the, what was the first year or two like, anything that you recall being notable?

Ms. Clark: Well, here's the funny thing I guess. I did, I loved law school from the very first day. I liked the subject matter, I liked the way we were learning. I just really got into it, and, but my first semester grades were the worst grades I'd ever gotten anywhere. I've never gotten more than one B in a semester in my life and that was on some really, really challenging class. I couldn't understand why I'd done poorly. So I went to visit one, maybe two, professors to say I really want to really understand why my exams weren't better. And what I learned, which nobody had clued me into, was that the exam writing process was totally different. So in English literature, if somebody put a question to you, you choose what you think is the very best answer and write a high-quality essay around it. So that's what I did in law school. Here's a hypothetical question. I would choose what I thought was the very best answer and write an essay around it. Instead of issue-spotting, where you're rewarded for saying, "Oh well there's six or seven different ways that you could look at this and explain each of them." So whoever it was that I talked to and I don't have a very clear memory of the conversation explained to me that this was the way law school exams were graded and I, okay I can do that, so I proceeded from then on. I was at the top of my class, and it was a very different way of going about writing, but I was successful at it once I knew what to expect.

Ms. Upadhyava: When did you, what would you have done in the summers between your first and second year and your second and third year in law school, if you recall?

Ms. Clark: Let's see. The first year, one of the lawyers I had known at Legal Aid had gone into private practice and I worked for him and his partner as a combination law clerk/secretary. So I did legal research for them, and I typed for them, and that was a full-time job that summer, right there in Austin. The second year I did what almost everybody on law review did, which was to go to work for a big Houston law firm. And that was, the one I worked for was Vinson & Elkins. It had more names in it at the time but it's the same firm. And I worked there for probably half the summer maybe a little longer and did Law Review the rest of the summer.

Ms. Upadhyava: When did you, what was the Law Review process for how are people chosen for Law Review? Based solely on grades?

Ms. Clark: That year I think it might have been solely on grades. The following year and maybe both of the next two years, there was also a writing competition that allowed people to compete for slots by doing research and writing.

Ms. Upadhyava: And you mentioned that Bill was on Law Review as well?

Ms. Clark: Yes. Yeah he was editor-in-chief and I was an editor of the student-submitted pieces our senior year.

Ms. Upadhyava: How many people were in Law Review relative to the class itself, do you recall?

Ms. Clark: Probably a little under 10 percent. So probably, I'm thinking there might have been 25 or 30 people who were actively working on the, maybe that's, yeah, I don't think it was, it might have been. So maybe the editorial board had about

10 and then there had to be another 20 or 25 people who were on law review but weren't on the editorial board.

Ms. Upadhyava: I see. So...

Ms. Clark: But that would then represent two classes that would be both the second and the third year of classes.

Ms. Upadhyava: Did you enjoy Law Review?

Ms. Clark: I did. Yeah, I always liked writing. And so you know, the first year on law review, so my second year in law school, I wrote and blue-booked things, like all first year Law Review people do. And in my, and then the third year of law school I was on the editorial board and also wrote a longer piece which was on a labor law subject, which grew out of a seminar that several of us took on labor topics. And we ended up publishing three student-written long pieces in one issue of the Law Review out of that seminar.

Ms. Upadhyava: And was your piece one of them?

Ms. Clark: Mine was one of the three, yeah. Bill's was another one and then there was another one, by two friends of ours who collaborated on a piece.

Ms. Upadhyava: What was Vinson & Elkins like?

Ms. Clark: I enjoyed it. They made a big point of introducing me to their woman lawyers, but they didn't have many.

Ms. Upadhyava: Yeah I was going to ask how many were there.

Ms. Clark: I think there were two at the time and the firm may have had about 150 lawyers.

Ms. Upadhyava: Okay.

Ms. Clark: And that's how I met the woman who had graduated just before me. She was at

Vinson & Elkins at the time. But I had a really, I guess for most of the time I was there, I was working on research for a particular piece of litigation and so I was working with the same small team of lawyers and doing research on connected topics for practically, if not entirely the whole time I was there, it may have been the whole time. But I was working with a very talented lawyer named Harry Reasoner who was a middle-range partner in those days, but was one of their superstars and it was fun to work with him.

Ms. Upadhyava: Did you get a chance to sit in on any depositions or hearings?

Ms. Clark: I don't believe so. I think I was just entirely in the office.

Ms. Upadhyava: And you liked the process of researching and being in that environment?

Ms. Clark: It was, yes. It was challenging and fun and interesting to do it on somebody's real case instead of more hypothetical, theoretical things.

Ms. Upadhyava: What did Bill do for that summer?

Ms. Clark: He worked in O'Melveny's office in Los Angeles.

Ms. Upadhyava: So you were apart for part of the summer?

Ms. Clark: Yes.

Ms. Upadhyava: Okay. And at this point in your law school career, did you have a sense of what you wanted to do after you graduated?

Ms. Clark: We were both focused on clerkships as most Law Review students were in those days. So we were thinking about going for a federal appellate clerkship the following year. Not thinking much about what would follow that, it's just, that's the next step.

Ms. Upadhyava: Was that considered to be the step that one would take if they were at the top of their class on Law Review, clerkships...

Ms. Clark: Sure.

Ms. Upadhyava: ...even if they weren't necessarily interested in litigation?

Ms. Clark: Yes. There were relatively few people who were at the top of the class who didn't apply for federal clerkships. I think of one woman, but she already had small children, so it may be that it was her choice to go directly into practice at that point.

Ms. Upadhyava: So was the process of, what was the process of applying for clerkships like when did you do it and how?

Ms. Clark: It was in the summer. I came back from Houston and had a resume printed and I was getting ready to put them into envelopes and send them out when I got a call that came down to the Law Review office from Professor Bernie Ward who was one of the two federal civil procedure gurus at our school. We had Charlie, Charles Alan Wright and Bernard Ward. And I had taken my federal courts class from Professor Ward. So I'm thinking, well that's okay I'll go up and talk to him. Maybe he wants to have something published in the Law Review. So I walked into his office and he said, "I have a clerkship for you if you want it." And he said, "I have a very good friend who's a judge on the Fourth Circuit, Braxton Craven, and I talked to him about you while I was at the Fourth Circuit legal judicial conference last week and your clerkship is his if you want it." Mainly I had the same reaction you had, mind you, my jaw had dropped. And I said, "Well let me give this some thought." So I, at that moment, a woman who had graduated the year before was clerking for him. And so somehow or other I got her phone number and I talked to her and I said, "Is this the clerkship I should want?" And she said, "Oh yes, of course."

