

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 by Zoom on Tuesday, August 11, 2020. This is the fifth interview.

MS. KAGAN: Hi Sally. This is a follow-up to our session last month. I don’t know how many sessions we’ve had so far, but they’ve all been wonderful. Good to see you again.

MS. GERE: Good to see you, Barbara, even if it’s only virtually on a screen, but you look very good. I’m happy to be here.

MS. KAGAN: When we left off last time, you were going to be getting into the world of private practice and why you came to it, how you came to it, what you did there, and how you liked it.

MS. GERE: Well, I think as I left my story, I was at the Department of Justice as a Senior Trial Counsel. I was very much enjoying the work, and then one random week, two of my former DOJ colleagues, who had gone into private practice, called me and said their firms were looking for someone with trial experience to join them. It seemed to me that as I was approaching my fortieth birthday and had never been in private practice that there must be some alignment of the moon and the tides and my birthday, and so I thought, you know, I ought to give that private practice a try.

I was very proud of the work that I did at the Department of Justice. I was immensely lucky to work with brilliant people at the Department of Justice, but for anyone who had not had that opportunity, I think people in private

practice tend to look down on people who have only worked for the government.

MS. KAGAN: Or had a small practice or a solo practice.

MS. GERE: Yes. And so I thought I need to test myself. I need to figure out is there something in my legal career that I have missed or in my own personal education that I've missed that I would gain in private practice. So I interviewed with two firms that my friends were working for. Both were very impressive. I thought it was an interesting exercise to talk with a private law firm about the next phase of my career, and the firm that I joined, Ross, Dixon and Masback, was a relatively new, I think maybe a three-and-a-half-year-old firm. It was a spinoff from the venerable Hogan and Hartson. A number of the people who left Hogan had been or even at that moment were on Hogan's executive committee, so it caused quite a kerfuffle when they left. They had an abundance of work and wanted to hire somebody who knew their way around the courtroom but didn't necessarily have clients because they already had too many clients. Those were the days. So I was in the right place at the right time with the right skill set.

It was exciting because all but one person, one of the name partners, all but one of the lawyers at the firm was younger than I, so I was betting on learning from people who were younger than I was, and I thought either that's going to make me run faster or I am going to say this is not a very good idea and go back to the Justice Department. I did not do that. Fortunately, the people that I worked with were terrific lawyers who just liked the fact

that I had probably more trial experience than just about any of them and government experience, but they were just immensely gifted lawyers. So as I had at Justice, I learned every day from my new-found friends at Ross Dixon.

My work at the firm primarily, particularly at the beginning of my practice –

MS. KAGAN: Let me just jump in. What year was that?

MS. GERE: I joined the firm in September of 1987.

MS. KAGAN: Do you want to talk about the runner-up firm?

MS. GERE: The other firm was then Jenner and Block. It was a much larger firm and had, as I recall, fewer women, and I, at the end of the day, was excited to be kind of at the beginning of a new business which Ross Dixon was. At this point, I can't even remember anything more than that other than I had some very good interviews at both places, but I decided to go with Ross Dixon.

MS. KAGAN: Did you have any way of discerning whether you were being paid the market rate being a female and out of government and at a small firm?

MS. GERE: As a government lawyer, I had no idea what anybody, and I wasn't at the time involved with anybody on a personal level enough to say so, what do you make as a guy or what do you make as a woman. All I remember thinking was that Ross Dixon paid me, and I can't even remember the amount, but at the time it seemed like a fortune and a signing bonus. But as a government lawyer, it didn't take a whole lot at that point to pay somebody a fair amount more than they had been making. And when I got to the firm, I went in as counsel, so I did not join the firm as a partner. They had told me I

think that they would consider me for a partnership in two years or something.

MS. KAGAN: It would be a lot longer today probably.

MS. GERE: Right. And at the time, honestly, I didn't even think I was going to be there two years. I thought I would go back to the Justice Department, so I thought I'd try this out for a year and see if I like it. I probably won't, so then I'll go back to the government. Of course that was naïve too, thinking that I can just pick up the phone and say two years later or a year later hey I'm ready to come back, and I'm sure the answer would not necessarily have been the one I wanted. But in any event, that was all academic because I was very happy being at the firm.

MS. KAGAN: What was the percentage of women in the firm at that time?

