

Oral History of Elizabeth Sarah (“Sally”) Gere

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Barbara Kagan, and the interviewee is Elizabeth Sarah Gere. The interview took place on Zoom on Wednesday, July 1, 2020. This is the fourth interview.

MS. GERE: As you just noted, we talked a little bit about what’s going on now in our lives during the pandemic. Now we’re going to take a turn back and resume my discussion with you. Last when we left the story, as it were, I was telling you about my time at the U.S. Attorney’s Office, which was just terrific. It was one of the best jobs that I had in my career. I’ll never forget listening to United States District Court Judge Stan Harris here in D.C. give a talk and say the best job he ever had was being a part of the U.S. Attorney’s Office. I thought, wow, that’s something coming from somebody who’s a federal judge and he’s looking back wistfully being in a U.S. Attorney’s Office. But now that I’m to the point of looking wistfully back, I can certainly identify with that.

MS. KAGAN: Would you have ever wanted to be a judge?

MS. GERE: Yes. I did. And that was one of the significant disappointments in my life. I got very close. We’re not quite to the stage where I started applying, so I’ll talk a little about that as it comes up.

There came a point in Cincinnati where my then-husband and I concluded that our marriage was not working out as each of us had hoped or expected. We both had left Washington with the expectation and the hope that we would have children, and we thought that going to Cincinnati, which is where he was from, would be someplace with a slower pace and for us a family

network because his family, his parents, with whom he was very close, were in Cincinnati, so that was one of our motivations for going there. But things didn't work out for us, and we divorced in 1985. At that point, I had to reevaluate my life. I was living in a place that really was not my hometown, and as much as I liked the U.S. Attorney's Office and began to feel like an insider, I never really felt like an insider in Cincinnati. It was a very insular legal community in particular, and there were very few women who were in litigation. So it occurred to me that if I wanted to kind of start my life afresh, staying in Cincinnati in a small legal community, I would never make a break from my husband, and I needed to be who I was. So fortunately there was a program at the Justice Department that was available to Assistant U.S. Attorneys where your U.S. Attorney's Office would loan you to the Department in Washington, D.C. for a year to teach at the Attorney General's Advocacy Institute. The incentive for an office to do that was they got to hire somebody in your stead, but they didn't lose the slot because you would go back to the office after a year. One of my colleagues in the U.S. Attorney's Office in Cincinnati had done it years earlier, and he was very positive about the experience. He also said from a personal point of view, you're in a position where it would help you sort things out and make decisions about where you wanted the next phase of your life to go.

So I applied to be the Assistant Director of the Attorney General's Advocacy Institute, which at the time was located in Washington, D.C., and now has a new name, the National Advocacy Center, and it's in

South Carolina. It made a big move for a lot of political reasons. I'm not sure they were necessarily good ones. While I was there, and I applied and I got the job, so I moved from Cincinnati to D.C. in the Summer of 1985 and began working at the Department in the fall, I believe.

Essentially what the advocacy program involved was bringing all of the litigating attorneys who worked for the Justice Department, whether in the Department itself or in one of the 94 U.S. Attorney's Offices in for a two-week training period. It was a terrific program.

MS. KAGAN: That must have been a big cohort.

MS. GERE: Well we usually had, and I can't even remember back in those days, we probably had thirty or forty people at a time, but we would run these programs several times a year. There was a civil program, and there was a criminal program because the training for each was different. The people who taught the courses were experienced Assistant U.S. Attorneys. In the civil courses, we had sessions on how to cross examine, how to do a direct examination, how to take a deposition. Back in the early to mid-1980s, we had very elaborate video systems, so we videotaped all of the students who were coming through and then you would sit down with an experienced AUSA and walk through what you saw on the screen. There were not a lot of training programs at that point that had taken advantage of something like video and being able to watch yourself. It was very much a hands-on program, a terrific learning experience. The last two days of the two-week course period you would actually try a case. We flew in judges, federal

judges from all around the country, to sit as judges for the trial so by the time you finished your two weeks, you had actually tried a case before a federal judge.

MS. KAGAN: Any juries?