Which she probably would have said no matter what but that's fine. And so without ever sending out a single application, I got this clerkship and after I got to North Carolina, where Judge Craven had his chambers in Asheville, which is a beautiful place to spend a year. He said Bernie, as he called him, he was very close friends with both Professor Ward and Professor Wright, and he said, "Bernie has highly recommended you, he said you write like an angel." And somehow or other I had occasion to repeat that to Professor Ward who said, "I never said that. I said you write as does an angel." Now I don't know how he thought an angel would write, but that's fine. Apparently I had written an exam in his federal courts class that he was quite impressed with and so that's how I got the clerkship. So it wasn't much of a process for me as it turned out.

Ms. Upadhyava: That's really remarkable. You must have left an impression on Professor Ward. Did you know that he was, did he know that you were interested in clerking?

Ms. Clark: He probably assumed it because that or perhaps I had gone up to him and asked him if he would be willing to be a reference for me, I can't remember now for sure.

Ms. Upadhyava: At what point did you meet Judge Craxton?

Ms. Clark: Craven.

Ms. Upadhyava: Craven, sorry.

Ms. Clark: Braxton Craven.

Ms. Upadhyava: Craven.

Ms. Clark: I met him when I showed up for my first day on the job. Actually he wasn't even in the office on the first day. It was about a week because he was, he

always spent about a week at Wrightsville Beach in Wilmington, North Carolina in the summertime and he was at the beach when I showed up, so it was about a week before I ever met him.

Ms. Upadhyava: And did he have, so he's on the Fourth Circuit, would he have had four clerks at that time or two?

Ms. Clark: Only two.

Ms. Upadhyava: Okay. And did you and your co-clerk begin on the same day or did he stagger his clerkships?

Ms. Clark: You know I think we started on the same day. It's possible. The other clerk was named Jim Dean Cooley. He might have started before I did, but he was there when I started.

Ms. Upadhyava: Well, I definitely don't want to skip over years three and your graduation, but I guess kind of going back to wrapping up law school, what was Bill doing at the time and were you sufficiently serious that you both were considering what the future would look like for you?

Ms. Clark: Well we had had some just sort of idle conversation about wouldn't it be nice if we could find clerkships in the same city. But once I got this offer in North Carolina, that just wasn't going to be possible. Although I think Professor Ward said, "I also know Clement Haynsworth and if Bill would be interested in his clerkship, then I'd be happy to recommend him to Judge Haynsworth." But Bill had his application in at the time for Judge Friendly and had gotten an interview and he was ultimately hired by Judge Friendly. So that was clearly the right place for him to go, was to spend the year with Judge Friendly. So and we wouldn't have been in the same city anyway. Judge Haynsworth was over

the mountains in Greenville, South Carolina. But we would have been closer, two hour drive instead of a flight.

Ms. Upadhyava: Yeah, right.

Ms. Clark: But definitely he made the right choice. Judge Haynsworth was a lovely man but the experience clerking for Judge Friendly was, I think, a much higher level of both challenge and a learning experience.

Ms. Upadhyava: So you're, so when, if there's anything you want, particularly remember about your third year, but because I'm curious to know at that time was anything taking shape as to what you wanted to do after your clerkship or still just kind of gearing ahead towards the clerkship?

Ms. Clark: I was focused toward the clerkship and somehow had gotten into my head that I should apply for a Supreme Court clerkship but I didn't really, I don't think I had any real sense of what that process was like or how many law students all around the country were applying. But I had, that seminar on labor law had certainly made me more interested in labor law than many of the other things. I was definitely focused on federal subjects. The UT law school offers a wide-range of classes in Texas-based subjects, oil and gas law for example, and Texas civil procedure and I took none of those. I really focused on the federal subject matter. And so it was just, it was a good year. It was very intense, both being on the Law Review and keeping up my studies for my classes and writing the major paper that ended up being published. But I will tell you one other incident which has to do with the attitude toward women at the time. The three big Houston firms did heavy recruiting of the Law Review people. It was hardly a weekend that would go by that you couldn't get at least one

free dinner off them. Anytime any of their people were in town they'd invite the law review, particularly the editorial board out. Sometimes small dinners, sometimes huge dinners. There was one really big dinner which I remember in a hotel ballroom. And they had us sitting at tables with maybe eight people per table with one of the partners at each table and this partner was presiding over his recruiting dinner and he started going around the table and asking each of the men what kind of law they thought they would practice. And you know, each of them was answering and he got to me and he said, "So, do you intend to practice law or are you just..." and he caught himself before he finished the sentence and one of my classmates came to the rescue and said, "Oh she's putting all of us to shame. She's at the top of the class." And he kind of corrected himself and proceeded to "so what kind of law do you think you're going to practice?" It was a very telling moment and one other thing from one of those dinners, which was another mass dinner, maybe it was the same one, in the ladies room, there was a young woman who was at that firm. And she was just gushing about what a great place it was to work that she was allowed to work on anything that the men worked on except she couldn't work late at night because the partners' wives got jealous. And I thought you mean to tell me if there's a project that requires late-night work, you're not allowed to work on it? And you're saying that you have all the same opportunities that the men do? It was enough to persuade me that Houston wasn't a place that I wanted to practice law. It was just very definitely not along the lines that I had envisioned for my career.

Ms. Upadhyava: And the fact that that didn't occur to her...

Ms. Clark: ...that it was maybe a negative.

Ms. Upadhyava: ...that was something remarkable, right?

Ms. Clark: Yes.

Ms. Upadhyava: Right. Right. Ms. Clark: It was surprising.

Ms. Upadhyava: So do you, how was graduation? Did Bill meet your family?

Ms. Clark: We both skipped graduation.

Ms. Upadhyava: Are you kidding me? Okay.

Ms. Clark: It was sort of like, no, but we had met each other's families before then so it wasn't like graduation was going to be the occasion for that. No, we skipped graduation, and looking back on it, I should've done it for my parents. I wish I had.

Ms. Upadhyava: Any particular reason you skipped?