MS. GERE: At the time, I'm trying to think. There was one woman who was a partner.

MS. KAGAN: Out of how many partners?

MS. GERE: Out of I believe at the time there were six. It might have been seven. The numbers are a little fuzzy for me. But even one in 1987 was a significant number of women partners. In the firm itself, there were at least five or six women out of a couple of dozen, maybe thirty. So there was a good number of women in the firm, which I thought, coming from Justice where there were by the time I left, a number of women in the various parts of the Department. I thought this is a firm where they are more enlightened, shall we say. Being younger I think nobody had, well we always only hire men kind of mentality, but that simply wasn't the way it was. Certainly as time

went on and I was made a partner after I think I had been there a year maybe and then I was made a partner.

MS. KAGAN: Was it a surprise?

MS. GERE: Yes. I had no idea I was being considered, and I'll never forget either, when I became a partner, I called my mom who was still alive at that time, and of course there were no lawyers in my family, but I called and told her that I had just made partner, which was a big deal, and she was totally like okay but what did you have for dinner. I didn't really have a family where people understood the significance of that, and I'm not sure there was any reason why they should. I was still the same person, the same sister, daughter, whatever as the one who wasn't a partner.

So that was kind of the beginning chapter of how I got to the firm. The work that I primarily did was, this was in the time of the big bank failure crisis in the late 1980s, early 1990s. My firm represented a number of insurance companies. That was its stock.

MS. KAGAN: On the defense side?

MS. GERE: On the defense side. Well, yes and no. We were what's referred to as coverage counsel. We represented the company itself if it were sued for bad faith or if it got embroiled in issues regarding legal fees that it was being charged or asked to pay as well as giving legal advice to the company as to whether a claim that had been made for payment under the policy was in fact covered by the policy. So it was a lot of very sophisticated contract analysis, but that was not mostly what I did. At least I did some of the coverage work,

but then the other part of what we did when an insured was sued and had coverage under its policy, for some insurers, the company controlled who would be appointed as defense counsel to defend that insured, and so that was more the kind of work that I did. Most of the work that I did was in defense of either lawyers or accountants, professionals, and so, for example, you were representing a law firm against a complaint that they had committed malpractice. You were actually looking at the merits of the claim, but you were being paid to do that job by the insurance company. So there were all kinds of legal issues about should an insured get to choose their own counsel or not or as defense counsel, was your allegiance to the client or was it to the insurance company or was it some hybrid. It was, to me, an entirely new world. This was not government litigation. I knew the rules of the road. I knew what to do in a courtroom, but I had to learn how to speak a whole new language. And here's the other irony. My grandfather began an insurance agency in Syracuse, New York. It was the oldest insurance agency in Central New York. When my grandfather, whom I never knew, passed away, my father was asked by his mother to come and take over the business so that it could continue and would support my grandmother as well. I think I mentioned earlier that I have three sisters. My father would no more have thought about having a woman run or help him run an insurance agency than fly to the moon, and here after his death, of course, here was one of his daughters defending insurance companies, the very insurance companies he

represented in his insurance agency. So it took a while for the world to evolve in my family, at least.

MS. KAGAN: Yes. Coming full circle. In a lot of those private practice cases, were there a significant number more that settled than in your government work?

MS. GERE: A lot of our cases, a lot of it was just figuring out how to get the best settlement, but that's true with all civil litigation.

MS. KAGAN: Right.

MS. GERE: The other thing that I did a fair amount of was mediation and arbitration. Again as ways of attempting to avoid the courtroom, but at the same time, you could not be an effective advocate at an arbitration or a mediation if the other side thought you're going to eventually capitulate because you don't even know where the courthouse is let alone when to stand up or which side of the courtroom to sit on. So you had to be able to bring your bona fides along with you.

I was very engaged in that practice. I thought it was interesting. I thought it was exciting. The cases that I worked on were failures of huge banks that were putting law firms that had been in business for decades at risk of failure, as well as international and national accounting firms. These were no small stakes. So I never felt that I substantively took a step down from the types of legal issues that I had at the Justice Department. Now, obviously, they were of interest to a much smaller group of people than those reading the front page of the *New York Times* or the *Washington Post*. But to the clients, they were very important.

MS. KAGAN: And in some cases, as a practical matter, they had more of an impact.