MS. GERE: We had juries where we could find people, whether it was through contacts that people had in the community, and we would have people come in and sit as jurors. As I say, it was a terrific experience for the students. I think mostly the feedback came from the judges because they knew that was part of what their role was and to preside over some of these trials. It was a great experience for the students, and the judges clamored to be invited to come and teach because it gave them an opportunity to have a paid-for trip to Washington, and it was always good for them. They had all been appointed via a Senator. They kept up their political ties. They had friends in the Department and so forth, so we never had trouble getting judges to come in and assume that role, which was really gratifying. I got to meet all kinds of judges and work with them on their schedules and when they could come in and what they could do. So it gave me a different perspective on the federal judiciary.

MS. KAGAN: How many AUSA trainers were there?

MS. GERE: We would probably have at least another two dozen people coming in during that two-week period. People usually came in for a one-week segment and then they would go back to their offices. So we constantly had people coming in and out. We would try and have group dinners, opportunities for

the AUSAs to get to know each other too because that was another invaluable resource where you'd meet somebody and say, gosh, I have a case involving swine flu or whatever the topic might be, and that helped develop more resources internally with Department contacts.

MS. KAGAN: How many of you were in charge of running the Advocacy Institute?

MS. GERE: I was in charge of the civil programs, and one of my colleagues who was an AUSA in Bridgeport, Connecticut, ran the criminal program.

MS. KAGAN: That's a lot.

MS. GERE: We had a terrific staff. We had I think two to three people who were sort of staff/paralegals, and they did a lot of the work in scheduling things and making sure rooms were set up and that we had hotel reservations, we had restaurant reservations, all that kind of thing. So it was a lean operation looking back on how much we were able to accomplish. And then there was a director over us who was the liaison to the attorney general and to the hierarchy of the Department to make sure we were training people on topics that U.S. Attorneys thought were valuable.

I taught some of the courses myself. Of course you would always encounter times when somebody at the last minute had an emergency and didn't show up or whatever. I very much enjoyed the actual teaching, which fast forward many years later, I did end up teaching for twenty years at Georgetown Law School, so that was sort of the beginning of my teaching career.

MS. KAGAN: Did you have a curriculum for the visiting teachers?

MS. GERE: Oh yes. We had a curriculum. We had materials that they were supposed to teach from. We had tips on how to give a constructive evaluation of somebody's performance. We had all kinds of things. We had outside lecturers come in to talk. One woman in particular who was a regular who taught essentially how to read juries. She was always interesting and very provocative on how you decided who you wanted to have as a juror and then how you asked questions if you were permitted to do the voir dire to get to the information that you wanted. That was always very interesting.

MS. KAGAN: Did issues of race and gender play into that in any subtle way?

MS. GERE: She was, and again, this was in the mid-1980s, so we're talking some time ago. One of the things that she did that I thought was very revealing is she would take somebody from the audience among the AUSAs and have them come up to the front of the room and say their names and say which office they worked for and how long they worked in the office and where they lived. Very minimal information. And then she would go around the room and say do you think this person reads *Time* magazine. Do you think this person reads books? Do you think this person has views on who should be our next President? And inevitably people would say oh yeah, just look at him. He drives a Corvette. That's clear. So it was sort of an implicit bias teaching just based on how somebody looked and the few five facts that you gleaned, and all of a sudden you were making up a whole backstory about somebody that may, of course, may have had and likely had very little basis in truth. So that's what she was saying. You have to be much more

measured in your assumptions about people based on what information you have, and back then, really when you got your jury list, you look now, and I haven't done this in a while, but it's really pretty bare-boned information, where somebody lives, what their occupation is, what their marital status may be, their address. And so you have to take that and think about it but not in a way that allows you to pre-judge based on whether it's a man or a woman or what their ethnic background is.

MS. KAGAN: Were the folks that came in to do training, were they mostly local attorneys?

MS. GERE: No. They came in from around the country—both people being trained and the trainers. We did take people from Main DOJ here in D.C., people from the Civil Division, people from the Criminal Division. People who actually got into court. This was much more, we didn't have appellate lawyers or environmental lawyers, unless they were people who went to court.

MS. KAGAN: So not every AUSA took this training. It's only the ones who would be litigating.