Ms. Clark: I think we were both just in the mode of we're done with this and ready to move on and somehow the ceremony seemed gratuitous. It didn't mean much to us but I'm sure it would've meant a lot to my parents. I'm sorry I didn't.

Ms. Upadhyava: Yeah. What did you do the summer before you started your clerkship?

Ms. Clark: I worked with an organization called CLEO which provided a kind of head start for minority and low-income entering law students. It was in Houston and it was an intensive summer program that was designed to give them an introduction to what they needed to know for law school.

Ms. Upadhyava: I think it actually still exists.

Ms. Clark: I hope so.

Ms. Upadhyava: It sounds very, very familiar. I think it does actually, or it did when I entered

law school because I recall, is it, was it something like a week-long or few weeks long program?

Ms. Clark: It was longer than that. I think about a month. It could have been longer but because I know I was in Houston for several weeks at least and it was housed at the University of Houston Law School. And I and one other, yeah one other law student, a woman who was in the class behind ours was also working there that summer and we taught legal research, legal writing, that sort of thing, sort of like there were actual faculty members who were involved but the really young ones basically and they had at least the two of us students recent graduates who were like teaching assistants, and so we worked with the group.

Ms. Upadhyava: Now when you got out of law school, did you see what, was there a big change in terms of how many women were going to law school? Kind of, I guess what were your observations about what female attorneys were doing at that time as opposed to when you went in which was you said there was a really small number of women who were practicing divorce law in Austin?

Ms. Clark: Well certainly, there were a lot. I mean my class, the bulge hadn't yet gotten through the snake. When I was in Houston, I did see there several women who were practicing at a very high level and I guess I took some encouragement from that thinking okay it is going to be possible. I'm not going to be necessarily relegated to just divorce work. But I hadn't yet encountered a lot of other women lawyers. You did sort of in that contained environment of the law school. I don't, other than the classmate that was with me in Houston, I don't remember any other women in the CLEO program that summer.

Ms. Upadhyava: I see. So when you left for, or I guess when you started your clerkship in

Asheville, what was, that was really the first time in several years you'd lived outside of Texas, right?

Ms. Clark: Yes.

Ms. Upadhyava: And was your family still in Waco at the time?

Ms. Clark: They were.

Ms. Upadhyava: Okay. And if you could describe for me what the clerkship process was like for you, what the judge was like, and how, if at all, North Carolina was different from Texas in a sense of how many women were practicing law?

Ms. Clark: I don't think I was exposed to any other women practicing law other than the judge's wife. And she was working in, I think, the US Attorney's office there.

Ms. Upadhyava: No other law clerks that were?

Ms. Clark: No, we were the only appellate chambers in Asheville. There was a district court judge but he didn't have any women clerks. And I don't remember any other women clerks in the Fourth Circuit group. We all gathered in Richmond for a week out of every month for arguments and socialized with the other clerks there and I don't believe there were any other women in the group. I think I was the only one. But in North Carolina was, it's a, I mean, Asheville is a city that has a lot of retirees even at the time it had a lot of retirees. It was not nearly the cultural oasis that it is now. It's quite a fine city now.

Ms. Upadhyava: I've heard really nice things about it.

Ms. Clark: But at the time, the downtown area was really kind of empty, a lot of vacant storefronts and the like, now full of craft shops and coffee shops and it's really quite a good place and the judge was wonderful to work for. He was a

man with a big heart, big personality, very smart, good lawyer. He wanted his opinions to be researched and written well, and he had a, I mean if you think of Senator Sam Ervin I don't know if you had enough, I mean he came across a lot like Senator Sam.

Ms. Upadhyava: From Texas, right?

Ms. Clark: No he was North Carolina, too.

Ms. Upadhyava: Okay.

Ms. Clark: He was also from the mountains and in fact was sort of a mentor for Judge Craven. So he was I mean, and that was before North Carolina turned quite so politically conservative. It was more, Judge Craven was a very politically liberal judge as were most...certainly about half of the judges on the Fourth Circuit were then. The Circuit veered very conservative for a while and then back to more liberal and now I think it's sort of middle. But Judge Craven was one of the more liberal judges on the circuit.

Ms. Upadhyava: What had he done in his career as an attorney?

Ms. Clark: He was a prosecutor, he was a state court judge, and he was a federal district court judge.

Ms. Upadhyava: So, could you tell how, if at all, his, I guess mindset, about women attorneys had been shaped by the fact that his wife was a prosecutor I guess?

Ms. Clark: He was, I mean, I just, I never thought of him as treating me any differently from the male law clerk. We were all kind of a happy family in chambers, we worked together, apart, we socialized together occasionally, not all the time, but yeah I didn't feel like there was any, that he treated me any differently from his male law clerk. He, I went, I came to Washington to interview for

Supreme Court clerks, clerkships, almost immediately after he'd met me. So maybe a week he'd known me, and Justice Powell called him for a reference, and I guess I got this story from Judge Craven, he said Justice Powell asked him was I the kind of woman who would get along with the women secretaries in the office, and Judge Craven said, "Oh absolutely, she's already fast friends with my secretary and my junior secretary." He had a senior and a junior secretary. And he said that Justice Powell asked him, "Is she the sort of woman who's going to break down and cry if things get tough?" And Judge Craven said, with absolutely no factual basis for this, "No, she's not afraid of anything, she's absolutely tough." Bless his heart, because Justice Powell hadn't had any women law clerks before that.

Ms. Upadhyava: Really? Okay.

Ms. Clark: And I was his first, so, he had a daughter who was a lawyer. So he knew that women could be lawyers and I won't say whether he had practiced with any at Hunton & Williams, he might have, but at least, and he was definitely inclined toward hiring his first woman clerk. But obviously he wanted to make sure that I wasn't going to be, either the kind of person who was going to treat his long-time secretary like trash or something like that.

Ms. Upadhyava: That's understandable.

Ms. Clark: Or that I wasn't going to be somebody who would not bear up under the necessary pressure of getting things done. So it was, I'd thought Judge Craven deserved real blessings for having gone out on a limb for me that way.

Ms. Upadhyava: How did your application get to Justice Powell? Were you generally applying to all Supreme Court clerkships that were open at the time?