MS. GERE: Yes. So, I did that kind of work at the firm and maybe what I'll do is kind of talk about the work that I did at the firm and then I want to make sure that I talk to you about or that I include in this oral history my effort to balance being in private practice with no longer being in public service at the Justice Department. So pivoting back to the kind of work that I did at the firm. So I did that, and over time, I did some of the coverage work at the firm, meaning I represented the companies themselves in their issues about whether some part of their policy actually provided coverage under their insurance policy.

I also, and I'm not sure how or why, but as time went on and as employment issues more generally became, or came to the forefront, including for insurers because they were now writing employment practices liability insurance, I ended up defending a lot of employment cases on the direct defense side. So a lot of trade associations, non-profits whose staff, typically the CEO, had done something that someone had either sent a demand letter threatening litigation or they actually filed suit. And I found that very interesting because of the human issues that were involved, and coming closer to the end of my time at the firm, I guess probably more through word of mouth and the fact that I had this employment experience, I ended up representing a good number of women who were being eased out of the workplace for lack of a better description because they had gotten older, they were more expensive, and they were frankly more vulnerable to

somebody coming in and saying we want new blood here, we want new faces. I loved working on those cases.

MS. KAGAN: You were still on the defense side in those cases?

MS. GERE: Well, I was representing, this was just a woman would call me, and I would be retained by the woman. It had nothing to do with any of my insurance cases.

MS. KAGAN: So you were doing plaintiff side work as well?

MS. GERE: Right.

MS. KAGAN: There are a lot of firms that won't go both sides.

MS. GERE: Right. And, of course, I always had to ensure that there were no conflicts for any of the firm's clients. A lot of the women that I represented frankly needed a voice for themselves because it's very hard to advocate for yourself, particularly when you are a woman of a certain age and that's not the way you've been trained, it's not the way that you've been expected to act, and if you did, that would be further confirmation of why you should be out the door. For most of those cases, what I attempted to do was to help women move on because I knew and could explain to them the risks of litigation, both financial and emotional, and could look at where they were and figure out where the pressure points were where I could get the best exit package possible for this person. I took pride in what I was able to accomplish. I think it kept me connected to being active in the practice of law believing I was doing something that I thought was for the good of another individual.

MS. KAGAN: I understand.

MS. GERE: Which sometimes in private practice, particularly when you're in a corporate practice, you, I think, sometimes don't even think about the personal prices that are being paid by people.

Anyway, so I did that, and that was very interesting. While I was at the firm, I also represented, and this was back through more often than not an insurance carrier but representing a lot of non-profits and trade associations on governance issues, on relationships, what's the role of the CEO, what's the role of the board, what's the role of the membership. What are the bylaws, how should bylaws be constructed. So I learned a lot about non-profit law and non-profits, which is also interesting. There's a theme here. I was a litigator. I was somebody who knew the rules of the road, if you will. I knew the Federal rules. I knew how to read the local rules. I knew how to read state court rules. But I always got to learn some new subject matter, which I thought was what kept the practice of law interesting.

MS. KAGAN: Yes. And with a lot of matters being fact-driven, it's always a new day.

MS. GERE: Right. And you really have to immerse yourself, and you really have to know the facts because so much turns on finding that one little piece of information the other side overlooked or never thought about. It makes a big difference.

During some of my time at the firm, I was on the firm's recruitment committee. I became the I don't know whether I was ever formally named as Ethics Counsel, by that title, but after a while, I became the person everybody

came to and essentially said well if Sally thinks it's okay, then you can do it.
If not, we need to think about it.

MS. KAGAN: But you didn't have every answer right at your fingertips.

MS. GERE: Oh gosh no. And after some period of time, my firm of Ross, Dixon and Masback merged with a firm in San Diego, California, and became a larger firm. It was a national law firm, and as we grew, of course, issues of conflict became more complicated, and the firm took all of those issues very seriously.

MS. KAGAN: What firm did you merge with?