MS. GERE: And then it was all voluntary. It was a two-week commitment of time for those being trained and at least a week for the trainers and travel, and most of the time, people carried on whatever their responsibilities back in the office were at the same time. Of course back then we didn't have computers, we didn't have the Internet, so it was a little more difficult. You'd have to get somebody to basically be a stand in for you. It was a great program. I'm sure it still is a good program, just in a different place and in a different way.

It was a great experience but having that disconnect from Cincinnati for a year allowed me to decide that I did not want to go back to the U.S.

Attorney's Office.

MS. KAGAN: Did you have a network of people that were still in D.C. from your time here that you were able to reconnect with?

MS. GERE: I had a number of friends because as I mentioned my husband too had worked at the Justice Department before we moved to Cincinnati, so we had a lot of friends who had been mutual friends of ours, but when I came back to D.C., I resumed – well, I hadn't really ever stopped being friends with a lot of people, and kind of resumed that. One of the ties that I had continued to keep was with all my friends in the Civil Division at Main Justice. When I started thinking about not returning to Cincinnati and talking that over with my friends in the Civil Division, they all said great, good idea, why don't you come back to the Civil Division. Part of me resisted that notion because I didn't want to feel as though I was going backward in my life. I wanted to feel still that I was making progress in my life. I was making a fresh start, and so I thought about that pretty carefully. I concluded when I was offered a position as senior trial counsel, that was quite a different position than I had had when I left. The Civil Division had grown substantially, and I felt that it was different enough that I thought I was making a forward step. I also was just not ready to cut the cords with my federal service. I loved working for the United States of America, and going to the Civil Division allowed me to maintain that tie. So, in 1986, I finished my year with the Attorney General's

Advocacy Institute. I then went as senior trial counsel to the Civil Division at Main DOJ which was a fascinating move to make because the work there was so interesting. It was interesting when I left, and it was just as interesting when I went back. A lot of different kinds of cases that I was being given because of my new title and role.

MS. KAGAN: I'm trying to quickly think about changes in administrations and whether there was any change in policy and direction, cases that were thought to be once pursued.

MS. GERE: Good question. I would have to go back because when I left the U.S. Attorney's Office, I believe that it was still President Reagan who was President.

MS. KAGAN: Yes. This was in the early 1980s.

MS. GERE: I'm trying to remember what the dates were. So he was President from 1981 to 1989. Yes, I should remember this because I have a picture of Attorney General Ed Meese and me. The Attorney General's office was on one of the upper floors, and the Advocacy Institute was on the first floor of the Department. For each one of these sessions, typically the Attorney General himself would come and give either, depending on his schedule, welcoming remarks to the people coming in or closing remarks as they had completed. So I do have a picture of myself with Ed Meese.

So anyway, when I went back to the Civil Division, that still would have been during the Reagan administration back in 1987. To the very much good, my recollection of times at the Justice Department, at least at my level

as a career lawyer, there was not a lot of politics brought to bear on the decisions that I made in litigation or that my immediate supervisors made. Clearly, we knew that there were programs and goals that each President had, and each Attorney General would run the Department somewhat differently, but I don't remember a lot of politics being involved. But whether that's because I was at a career level, but I don't remember any of my superiors ever thinking that they were being forced to take positions for political reasons. Mostly to the credit of the Attorneys General under whom I worked and whether it was just because it was the Civil Division, but people were not pressured unnecessarily, and I think there was a fair amount of deference given to lawyers who had been in the Department and had great institutional knowledge, which, to me, was very important to keep the continuity of the Department and the independent integrity of the Department intact.

MS. KAGAN: Although there obviously are always choices to be made, what areas to pursue, what cases to go with, and that, I think, you can't help but be perhaps somewhat affected by who's running the show.

MS. GERE: Yes. Because there are certain overarching goals that each President establishes, and each Attorney General has his or her goals as well. But I just don't feel that political pressures of those days are anywhere near what they are today. I'm not there today, but I am a sentient human being, and I don't know for certain what my colleagues are experiencing, my colleagues who still are at the Department.

MS. KAGAN: You probably don't want to know.

MS. GERE: There's been a great deal of concern among former DOJ employees, and we have written several letters recently about the actions of the current Attorney General, William Barr, that are inconsistent with the way so many of us recall our experience at the Department.

MS. KAGAN: That's been covered pretty widely in the press.