Ms. Clark: I think I applied...I did not apply to the Chief Justice, I did not apply to Justice Rehnquist....and I may not have applied to Justice Douglas. But I think I applied to everyone else. And the, I mean, Justice Rehnquist was sort of regarded as the far-right on the Court. I knew enough about, I guess I'd heard some rumors that the Chief Justice's clerks didn't get to mingle with other clerks, which turned out to be true.

Ms. Upadhyava: Who was the Chief at the time?

Ms. Clark: Burger.

Ms. Upadhyava: Okay, right.

Ms. Clark: And there were always rumors about how badly Justice Douglas treated his clerks so I think those were the ones I did not apply to. I interviewed with Justice Powell and Justice White, but no one else. And Justice Powell offered me a job almost immediately after the interview.

Ms. Upadhyava: What was the interview like?

Ms. Clark: He asked me what my SAT scores were. And fortunately I still remembered them, I don't now, and he asked me some questions about the kinds of things I had done in law school and what my interests were, and I don't think he, I mean Justice White kind of quizzed me on subject matters, I remember that, I don't remember specifically what they were, but I do remember coming away with the thought that I'd just had an oral exam. Not the case with Justice Powell. But he definitely wanted to sort of get a sense of what kind of person I was. He also had his clerks interview me, which he did with us as well the

following year, had us interview his candidates for the next year's clerkship. But he also knew Professors Ward and Wright. And toward the end of the year, his secretary showed me the file that had the correspondence from when I was hired. And in it he had written to Ward and Wright and said, "I've interviewed Penny and I've interviewed Bill, and I'm trying to decide which of them I should offer a job to."

Ms. Upadhyava: Your Bill?

Ms. Clark: My Bill, yes.

Ms. Upadhyava: Oh, wow.

Ms. Clark: And Professor Wright wrote back, "Hire them both." And Justice Powell said, "No, I don't really think I want to have two clerks from the same school. But I think it's time I had a woman law clerk." And so he picked me. Bill was hired by Justice Marshall. So he clerked for Justice Marshall the same year, so we were in the building together there working.

Ms. Upadhyava: Wow. What a remarkable process.

Ms. Clark: Yes. It really was. And I mean Justice Powell certainly didn't have a strong dependence on any small group of professors to send him clerks, nor did he have any kind of a pipeline from Court of Appeals judges at the time. He might have developed one in later years, but I was just fortunate. I was in the right place at the right time and had professors that both of these judges respected, and had managed to make a good enough impression on both of the professors that it served me well.

Ms. Upadhyava: I'd say. How was, when you were clerking on the Fourth Circuit was it, did you ever see, and I guess you're watching all the oral arguments for the cases to

which you were assigned. At this point, are you thinking that there's a particular avenue that you'd like to pursue?

Ms. Clark: I think all appellate clerks fall in love with appellate law and think how much fun it would be to be the one arguing there. And of course it's a skill that just comes quite naturally, both writing briefs and arguing. You can easily imagine yourself doing both of those things. There were not at the time any mock trial programs that I know of. There were moot courts, of course, but I don't think very many law students came out of law school with trial skills unless they had worked in a clinical program of some sort. And there wasn't even a lot of that. Most law schools were really just academic. And so making the transition from law school and even clerkship to trial work would be a good deal more challenging. District court clerkship, you would learn something about how good lawyers try a case, you hope.

Ms. Upadhyava: I hope. Well having done one myself, I'd say I definitely learned about what not to do. That list grew very long in the 18 months I was clerking on the district court. Were there many women arguing in the Fourth Circuit at the time?

Ms. Clark: I remember one in particular who was there several times for the Department of Labor, Wage and Hour Division. And she was very good, she really knew what she was doing. She knew both her subject matter and she knew how to make a good oral argument. And every time she came back I was very impressed with her performance. I don't remember any others, she's the only one that stands out.

Ms. Upadhyava: How did you get along with your co-clerk?

Ms. Clark: We were good friends. We got along very well.

Ms. Upadhyava: Did you feel, given that you were the only female clerk, was there anything really in that insular environment of the court system, and I guess I'm speaking about the whole Fourth Circuit group of clerks, anything remarkable or anything that you remember as being something of note, kind of being a female clerk in that environment, or the only female clerk in that environment?

Ms. Clark: No, I don't really. There's nothing out of the ordinary that happened. I was just doing my job like the others.

Ms. Upadhyava: When did you take the bar exam?

Ms. Clark: After my Supreme Court clerkship.

Ms. Upadhyava: Okay. I was wondering when you fit that in.

Ms. Clark: Yes, no, because, I worked the summer after I finished law school. And then I didn't take the bar exam then, and I worked on the Fourth Circuit right up until I started here. So there was no time in between there and definitely not while I was clerking.

Ms. Upadhyava: What was the Supreme Court clerkship like? Did you and Bill start at the same time?

Ms. Clark: No, he had the good fortune of getting to the Court before the Nixon tapes case was decided. Maybe even before it was argued, and I came in after it was over. So, I missed out on the Nixon tapes case. But we had plenty of interesting law that year. It was very intense. There were four law clerks, Justice Powell was one of a few Justices who took the option to expand to four that year. So he had originally hired three clerks, they got the budget for a fourth and he added the fourth clerk after the other three of us had started. And so we were kind of

crammed into chambers, there wasn't a lot of space, but it's a beautiful building, it's a wonderful place to work. The library, not only is it just physically a beautiful facility, you could go up there and there's like a balcony, that has all the state law, that's a little bit above the main floor of the library. And there was at least one occasion that year that I was, I found it necessary to look at the state law on something in every state. And I just made the rounds of the balcony. There was another time when I was doing research and drafting an opinion on a Fourth Amendment issue that went back to the history of search and seizure law in England. And I asked the librarian for a copy of "Coke," or Blackwell – one of those that gets cited in all the really old, old cases. And within a couple of hours, the library attendant trundled up to my office with this book cart with a leather-bound book that was about two and a half feet long and about 18 inches wide that had, as I was using it, in between the pages I found a piece of a Philadelphia newspaper from the early 1800's that somebody had used as a bookmark. It was like I was using, I was sitting there doing my historical research in the real thing. They had borrowed this book from the Library of Congress, which was just next door. They had an arrangement that if there was something that wasn't in the Supreme Court's library they would borrow it from the Library of Congress. I felt like I needed white gloves to handle that book. It was just amazing. And Justice Blackmun had breakfast with his clerks almost every morning in the court cafeteria and other clerks were welcome to sit down and join them, and that's where I had my breakfast most mornings is with Justice Blackmun and his clerks. The cafeteria was open for lunch as well, so I was getting two meals a day right

there in the Court cafeteria. I lived on First Street, just across the street from the Court. I had just very fortunately gotten a basement apartment in a row house. It was so close that the guards could watch me walk home at night. And it was always at night. But that was an apartment that was sort of handed down from one Supreme Court clerk to another as the new year turned over. And so I didn't have to waste any time commuting, it was a two minute walk.