MS. GERE: We merged with a firm that basically was led by a lawyer by the name of Roy Bell, maybe ten lawyers with him, but by then, Ross, Dixon and Masback had established an office in Orange County. We had an eclectic firm at the beginning. We had a very significant First Amendment practice, and we represented the *Orange County Register*, the newspaper. The *Register* wanted us to actually have lawyers in California. We opened an office in Orange County, and then our insurance clients said that's great because now we've got counsel on both coasts. Eventually we also had an office in Chicago, so the firm, during the period when firms were more flush, we were beginning to expand, and at that point, our ethics issues and other issues that might fall more generically under those of general counsel were coming more to the fore, and I, after a while, went to our management committee and said I would like to be formally recognized as general counsel, and here's what I think the duties should be and how this should

operate and have other partners work with me as needed on issues. So the firm agreed, and we did that. I did not get a break in my billable hours, but the idea was we have people who work on recruiting, we have people who work on the executive committee, we have all kinds of people doing all kinds of things, so this will just be your administrative contribution. At some point I kind of pushed back on that. Anyway, that's another part of the story, but as the firm grew larger and ultimately when we merged with Troutman Sanders, which wasn't until 2009. How funny. As we are talking, something just popped up from Troutman on my computer. It must be an alumni newsletter or something. Anyway, when we merged with Troutman, there was an established general counsel's office and there were representatives in each of the cities who were assistant general counsel. I was not at that point general counsel for the entire firm because I was not with the legacy Troutman people, but I remained the primary deputy general counsel in D.C. for the firm.

MS. KAGAN: Were you consulted before mergers to determine how difficult the conflicts that would arise would be to overcome?

MS. GERE: We had a lot of conversations, and at the time that we decided to merge with Troutman, my recollection is that I was on the executive committee at that point so I was quite actively involved in is this going to work and how is it going to work and who might be a beneficiary or who might lose business or who might be forced out. It was compounded because in D.C., we were the only physical Ros Dixon office where there already was a Troutman office,

so it was physically putting people together from the Ross Dixon Washington office and the Troutman Washington office. In all of the other geographic areas, Troutman had, and still has, a big presence in Richmond and it's an Atlanta firm. But in no other city were the two firms physically thrust together. Now we're married, here you go, figure it out.

MS. KAGAN: Did it require a physical move?

MS. GERE: Yes, which was probably a not insignificant part of our decision-making process for Ross Dixon was coming within reaching distance at the end of our lease at 2001 K Street, and Troutman had sufficient space at 401 Ninth Street, so Ross Dixon moved to the Troutman space.

MS. KAGAN: Was that the first really significant merger?

MS. GERE: Yes. In terms of numbers and the overlap in physical space. Troutman was significantly larger than we were. Troutman recently again has merged with Pepper Hamilton, and now it's really huge.

MS. KAGAN: Was there concern about a change in the culture, how the smaller firm, by your bootstraps kind of mentality, would be affected?

MS. GERE: Yes. The merger with Troutman was probably an economic necessity. This again was really when the market and the economy were doing very poorly, and it was also for the younger people in the firm to say we want to be sure that there's a structure that's going to carry on because those of us who were at Ross Dixon in the early days, this is twenty-some years later, and so people are aging, and the younger folks want to know okay, what's the next chapter look like.

MS. KAGAN: Had not many younger attorneys been made partners?

MS. GERE: Yes. But they were the ones saying okay, are we going to be able to expand our business, should we be looking to get into some new area, cyber law, whatever. I have to say it was very bittersweet, and not everybody was enthused about it, although I think that's probably true of any merger. People who are happy with it, and people who are not. And there was a whole concern I think particularly for a number of the women in the firm that we were marrying a southern white male establishment law firm. That really was not who we had been heretofore.

MS. KAGAN: The percentage of women went drastically down.

MS. GERE: Yes. But the number of people went up when we merged with the folks in California. I'm not even sure though if they had one woman in that office. So that was a question for us at that point too. I don't think any of these mergers are matches made in heaven, frankly.

So that's kind of as the firm evolved, my professional work evolved, and mostly I remained in the litigation area, although with the time that I represented a number of women, I would say that was more traditional legal counseling, but the end game, if there were not a resolution, was going to be litigation, so I didn't get too far away from it.

MS. KAGAN: What were some of the more interesting ethical questions that you had to face?