MS. GERE: Yes. So, there I found myself in the Civil Division of the Justice Department in another one of the small world stories that one can only tell in Washington. While I was in the U.S. Attorney's Office in Cincinnati, I had the great good fortune to have a law clerk, Rick Morgan, who worked in our office, particularly for me, and very closely with me, on a lot of the swine flu cases, which were taking a great deal of my time for a period at the office. Eventually, Rick graduated from law school, and I think we had a lot of conversations about what would be a good thing for Rick to do, and I'm sure I persuaded or, at least I like to think that I had a hand in convincing him that going to the Justice Department would be a great thing for him to do as part of his legal career. So lo' and behold, he applied to the Department of Justice Civil Division and was hired. When I returned to the Civil Division, the person who had the office right next to mine ended up being Rick Morgan, my former law clerk from Cincinnati! It was terrific to have someone that I knew, someone whose legal acumen I very much admired, just a terrific lawyer, and it was just great fun to have somebody that I shared a different part of my life with but that I could then continue to share my life with. So we had great fun. I did not work any cases with him while I was at

the Department, but nonetheless, that too was a pretty close-knit group, so I got to see him regularly.

MS. KAGAN: Were you involved with Divisions other than Civil?

MS. GERE: No. I was just Senior Trial Counsel in the Civil Division.

MS. KAGAN: No, I mean in all the various types of cases? There's a range of substantive subject matters in Civil.

MS. GERE: There's a range of substance. It appeared, at least as I was trying to go back and reconstruct the time that I was there, there were a couple of cases that took a good deal of my time in part, I think, because when I previously had worked at the Department, I had been involved in the cases that we've talked about—matters relating to classified information, working with intelligence agencies, working with the State Department. Two cases in particular came along that were assigned to me. They were very unusual cases that involved in one way or the other the USSR back in the day. Again, we're talking 1987. One of the cases to which I was assigned was a case that was brought by an American broker of some sort who sued *Izvestia* for libel and breach of contract. *Izvestia* at the time was the Soviet newspaper that was actually considered to be an arm of the Soviet government, so in effect, it was like suing a sovereign state. It was private litigation, but the Department was involved to protect the interests of the United States. It was a case that really, I mean these two cases that I want to talk about were ones that only lawyers could love because they were extraordinarily technical. Each of them really begins with issues of service of process.

MS. KAGAN: The U.S. government was an intervenor in these cases?

MS. GERE: Well, we were an intervenor in one case. We on behalf of the State Department, as I recall, moved to intervene to make the views of the United States known to the Court.

In the second case, my recollection is that the judge, before we even filed a motion to intervene, issued an order asking for the views of the United States. So, in any event, the Justice Department got involved, and primarily, it was I would say to present the views of the State Department, which were in essence the views of the United States on how best to deal with a foreign sovereign, whether our courts were going to entertain cases against a foreign sovereign. The Foreign Sovereign Immunity Act is what was applicable, and there are very limited opportunities for a private party to sue a sovereign state in a United States court. But before you could even get to that point, you had to figure out how do I serve this foreign state, and the Act and rules are very complicated. You have to serve the embassy of the foreign state.

Well, long story short, in the first case, which is called *Gregorian v. Izvestia*, the Soviet embassy refused service of process and therefore no one responded. The case had been filed in the Central District of California, which is where the plaintiff was located. The attempted service was made, but then the judge had a hearing, and no one showed up on behalf of *Izvestia*, and so the court entered a default judgment in the amount of some, I'm trying to think if I made a note of it. The Court entered a default judgment for \$413,000 and entered an order allowing the plaintiff to begin seizing bank

accounts and any other property that he could get his hands on. He did get his hands on a Cyrillic typewriter as part of his efforts to make good on collecting on his default judgment. But at some point, there was a motion to vacate the default judgment by the Soviet *Izvestia*, and that was where the United States got involved. Basically, we agreed that the default judgment should be set aside in order for the Soviet government to come in and make whatever argument it wanted to make substantively.

MS. KAGAN: Because you would want the same courtesy in a reverse situation.

MS. GERE: Right. And we were not taking a position at that point on whether an interpretation of the Act allowed the ultimate relief that the plaintiff sought. Simply we were trying to preserve the opportunity for the foreign state to be heard in our court to say no we don't belong here, or yes we do, and here's what we have to say.