Ms. Upadhyava: What were the hours like?

Ms. Clark: Oh, as long as you can stand. It really, there was a lot of work to do, and there were deadlines coming in because they've got to have oral argument and the Justice has to be ready for oral argument. He wants to know what's in this case. He read the briefs himself, of course, but in terms of, is the law that the parties have presented a thorough and accurate description of the state of the law? Do these arguments make sense in the context of the Supreme Court's other cases or, if it's a matter that the Supreme Court has never considered, what about the Court of Appeals cases, how do they break out on this? And a lot of think pieces. So early on, there were I think four cases before the Court that term that involved women's rights, so it was discrimination against women. Ruth Bader Ginsburg argued two of them.

Ms. Upadhyava: And Title 7 would have been five years old, six years old? No. I'm sorry. Six years.

Ms. Clark: About. It took effect I think in '76.

Ms. Upadhyava: Oh, okay.

Ms. Clark: So it was...

Ms. Upadhyava: Why do I have...

Ms. Clark: No! It was '66.

Ms. Upadhyava: '65.

Ms. Clark: '65-'66, I got it. I'm a whole decade off. Right so it was about eight years old at that time.

Ms. Upadhyava: Okay.

Ms. Clark: Because this was the '74-'75 term of the Court, but these were constitutional cases. So one of them was *Weinberger v. Weisenfeld*, which involved a widower whose wife had died in childbirth, and he was raising his son and was denied the Social Security benefit that a man would have gotten if his, no, that a woman would have gotten if her husband had died. And so that was one of the cases that was briefed and argued. There were...

Ms. Upadhyava: That was Justice Ginsburg's argument right?

Ms. Clark: Yes. argument before the Court?

Ms. Clark: No, she had been there before.

Ms. Upadhyava: Okay.

Ms. Clark: There were a couple that involved jury service, excluding women from juries. And the other one was *Schlesinger v. Ballard*, which was giving women in the military more time to qualify for promotion. And so Justice Powell was, his view of this was, yes women should have, they should be free from discrimination solely because they're women. He was inclined to think that there were certain things that men had a natural advantage over women on, like Major League Baseball, sensible things like that. But he was not at all willing to give up on the idea that women could have greater protection than men, and that was something that, the drive at that point was from, to some extent, men

trying to get the advantage of the kinds of protections that the law had provided for women. So for instance in that, before Title 7 and probably even after, you would often find state laws that would say “women employees have to have extra rest periods.” So, you know they’re treating us like delicate flowers, and so of course we have to be permitted to sit down and take a rest somewhere in the middle of our shift of work and those were called protective laws. And while Justice Powell wanted not to limit women’s opportunities, he also didn’t think that they should necessarily lose these special protections. And so he asked me, probably in the summer before any of the cases started to be argued, to give him a memo that would help him think of a way to work through these cases that were coming up in the term that he would be comfortable with, both not limiting women’s opportunities, but also not taking away their protections. And that ended up being something that was very important to him in the *Weinberger v. Weisenfeld* case. His vote wasn’t decisive as it turned out, there was a large majority in favor of this young widower who needed the money from Social Security to raise his son, but Justice Powell, he went from initially thinking, “well of course women should get support payments when their husbands die, because women are going to have a hard time making a living and men will of course always work,” to realizing that this scheme of Social Security was actually denying the woman equal benefits based on the work and the contributions she had made into the system. And to realize that as a woman who was working would have to buy life insurance to make up the difference, that a man would otherwise have for the very same Social Security contributions. And that ended up being his rationale for concurring with the

judgment of the Court. So, we were doing all of those things, we were reading the hundreds of cert petitions that come through, and trying to advise on which presents an issue that's really worth the Court taking its time on, preparing for oral arguments. And the Court's caseload was much greater than it is now.

Ms. Upadhyava: Oh really?

Ms. Clark: The Court used to grant a lot more cases. So I think it was, they would hear four arguments a day, three days in argument weeks. Now they hear two a day. So the caseload has effectively been cut in half from what it was then. We were working on helping him prepare for arguments, once the arguments started, then we were helping him judge to vote with you on your opinion. And also doing these kinds of long-term think pieces like, later in the term we're going to have a cluster of cases about this so help me think about those in advance and the workload was very, very heavy and it was quite intense.

Ms. Upadhyava: So the think piece that you did on the women's issues, did you approach that like a legal analysis type of piece or more policy directed?

Ms. Clark: Well, both really. To say, here's what this Court's cases so far have done on the subject, and I think there was one or maybe two prior cases that, now Justice Ginsburg had done that had established sort of the beginnings of the principles that the Court was applying in the field of women's rights. And so it was, you take these, and what is a sensible way to read those cases and apply it to the variety of other issues that may be coming along? So it was partly thinking in an imaginative way of what are the other issues that are out there, besides these four case that the Court had for that term. And how can you reach a result that you would be comfortable with based on this law, and all of

these possible ways of applying that law.

Ms. Upadhyava: Who were your other co-clerks?

Ms. Clark: One of them is Joel Klein, who later became the Chancellor of the New York City school system and worked in the Clinton White House screening judges and probably doing a number of other things. I think he was in the White House Counsel's Office for a large part of Clinton's presidency. David Boyd who has practiced here in the district...I'm trying to think what the name, you would recognize the name of the firm if I could remember the name of the senior partner of the firm but it'll come to me. [Boies, Schiller] And the other one was Ron Carr who was an incredibly brilliant lawyer from the University of Chicago law school who really, really had the mind for the law and economics model, and went on to practice antitrust law. But he died young, so there's only three of us left. It was a good group, really smart, capable lawyers.

Ms. Upadhyava: Were you all working 7 days a week?