MS. GERE: Oh my goodness. Mostly they were without disclosing too much, but typically about whether we could take on a new client and particularly where

we represented this whole bevy of insurance companies who in turn had insureds. If we were looking at clearing a conflict, how did you do that. It was just the same kinds of issues that people come across today. It was not to me at the time so much the specific issues as there were camps of people. Do you want this firm to succeed as a business, we can't be turning clients down. There was a camp that said we can't be taking clients that we should not for ethics reasons be taking because we'll end up being disqualified as counsel or brought up on whatever bar charge. So it often was kind of negotiating with your own partners to enlighten them about how one should analyze the issues and what the risks were of making a wrong call.

MS. KAGAN: I assume that where there were client conflicts, we're talking about different substantive areas.

MS. GERE: Yes. Usually.

MS. KAGAN: And so were you able to get a lot of waivers?

MS. GERE: We did get waivers. I remember working on those and getting informed consent, and how do you get informed consent. I mean all those kind of traditional ethics issues. And I think to the credit of my partners, I don't recall ever being presented with a case regardless of whether it was the partner who brought in the most money every year saying damn it, we have to take this case. I never experienced anything like that, to the firm's credit and to the partners' credit.

MS. KAGAN: And nobody had to leave the firm because of conflicts?

MS. GERE: No. Our partners, that was before Troutman, our folks who had a First Amendment practice, eventually they peeled off because there were, from time to time, some conflict issues. They set off to form a new firm. There were, I think, four of them maybe who left the firm. I think they probably still have the top-ranked First Amendment practice in the country.

MS. KAGAN: Which firm is it?

MS. GERE: The partners were Lee Levine, Mike Sullivan, and Betsy Koch, so it was Levine, Sullivan, and Koch. Now I haven't checked lately as to whether people have retired, but it was definitely a thriving enterprise. Again, just brilliant lawyers, every single one of them. Betsy was one of the women who was at Ross Dixon when I joined. She was an associate. But again, she was one of the women who already was there, and obviously went on to do some very good work. I can remember getting, I hadn't been at the firm too long, I guess you have to kind of laugh at it. Lee Levine had an argument in the United States Supreme Court, and one of my partners, who shall remain nameless, or probably more than one, decided that befitting his new position, Lee really needed a wardrobe refresh, so I was tasked to go shopping with him and another partner. We decided what suits he should buy and what ties he should wear.

MS. KAGAN: Is this for the press?

MS. GERE: We have this person who's now going to be out in the public and the face of Ross Dixon, so let's spruce him up a little bit. This was not my idea. I was just the woman who was brought along on this endeavor. As I recall, we

went to, at the time, I think there was a big Britches, I don't know if you remember the men's store Britches of Georgetown, that's where we went to do the shopping. Anyway, the times in the early days of the firm were great fun. People were young. They were energetic, smart. They were hard-working, and we were making it on our own. So that kept me there certainly, and the idea of going back to Justice didn't cross my mind again for many, many years.

MS. KAGAN: How would you say the atmosphere, the culture, was different from the government?

MS. GERE: I would say that that was one of the things that drew me to the firm was because it seemed the culture was not significantly different. I did not feel at the firm, and maybe it's because I was made partner so early and I never really thought about that, but there did not ever seem to be competition with your colleagues. I didn't compete with my partners for business. I didn't compete with my partners for associates to do more work or for a secretary. It always felt as though we were in it together, and that's certainly the feeling that I had at Justice. It was different because while there was a great deal at stake in cases at the Justice Department, it was not as though you would ever have a client who would say screw that up, I'm done with you. And yet that happens in private practice. It was a different kind of pressure that, as my senior partner Stu Ross, repeated endlessly in giving advice to the younger and new lawyers. (I was younger than Stu, and he was the only one who was older than I was at Ross Dixon.) Stu used to say that "lawyers advise, and

clients decide.” He said you have to do your best to give them all the advice that they need to make a decision, that’s your job, and then you stop, and they have to make the decision based on your advice. Don’t ever mix yourself up with being the client.

MS. KAGAN: And then if a client asked what you would do, would you bow out of that?

MS. GERE: Or you would reframe and say if it were I, I would look at say, here are the risks, and you kind of try and do it that way.

MS. KAGAN: Being a woman, was it different being in the government versus being at the firm because there was more of a gender parity in the federal government than law firms.