Eventually, the Court agreed that *Izvestia* should be permitted to appear. The case went on. I no longer worked at the Department, but the case did go up on appeal, and there's a whole opinion on appeal, and it's very, the whole case is, very detailed on the precise contours of the Foreign Sovereign Immunity Act. Anyway, so that was the case that took up a lot of time for me, very interesting to delve into the diplomacy that the State Department was charged with conducting and how it intersected with our judicial system.

MS. KAGAN: What division within the State Department were you working?

MS. GERE: Our primary contact was with the Legal Adviser's Office. I know that I had to get affidavits from people at the State Department about the consequences

of not at least affording an opportunity for a foreign state to be served properly.

MS. KAGAN: What year was this?

MS. GERE: This was 1987. So I'm trying to think. I think Judge Sofaer, I think, was probably still the Legal Adviser at the State Department. I don't remember exactly who we had. I know I got declarations in both these cases from people at the State Department.

The second case, *Carl Marks & Co. v. USSR*, was a class action, or a purported class action, I can't remember whether the judge ended up certifying it as a class action. Again, it was a private lawsuit by bond holders of Soviet currency, and it was currency that had been issued prior to the Bolshevik revolt, so in any event, the suit was against the Soviet Union, and it was all about whether the bonds that these bond holders had purchased continued to have value. It was a very interesting trip through history. The judge who presided over the case was in the Southern District of New York. The judge who presided was the then-Chief Judge, Judge Brieant, I think. He was quite a character, and I say quite a character in a kind of admiring way because his opinion is a real testament to the breadth of his learning, beyond being a judge. His opinion starts with a quote from the book *JR*, by William Gaddis, and it's a very tongue-in-cheek quote that is a play on words of class action, and this was brought as a class action. The judge gives a lengthy discourse about William Gaddis and his literary career, how brilliant Gaddis was, with which I agree, but how the judge weaves this all into this opinion is

quite remarkable. And then the opinion goes through in remarkable detail with terrific footnotes all of the evolution of the Russian government following the Russian revolt, and he talks about the Bolsheviks and Lenin being hidden in a boxcar so that he can get to Moscow to lead the government. It's fascinating, and it's all germane to the case and without it, you would be definitely scratching your head about what are these people complaining about again, and what does this have to do with whatever is going on. The opinion itself is a tour de force, honestly, and I was very glad for this opportunity to go back and read it because I honestly hadn't looked at it for decades. Again, it ultimately devolved into who did the United States recognize as a legitimate government, and who could dismiss the bonds and their value, all of which the judge had to grapple with, and he was the one who said I'd like to get the United States' view on how important this decision is to our diplomatic relations with the USSR. He's trying to say I want to hear from the government on the impact of our diplomatic and foreign relations, what kind of an impact is this case going to have, how important is this to our government, what do you all have to say about it. We went to the State Department, and we again said this was another situation where there was an attempt by these bond holders class members to serve the USSR. The USSR claimed that service was not effective or not proper, so they didn't show up, so Judge Brieant did what the judge in Los Angeles had done and entered a default judgment, and it was kind of once there were teeth and an order saying there's a judgment against you, you need to step up and

do something Soviet Union, and we United States need to step up and say how far should the United States be pushing for use of its courts to hold accountable a foreign sovereign. So Judge Brieant ultimately set aside the default judgment and allowed the USSR to come in and present its defense. Again, the United States was not involved in the nub of the dispute whether the bond holders recovered or not but rather could they take advantage of United States courts to seek relief from a foreign sovereign. The substance again, that was not my role, and I then left the Department. My recollection is that that case too went up, that one would have gone to the Second Circuit. The first one went to the Ninth Circuit. And, of course, at DOJ, when something went up on appeal, the trial lawyers lost their hold on the litigation because we had an independent appellate staff, which was a good idea. They were able to bring perhaps less emotion and more distance in analyzing which cases the United States should be seeking appeal on and how to frame any appeal that we were being asked to defend.

MS. KAGAN: Do you know what the upshot of the case ultimately was.