Ms. Clark: Seven days a week, probably...the other three were all married, the men were married. I had the advantage that my romantic interest was right there in the building with me working the same hours I was, so there was not much of a, other than now and then the two of us would just decide we really need to get away from here for an afternoon or something, go for a drive. One of my husband's interests is astronomy and I remember once we wanted to go out and look at the stars. I guess we had reason to think it was going to be a clear sky, and Justice Powell lent us a pair of binoculars. He said, "Stop by my apartment, I'll lend you the binoculars." And it was a leather binocular case

that, these were his binoculars when he served in the Army in North Africa in World War II, so it was “Lieutenant Colonel Lewis F. Powell” engraved on this case.

Ms. Upadhyava: Being trusted with these!

Ms. Clark: Yes! Well, we did return them in good condition, we didn’t break them. So we occasionally got away for an afternoon drive in the country or something like that, so that we weren’t 24 hours a day. But it was very intense. I would go over to the Court in the morning, most mornings 7:00 probably. And we would leave the building briefly around 6:30-7:00 and get something for dinner. Usually just right on Capitol Hill, there was a place called the Tune In and...there was one other place that was open for dinner where you could just get a hamburger or something. And then go back to the Court and work until you just couldn’t stay awake any longer. So, and then I would just walk across the street and fall into bed and just sleep as long as I could and wake up the next morning and do it all over again.

Ms. Upadhyava: What was, for you, the most memorable case of that term, that you worked on?

Ms. Clark: Probably the one that sticks in my mind most, it was a labor case. It was Connell Construction Company. They’re from Texas so they pronounced it Conn-ell, C-O-N-N- E-L-L Construction Company against the NLRB and I think it was a pipe fitters union that had, they refused to work on a job unless the general contractor made sure that certain other jobs were being done by union labor, and the National Labor Relations Board had said you can’t do that and the Supreme

Court affirmed that ruling. There was also an antitrust issue in that one, and the opinion that I ended up drafting, sort-of, I thought of it at the time, now I go back and read it and I think there's nothing particularly remarkable about this, but it was, at the time I thought of it as sort-of carving out a different way of dealing with what we call the labor antitrust exemption, which is a doctrine that says that a labor union is not the combination or conspiracy in restraint of trade and there are certain things that labor unions can do without being in violation of the antitrust laws. To some extent, that exemption is squarely required by the Norris-La Guardia Act, but not completely, and it is largely, in addition to that, a creature of court-made law, and this was dealing with the scope of the court-made side of that exemption. So, I remember it because it was a labor case, because I struggled mightily with trying to find a rationale for the Court's decision that would be sustainable and defensible. And after I came to work in this law firm on the union side of labor law, I, someone pronounced to me, a very, very smart lawyer who was then General Counsel of the AFL- CIO, that is the most vicious opinion I have ever read.

Ms. Upadhyava: Did he know that you were, that you had worked on it?

Ms. Clark: Well, that was why he had made that remark. Yes.

Ms. Upadhyava: Oh, I see.

Ms. Clark: No, when he found out, he said that is the most vicious opinion I've ever read.

Ms. Upadhyava: At what point during your clerkship were you starting to give some thought

to what the future was going to look like after that year was over?

Ms. Clark: Too late, according to Joel Klein. I was being remarkably uninterested in what was going to happen the following year.

Ms. Upadhyava: I take it, I'm sorry to interrupt, I take it you were clerking from August to August or August to September?

Ms. Clark: That's pretty much it. Yeah, pretty much August to August. And I was the one clerk in chambers who had some labor law interest and background and this was true in the Fourth Circuit as well, both of my clerkships, I was the clerk who got all the labor cases because I was the one who was interested and had the knowledge. So I was doing a fair amount of labor and labor-related work, and Joel who just kept fretting because I wasn't thinking about what I was going to be doing after the clerkship was over. The law firms and the law schools were recruiting. Anytime they had a chance they would show up and they were allowed to meet with clerks, they would be there and they were all very eager to hire women at that point and I figured there'll be a job for me, you know, I'll find something interesting and I was so focused on getting the work done because there was so much of it. But Joel one day said I'm worried about you because you don't have any plans for next year. He said, I have a friend in a union-side labor firm that's a really good firm and I think you ought to meet him. And I said okay, that's fine, why don't you arrange for that. So, Joel took me to lunch with a lawyer who was then in this firm and I liked what I heard and I said well, that's very interesting. When I finish clerking I'm going to go back to Texas and take the bar exam in October, they had an October bar exam, may still, but they did it three times a

year...

Ms. Upadhyava: Oh, yeah. That's kind of odd timing.

Ms. Clark: ...very odd timing, but it was perfect for me because it meant I could take some time off after the clerkship, recuperate...

Ms. Upadhyava: You mean like a week?

Ms. Clark: I actually took longer than that...

Ms. Upadhyava: Oh you did? Okay.

Ms. Clark: ...and then take the bar exam, I mean the bar prep course, and take the bar exam and I said, I'm going to go back to Texas and take the bar exam, I'll be back in D.C. somewhere, you know, early November and I'll get in touch with you then. Bill had already, I guess he took the D.C. bar that summer and I'm pretty sure he had already decided to work for, my memory for names is getting worse and worse, the firm, do you know Jamie Gorelick, the firm, she was in Miller & Cassidy.

Ms. Upadhyava: Okay, I was going to say Hale & Dorr, but that's where she is now right?

Ms. Clark: Yeah. That's where she is now. Right, Miller & Cassidy, he and Jamie started on the same day at Miller Cassidy and so I think he had already decided he was going to be here for Miller Cassidy, so my first, you know, sort of okay, so I'm going to come back to Washington and I'll look for a job in Washington and I just assumed I'd find something that I liked and so, that's what I did when I got back from taking the bar exam. I applied to this firm and to several others and did some interviews and decided this is where I wanted to be.

Ms. Upadhyava: So that would've been the late fall of 1975?

Ms. Clark: That's right.

Ms. Upadhyava: Okay. And when did you start here?

Ms. Clark: December 15th, 1975.

Ms. Upadhyava: And you've continuously been an attorney at this firm ever since?

Ms. Clark: Yeah. It will be 43 years in December.

Ms. Upadhyava: I recall that we were, I was here for your, I was here the night of your 40th celebration.

Ms. Clark: Yes. That's right.

Ms. Upadhyava: We spoke, one of the previous times, yeah. So, what was it about this particular firm that attracted you, over the others?