MS. GERE: Yes. And there was, and this goes into the philosophy of running law firms, and that is among partners, whether you disclose to each other how much money everybody is making as a partner. In many firms at the time that was a highly-kept secret. Ross Dixon did not operate that way, so we knew what other partners made, but then, that opens another set of issues because people will say pick “x” partner and say I do the same thing that “x” does, and I’m not making the amount of money that “x” is making, and so compensation issues were handled by a compensation committee that was appointed by the partnership each year. It involved, along with whether to make somebody a partner, some very contentious financial issues.

MS. KAGAN: How many women were typically on the compensation committee?

MS. GERE: Until after I had been there for quite some time the women partners typically made less than the male partners. Everybody had a different way of valuing

their contribution. Did you look at billable hours, did you look at administrative work, did you look at the work in the community, the support of the profession, pro bono work, how did you make that calculation. I can remember many years people trying to sit down and come up with some way to objectify that.

MS. KAGAN: A formula.

MS. GERE: Yes. Some kind of formula. From time to time we did have formulas, but even a formula still has to have some elements put into the formula and has to have some latitude. And not surprisingly, either, until you're actually on the compensation committee, which I was multiple times, you don't really appreciate how difficult it is to make some of those comparisons and to make some of those decisions, particularly when these are people who are your friends and the colleagues that you work with. And sometimes the compensation committee got it right, and sometimes it didn't.

MS. KAGAN: Did partners do self-evaluations?

MS. GERE: After a while, yes, we did. And then we did, as part of your self-evaluation, you had to discuss what you did for the firm, what your plans were for the next year, what you plan to bring to the firm. That sort of thing. But it was always I think a difficult process, and I think that the women in the firm took longer to catch up financially, and I'm not sure that, frankly, they ever did.

MS. KAGAN: Was there any maternity leave policy?

MS. GERE: Not really. Not until D.C. law had some policies, but my three partners, one who was an original partner, had children, and the other two also. One who

was my DOJ colleague, she ended up having children, and then the third partner became a partner at the same time I did, she had children. All of them had spouses who worked. All of them had essentially live-in or functionally live-in childcare. All of my male partners had stay-at-home wives. I admire my female partners for what they were able to do in the face of the demands on them because there was no letup and no recognition of any additional role that all the women were playing.

MS. KAGAN: Were they at the firm when they had the children?

MS. GERE: Yes.

MS. KAGAN: So did they take time off without compensation?

MS. GERE: That's an interesting question. I don't remember. I'll have to ask a couple of them. I don't know. I should know, but I don't. And whatever it was, they were all such hard drivers themselves that I doubt they took anything more than whatever minimal amount, and probably continued working from home even though back in those days before computers that was a lot more challenging.

MS. KAGAN: Did you work harder when you were in the firm than in the government or work longer hours?

MS. GERE: I would say they were for the most part comparable, although overall I would say I worked longer hours at Justice. But again, I didn't have children, so if there was someone looking around for who can jump on a plane, who can stay late, for the most part I volunteered. But when someone simply says you

don't have a family so it's not as much an imposition on you, I think it's not a fair analysis.

MS. KAGAN: Right. It's not as though you were waiting for your life to be filled by more work.

MS. GERE: Right. Eventually, too, more women became partners and there were more of us to have a voice, which I think helped. Although, we had issues in the firm. I think there were, as in other firms, male members of the firm, that hadn't quite figured out the "me too" movement and being part of the structure of the office of what's appropriate, what's moral, what's ethical. People would come to me, and I developed a very close working relationship with our HR director, Terri Carnahan, so she would come to me with issues to discuss and how to handle things. I also was among the people that if there were any claim of harassment, I would do an investigation and determine what steps, if any, should be taken.

MS. KAGAN: How much sexual harassment was going on in the firm as far as you know?

MS. GERE: Probably about the same amount that was everywhere else, which, to me, was too much. I'm sure that people needed to have the curtain drawn back. People needed to understand that what they thought was a clever innuendo was in fact an unwelcome comment that potentially spoke of a bigger issue. But even at that, the founders of the firm, the people who controlled the most shares, were all men. I hope that it was a different era. I certainly found as I continued to travel around the country and go to courts in other jurisdictions and meet with lawyers in other jurisdictions that the fact of being a woman

became less remarkable and you were viewed more as a professional and that's the way you should be treated. I think even in the context of the firm, it took a while before some of these guys recognized I'm one of your partners too. I happen to be a different gender, but that doesn't give you either latitude to treat me unfairly or to harass me or whatever. It was dicey, I have to say, because there were people who left the firm and they were women.