MS. GERE: I know that the case in California, the Ninth Circuit affirmed in part and reversed in part, and remanded it, so I'm sure it went on. My recollection is that's kind of what happened in the, I didn't make a note about what happened in the Second Circuit, but again, in the small world category, my recollection is that the cases on appeal were handled by Doug Letter, who worked in the Civil Appellate Section of the Civil Division, and Doug is now counsel to the House of Representatives, in this very interesting and

tumultuous time in the government. Anyway, Doug was another one of the just absolutely brilliant lawyers that I had an opportunity to work with at the Justice Department. And fortunately, the government is lucky enough still to have his services.

So that, and obviously I had other cases that I worked on. I stayed as Senior Trial Counsel for about a year and a half. I was approaching my 40th birthday. I had never been in private practice. I'd never interned in a law firm. That was a world that was foreign to me and yet here I was pretty substantially into my legal career, and I always thought I ought to try that private practice thing sometime, maybe. Very serendipitously, I had been back at Justice for a while and, within the space of a week, I had two of my former DOJ colleagues call me from two different law firms and say we're looking for somebody, we think that you would be great, would you ever think about leaving the Department and going into private practice. And I thought this is really a signal. Two people in one week, just before my 40th birthday. Is somebody sending me a message that it's time for a change? So I interviewed with each of them. I was very impressed with both. One firm that I interviewed with was Jenner and Block, and the person who had been the Assistant Deputy Attorney General in the Civil Division at one point, Tom Martin, was the person who had contacted me. Another truly brilliant lawyer, and he had been at Jenner for a while. So he called, and I said sure I'd be happy to come and talk to you. It sounds interesting. No promises, of course, on either side.

The other person who called me was Becky Ross, who was one of my contemporaries, colleagues, at Main Justice and also an outstanding lawyer. She had left Main Justice, had gone to the U.S. Attorney's Office in D.C., and then had left to join a start-up law firm here in D.C., and she had been there about a year, I think. She was very enthusiastic. She said this is a great group of people, they're vibrant, they're entrepreneurial, they split off from Hogan and Hartson, which was a big deal back in the mid-1980s. You didn't just take part of your executive committee and walk out of Hogan and Hartson. These people did. There were a number of women at the firm already. I interviewed with that firm, Ross, Dixon & Masback, as well. I was very taken with the plans that they had for the future and the thought of being someone who could come in very early in the firm's foundation or formation and help get this organization off the ground. They had at that point no one beyond Becky who had any litigation experience, any real courtroom experience. They had way more business than they could handle, and so they said to me we don't want you to do any business development. We want you to just be able to come in and start taking depositions, start preparing matters for trial.

Jenner, obviously, had a somewhat different mix of people, and I thought I don't want to bite off more than I can chew, and the notion that I did not need to be responsible for business development right away, which wasn't my highest and best use, appealed to me a lot. So I met with the various people at Ross Dixon and then finally decided maybe I should make this leap.

MS. KAGAN: How large was the firm at the time?

MS. GERE: At the time, I'm not sure there were even twenty people in the firm. Probably fewer than that. I remember in the interview process, because a group, or a concentration of the clients that the firm had were insurance companies. During one of the interviews that I had, one of the name partners said to me, "Are you sure you have the grit to come here and represent insurance companies? Insurance companies are (a) always viewed as having deep pockets, and (b) always viewed as the bad guy." I said and what do you think I've been doing working for the United States government for the last fifteen or more years. We too were always the deep pocket and usually somehow the bad guy. So, again, that sort of, it was an interesting way for him to present it, but it also made me think this is a place I probably can use my skills.

So I talked about it with various friends and people at the Department who all knew that this was something that was just time in my career to try. I don't think anyone begrudged me or thought me, at least I certainly hope they didn't. I, in my heart of hearts, thought that I could be at the firm for a couple of years and then I'd go back to Justice. I thought I'm going to get there, and I'm going to find out that my heart is really in public service, and I will want to go back. It was twenty four years before I left the firm. Almost twenty five years. And perhaps a good way to start our next session is to talk more about what that transition was like and particularly how I filled what I

viewed as the void of public service and giving back to the profession that I felt when I went into private practice.

MS. KAGAN: It was that much of a change for you?