Ms. Clark: I really, really liked the people. There were, I was lawyer number eight, so there weren't a lot of them, but the people that I met seemed like really smart talented lawyers and people that I could learn from how to be a lawyer. So, I had a little bit of hesitation about whether the subject matter might end up being too narrow, that I might get tired of it, but it never even came close to being too narrow. There are parts of this firm's practice that I've never touched. So for now, almost, 43 years, it really, if I could have been smart enough at the time to design the perfect career for myself it would've been this one.

Ms. Upadhyava: That's really remarkable.

Ms. Clark: It really is remarkable. I just fell into it by chance, that Joel had a friend who was here and who didn't stay all that long, I guess he left in the mid-eighties and went to an even smaller firm where he's practiced, I think he's still in practice, but it was just happenstance and a lot of good luck.

Ms. Upadhyava: When was the firm founded?

Ms. Clark: In the fifties by Arthur Goldberg before he was Secretary of Labor. He was

General Counsel to the CIO and also to the Steelworkers' Union and he created an office in D.C. to represent those two clients, essentially, and it grew into this law firm and various changes in personnel over the years. He left, President Kennedy appointed him to be Secretary of Labor and then put him on the Supreme Court, so he left in the, obviously between '61 and '63.

Ms. Upadhyava: Right. Were there any women attorneys when you joined?

Ms. Clark: I was number one.

Ms. Upadhyava: Okay. Was the firm called Bredhoff & Kaiser at that point?

Ms. Clark: No, it had a long unwieldy name, Bredhoff, Cushman, Gottesman & Cohen, but we had the good fortune in 1981 to merge with a firm that was headed by Henry Kaiser who was a lion in the labor bar, and we became Bredhoff & Kaiser and we've kept that name, so whatever changes there have been in the partnership since then, it remains Bredhoff & Kaiser, hopefully will forever.

Ms. Upadhyava: Was it a foregone conclusion that you were going to come back to D.C., at the end of your clerkship I mean?

Ms. Clark: This is where I wanted to be. I found the city much more congenial and I had the impression that people here were practicing very interesting law. Justice Powell's advice to me was go back to some small city where you will be the very best lawyer in town and make a name for yourself there, which is what he had done in Richmond. I'm glad I disregarded his advice on that score. I think it worked out perfectly for me. And if there had been any doubt in my mind, I went back to Waco to visit my parents in the interim between finishing this clerkship and when I took the bar review course and the bar in Austin. In between there I stayed with them for probably a week and they said we really

would love to have an up-to-date photograph of you, could you go have a picture taken and I said oh sure, I'll do that. So I went to a picture studio that I had used when I was in high school and then took the yearbook photos. I was there posing for a photograph and the photographer says so what have you been doing since you were here last, and I said, well I went to college, I went to law school and I've been, you know, off as a law clerk at the Court of Appeals and the United States Supreme Court. He said something like, you got to be really careful not to be too smart because you're going to want to find a husband, and I thought that's just the attitude I want to get away from. I didn't respond in any way at all other than just thinking to myself, Texas is not for me. Some of our good friends stayed in Austin and had wonderful careers there, one working for the Texas Attorney General's Office for 25 years or longer. Some practiced in Dallas. Some in Houston, but I think Washington was the right place for me.

Ms. Upadhyava: And when had Bill started with Miller & Cassidy and what practice was he pursuing at that time?

Ms. Clark: He was doing general civil litigation and working with Nat Lewin, primarily, and Jack Miller. He did some work for NASCAR, which was of course kind of fun, and then he was in trial in Chicago for several weeks. They were defending, there were some brothers who had been accused and convicted of bribing Chicago officials. Oh the horror, right? And I think this was, Jack Miller was defending one brother and the other one was being defended by a really, really top-flight trial lawyer out of Nashville. And here my name aphasia is going to hit me again, but it will come to me. So, Bill had some really fine experience there. But his aim at all times was to go to the Solicitor

General's Office and as soon as his two-year waiting period was up he started at the S.G.'s office.

Ms. Upadhyava: Oh in the, with respect to...

Ms. Clark: Former Supreme Court...

Ms. Upadhyava: Supreme Court clerks. Okay. So at this point...

Ms. Clark: Jim Neal, that was the lawyer from Nashville. Jim Neal.

Ms. Upadhyava: ...so, at this point in 1975, as you've done all this, you said you went back home to visit your family, what did your family make of all that you had achieved in this period of time?

Ms. Clark: They understood it enough to know that they were very proud.

Ms. Upadhyava: And were they supportive of you staying?

Ms. Clark: My dad always wanted me to come back to Waco and practice law. That was what he always wanted, but I just, this is one of those charming things that comes around. He had never had anything to do with labor unions in his entire life. Being in the military, there aren't any labor unions in the military, certainly not representing enlisted personnel. But he, as a second career after he retired from the military, he became a meat cutter and he was working in a meat-cutting plant in Waco. And there were various things about the way they were treated that would've made anybody think this isn't really right. And one time when I was home visiting, he says, "I think maybe we need a union." And I thought, wow. He really, they never formed a union, at least not while he was there, but the mere fact that he was open to it was quite touching, I'd say.

Ms. Upadhyava: Wow. And when you started, and now as you're practicing, what was going on in your relationship with Bill? Were you both...

Ms. Clark: We were off and on for a while, we finally got married in 1981, in January. And it was the right thing for both of us to do.

Ms. Upadhyava: That's great. Did he stay in the Solicitor General's Office?

Ms. Clark: He stayed there for quite some time. He was for a period the Chief of the Appellate Section of the Criminal Division. Then he persuaded his good buddy who was running the Organized Crime Section, that the Organized Crime Section needed its own appellate lawyer. Because he'd gotten tired of the administrative work of being a Section Chief. And so he was the Organized Crime Section's appellate lawyer during a period of time when they were putting a lot of big organized crime figures into prison. And he argued a lot of very, very high-profile cases in the Courts of Appeals all over the country. And then the Deputy Solicitor General slot for Criminal opened up and he became the Deputy Solicitor General on Criminal Matters. And stayed in that position with a couple of brief stints as Acting Solicitor General when new administrations would come in, until 1994... '93 maybe, late '93 possibly. Clinton's Deputy Attorney General got into trouble. The name will come to me, it's not there on the tip of my tongue right now, but his Deputy Attorney General got sent back to Arkansas in disgrace, [Web Hubbell]. Bill became the Acting Deputy Attorney General for a brief period, working with Janet Reno, who was the Attorney General. And our good friend Joel Klein found a slot on the Court of Appeals for Bill because he was screening judges, and so Bill was named to the Court of Appeals for the Federal Circuit, and he took that position in '94. And he's still there.