MS. KAGAN: So you said that the partners who had children when they were already at the firm were very driven, so they really didn't care much about any kind of maternity leave. But was it also because they felt they would slip behind in their careers and in the way they were perceived at the firm if they took maternity leave?

MS. GERE: Yes. I would say definitely yes, with a healthy dose of they're just Type A personalities, that they were going to be the best that they could be regardless of their maternal state.

MS. KAGAN: And so the sexual harassment was less in the government?

MS. GERE: Yes. Definitely less. That's based on my observation.

MS. KAGAN: But you do get a sense.

MS. GERE: Yes. And, of course, back in the early days when I was at Justice, there wasn't any such thing as sexual harassment to anyone's observation or acknowledgement.

MS. KAGAN: Was the Women's Bar Association in existence by then?

MS. GERE: Yes.

MS. KAGAN: And so were these kinds of issues that came to the fore?

MS. GERE: But Barbara they came to the fore when I was clerking for Judge Green who was a woman, and she was treated very differently on the bench by the lawyers who would come into the courtroom than they would have ever treated Judge Gesell next door or Judge Jones at the end of the hall. I was clerking in 1972, 1973, 1974. These were times when there weren't women on the bench and there were a lot of older men in D.C. who could not accept the fact that there was a woman sitting up at a higher level on the bench telling them or their clients what they had to do.

MS. KAGAN: Well hopefully they did that at their own risk.

MS. GERE: Well, yes, which I always thought was crazy for them and their clients.

MS. KAGAN: Were they even aware of it?

MS. GERE: I'm confident it was on behalf of a number of them flat out intentional, trying to say can I get a rise. I guess that made me think about it because my judge was president of the Women's Bar Association years before she went on the bench. She was well aware, and I think was unfairly held to a different standard and criticized more than her colleagues for doing the same things.

MS. KAGAN: Criticized in evaluations, outside evaluations?

MS. GERE: People would, word of mouth, I guess.

MS. KAGAN: Probably in the hallways kind of thing?

MS. GERE: Yes. But I got to see up close and personal as the judge's law clerk, and I also took time during my clerkship to go and watch how other judges conducted their courtrooms just because it was something the judge encouraged us to do as part of our learning process.

MS. KAGAN: So did your judge talk with you a lot about that?

MS. GERE: Yes. She was definitely of the era that you simply had to work harder and be better prepared and have a very thick skin. Don't let it get to you, don't let them see you sweat, don't let them see you cry. And that's why I was so fortunate to have a role model. So many women in the courtroom didn't. I was thinking about that as I was reading this book that I was telling you about, *Shortlisted*. Looking back at my career how unique given when I graduated from law school and was looking for legal jobs that my very first supervisor was a woman. Two of the Assistant Attorneys General for whom I worked at DOJ were women, and of course I clerked for Judge Green before I went to Justice, so before I ever got to private practice, I had been in workplaces where women were in charge. There hadn't been a woman Attorney General, but the Attorney General would have been so many levels above me it wouldn't have mattered on a day-to-day basis. It was the Assistant General that ran the Division. One of the Assistant Attorneys General for whom I worked was Barbara Babcock. She was a formidable lawyer and definitely a formidable woman and somebody that I interacted with on virtually almost a daily basis in certain of my cases. And Alice Daniel, who was the next AAG, was as well. So I was really very lucky to have women that I could model myself after. Every single one of them was head and shoulders in my view above the men around them.

MS. KAGAN: There was some school of thought that women attorneys as supervisors were tougher on younger or less experienced women attorneys than they were on the men.

MS. GERE: I had heard that, and ironically, where I heard that most was when I went into private practice, that none of the secretaries wanted to work for the female partners because they were more demanding. I don't recall any of the female associates saying I don't really want to work with her because she's a woman or any of the male associates either. It was more the secretaries, and that seemed to be the rap. Of course I had at the firm three spectacular secretaries with whom I still stay in touch. We had some times, but we figured it out. With my last secretary, she'd been there long enough, she'd seen everything. She already knew it all.

MS. KAGAN: What other activities were you involved in while you were at the firm?