MS. GERE: Yes. And in my view of myself and what was important to me. People who at that point, again we're talking the mid-1980s, people who left Justice often left for money. I was a single woman. I didn't have a family. The money was not what mattered to me. What mattered to me was the people that I was working with and the caliber of work that they were doing, but also, again, this piece of me that wanted to be sure that I continued to give back to the community and to the profession. And it took me a little bit of time at the firm to kind of figure out, how do I do that. How do my partners let me do that?

MS. KAGAN: You came in as a partner?

MS. GERE: I came in as an associate. The firm was so new. They said we'll bring you in as an associate, and then in two years, we'll consider you for partnership. I was so naïve, I knew nothing. And the money didn't matter. The title didn't matter. It was just—I want to try this private practice thing. I don't care what I'm called. I don't really care what they pay me. So they paid me way more than I was making at Justice, and I got a signing bonus, by which I was just very taken aback. I was there for about a year, and they came in one day and said okay, we just made you a partner. So it was something that I wasn't staying up at night trying to figure out, am I going to be a partner and when is it going to happen, and what do I need to do. It definitely worked out. So I

became a partner within the year after I had started at the firm. It was a very interesting many years, and again, among the best of my life as a lawyer and I still have my closest friends who were my colleagues from the firm. I think I was telling you earlier, I have not been out of my apartment for anything non-essential since March. Last night, my first time out, was to go and sit in the backyard, socially-distanced, with one of my former Ross Dixon partners, Bill Briggs and his wife, Gail. It clearly was a very close-knit group, and I'm eternally grateful for that.

MS. KAGAN: The firm then grew quickly.

MS. GERE: Yes. It did grow quickly. We had, as I said, when we started out way more work than we could possibly handle, so we were pretty aggressive about hiring. Although the word aggressive might be too strong. Balanced with the we need to have new people come in, the people that we hired were very, very rigorously selected, and we were a boutique firm that did a lot of interesting work and law students and young lawyers really, really wanted to come and work at the firm. So we were so fortunate to have top-tier law school people come in as summer associates and then they liked the firm well enough that they stayed on. The firm, because we represented insurance companies, had a lot of different substantive areas that fell under the insurance umbrella. The one that I spent most of my early days, quite a few years actually, was representing attorneys, accountants, and executives and officers who were covered by professional liability or directors and officers liability insurance policies. These professionals were, under their insurance

policy, depending on the terms of the policy, entitled to a defense by their insurer and appointed defense counsel if they were sued, and so my firm was the go-to firm for a lot of insurers for what were really “bet the company cases.” This was during the bank and S&L failure days. We represented a lot of accountants and lawyers who gave advice to S&Ls and banks. When those financial institutions failed and they were the subject of lawsuits, we would be appointed as defense lawyers. They were multi-million-dollar cases and significant firms were at risk for their very existence. The work was very stressful. It was all over the country. It was exotic and heady in a way unlike the headline cases at the Justice Department. Not often that you were going to read about one of your cases in the *New York Times*. On the other hand, you certainly would read about the law firm cases in professional literature when you had a case that somebody got sued for \$45 million and the law firm gave notice under its E&O policy. So that was fun. For me, it was a good chance to be in private practice and still maintain the feeling that I was representing individual human beings. In addition to the insurance defense work, the firm also did a lot of insurance coverage work. That was, to me, extraordinarily analytical and you had to be way, way smart to do it. I did a fair amount of it, but I did not do it with the flair and insight that many of my partners did. On the other hand, if they had to take a deposition, they couldn’t run out of the room fast enough. So it was a good place for me to be able to do what I enjoyed doing and what I considered that I did well, which was the defense of real people.

MS. KAGAN: Right.

MS. GERE: So what do you think, Barbara?

MS. KAGAN: Up to you.

MS. GERE: How much more time should we go? Maybe this is a good place to stop because I would like to get my thoughts distilled for what I want to talk about in private practice, and I need to follow up on something that you said.

In making my decision to go Ross Dixon, I felt that it was a good place to go for me because there were women there, and that's something that I'd like to talk about the next time we get together because at that point, again, there were not necessarily, even in Washington, an abundance of women in litigation. I knew that was going to be a significant transition for me leaving the Justice Department, which had many more women, and they were in many more senior roles than in law firms.

MS. KAGAN: Sounds like a good plan.