Ms. Upadhyava: Does he like being a judge over being the one to argue cases?

Ms. Clark: Yes, he never liked arguing cases. He argued lots of cases in the Supreme Court and he said he was always terrified. He would never let me come to his arguments, because he said it would make him more nervous if I...

Ms. Upadhyava: So you've never seen him argue?

Ms. Clark: I've never seen him argue an appellate case, that's true. There were two occasions when he was doing Court of Appeals cases, that he and I had Court of Appeals arguments, in the same Court of Appeals, on the same day. In both of those occasions, I couldn't see his argument because it was in a different courtroom and it was before mine. So I missed the chance to see him argue, ever.

Ms. Upadhyava: So, two questions I definitely want to fit in our session tonight is, at the time now, in 1975 and your first several years practicing, can you describe what it was like to be a female lawyer, woman lawyer in this town? Was it anything of note? Was it still a pretty male-dominated profession? Or did you find D.C. to be quite different from Austin in that regard, or Houston, in that regard?

Ms. Clark: Most, a very large majority of the lawyers were still men. There were essentially no women judges, that came later. The women who were practicing in D.C. were primarily in government jobs. There was a time sort of soon after 1975 when I got a letter. There was no email of course, so you couldn't communicate by email, that said, we think that it would be nice if we got the women who are practicing labor law together, occasionally, just to share our experiences and we'll schedule a brunch and make it potluck, and everybody bring something. And I thought "terrific, I'll get to meet the older women and find out what it's been like practicing labor law in this city" and there were

three who were older than me. One of them I had...

Ms. Upadhyava: And you were what, 24, 25?

Ms. Clark: Yeah I was in my 20's. Most of them were younger than me. There was one that I had had some dealings with. She did work for the AFL-CIO, and I knew her already, and there were two women who were working at the Department of Labor at the time. And so no, there weren't a lot of role models for me, I had to kind of make my own way. I was fortunate that the people I was working with here as far as I could tell never treated me any different because I was a woman.

Ms. Upadhyava: That was my next question.

Ms. Clark: Yeah, no, they were very, very good. They lived their beliefs. This is a firm representing working people and representing a lot of Title 7 plaintiffs over the years. They really, they acted the same way they argued, so it was a very, very congenial relationship here. I never felt that I was treated in any way differently. I mean, occasionally, there was a client who was not on board, or an opposing lawyer who would treat me like some kind of little girl. There was one, one that I did a whole week of deposition defense in Houston that involved a case where a company had sued the union because there had been strike violence on a picket line. And the lawyer representing the company had been the national campaign chairman for George Wallace's presidential campaign only a few years before that. And he was one of those who would just, you know, I don't know that he ever actually said the words, "You're cute when you're mad," but that was kind of the message that I kept getting. And he would...

Ms. Upadhyava: That just makes me cringe!

Ms. Clark: Oh I know! He would call me things like, you know, sweetie or cutie, I, you know, I don't know. I controlled myself every day through those long depositions and then I would go back to the hotel, which my local counsel had, bless his soul, had booked me. He said, "What kind of hotel do you want?" And I said, "well something with a swimming pool would be great," so I could swim laps. He booked me into a hotel that had an Olympic size swimming pool. And I would go back to that hotel and I'd swim for an hour and just kind of wash it all away, it was the only thing that got me through that week of just really, really distasteful behavior by a male lawyer. But most of the time, it was really, I never felt that I was being treated any differently from other lawyers, and you know, if anything there was kind of a...I may have benefited from the fact that I would walk into a room and as soon as I established that I knew what I was talking about, that would usually it would be like, "Oh, she talks. She knows what...she's, she's smart!"

Ms. Upadhyava: She speaks!

Ms. Clark: She speaks! Right. And as one of our friends, a woman who was in the Solicitor General's Office with Bill, said, "It was like Boswell's dog," she says, "We women lawyers." This is Boswell from like the 18th century London. And his remark was that, it was just that his dog could talk, and everybody marveled at the fact that the dog could talk, even though the dog didn't talk very well, and it was hard to understand what the dog was saying. And Sarah said, "We're like Boswell's dog. Nobody expects very much from us," she says, "but when we can do it right, they take notice." And I think that's exactly

the way it was. It was, you can go into a courtroom and start to speak and you're still a kind of novelty that not many judges had seen a lot of women arguing cases. And you do it well, and it makes even more of an impression, perhaps, than a man would have made arguing the same thing and doing just as well. Still, there were places, there was a San Francisco courtroom I was in in the mid 1980's when I went in for a massive calendar call. So all the cases that that district court judge had pending, somebody was there to tell him the status of their case. Courtroom full of lawyers, I was the only woman in there.

Ms. Upadhyava: In the mid-80s?

Ms. Clark: In the mid-80s! Yeah. So this would have been about '84, it might have been '85, and I was shocked. I was sitting there looking around and thinking, "Where are the women lawyers?" Now maybe there weren't a lot of women practicing trial law in San Francisco at the time, or maybe it was just a really fluke coincidence that there weren't any others there for that particular calendar call, but it was very striking.

Ms. Upadhyava: How long, and I think we're well past our time, so let me just ask, how long before the next female, the second female attorney was hired at this firm?

Ms. Clark: You know I was just talking to one of my former partners about her today. I think it was 1980, or early '81.

Ms. Upadhyava: You were the only female attorney at the firm for about five years?

Ms. Clark: Yes.

Ms. Upadhyava: Five, six years, okay. Well, I really wanted to next tackle, and we can do this if you'd like in our next session, your most, I guess the first appellate

argument you did and what that was like, because mine still gives me nightmares, and your most memorable argument, to either the Courts of Appeals or Supreme Court.

Ms. Clark: Okay.

Ms. Upadhyaya: So, if that would be a good place to start on the next, I'm happy to keep going, but I know we've been going for, you've been talking for about 2 hours and 15 minutes so...

Ms. Clark: Right, well, it seems like a good place to break, because it's a slightly different topic. So, definitely.