MS. GERE: This was, as I said, I regretted leaving public service when I left the Justice Department, so I started looking to do other things that I thought would offset private practice. So at the firm, I did a number of pro bono cases. When the firm first started, we were all about pro bono, and everybody got credit for every hour of pro bono that they worked the same as for a billable hour.

MS. KAGAN: That was enlightened back then.

MS. GERE: That was definitely enlightened. We ended up with one of our lawyers, David Dwares, being selected as Pro Bono Lawyer of the Year by the bar. We had terrific results for various clients. I handled both the supervision of some of the younger lawyers who were doing pro bono litigation, and I also

then took on some cases myself. One involving a very complicated custody and divorce case, and that went on for years and actually went to trial. It was quite something. Another case that my firm and this was I think to its everlasting credit took on pro bono was on behalf of a Justice Department lawyer who had not gotten his renewal notice from the bar to pay his dues and had then not paid his dues. He ended up through a set of circumstances where the judge looking at another issue found that the lawyer had been administratively suspended from the bar and so he had practiced for about a year without being licensed to practice law.

MS. KAGAN: I know this case.

MS. GERE: So we got a TRO on behalf of the lawyer that kept the Justice Department, which was about to make him file notices with courts around the country advising that he had been practicing without a law license. The bar also refused, even if he paid the dues, to retroactively admit him. So the period of time of unauthorized practice of law was always going to be on his record, hence the Justice Department couldn't continue to employ him. He had been at Justice at that point for 25 years and just been the subject of a federal opinion extolling his virtues and discussing what a great lawyer he was and what a fine job he'd done on behalf of the United States. It was not the bar's finest hour, shall we say. It was the bar's system of keeping track of lawyers and dues that was the problem. It was antiquated, it didn't operate properly, and then they had this notion that if you missed the deadline, you were just out of luck—there was no way to make a correction. Michael Sitcov was the

name of the lawyer at Justice. The system was unfair at best, unconstitutional at worst. There was another situation involving a lawyer who had been serving in, I don't remember which war, maybe Iraq. He had failed to pay his dues, and his father tried to pay them, and the bar wouldn't reinstate him retroactively. In any event the case involving Mike Sitcov became a federal case when it never should have been. It was before Judge Emmet Sullivan in the D.C. federal court. Judge Sullivan had, as you probably know, previously served on the D.C. Court of Appeals.

MS. KAGAN: And Superior Court.

MS. GERE: Yes. And Superior Court. But it was his time as a D.C. Court of Appeals judge that influenced him in the *Sitcov* case I believe. The D.C. Court of Appeals oversees the admissions process of the bar. And so Judge Sullivan basically said I think you ought to go over to that court and ask for its view. All this did was increase exponentially the cost to my client at which point my firm, as I say to its ever-lasting credit, handled the case pro bono and allowed us to continue litigating. In any event, the Court of Appeals said well, we can't address the constitutional issues that you raised here and so at the end of the day we're going to send it back to Judge Sullivan. And so it went back to Judge Sullivan who said, really, can't you settle this case. This is getting crazy. And so we ended up going to mediation with a court-appointed mediator from the D.C. Circuit Mediation Panel who was phenomenal and settled the case with Sitcov being retroactively admitted and wiping clean his bar history and restoring his record without blemish, as it

should have been. The bar thereafter has definitely cleaned up its antiquated processes. It was a “bet the company” case for Mike, this man who had worked tirelessly for his whole professional life at Justice was going to have it all taken away because the bar did not send him a notice. Yes, we should all remember all kinds of things. But, if you want my money, you need to send me a bill and tell me it’s time to pay. If you don’t do your part, I cannot do mine. So that was a fascinating case. But that was only one part of my relationship with the D.C. Court of Appeals, that was my pro bono litigation. But several years before that, one day I got a call from the Chief Judge of the D.C. Court of Appeals, Annice Wagner, who asked me if I would be willing to serve on the court’s committee on admissions.

MS. KAGAN: Who was the judge?

MS. GERE: Chief Judge Annice Wagner. I knew who Chief Judge Wagner was, but I didn’t know her well, and I had truthfully no idea what the committee on admissions did. She made it sound very engaging and my thought was since when do you ever say no to the Chief Judge who calls you to be on a committee. So I thought okay, I’ll figure it out. As it turned out, the Committee on Admissions, which is an arm of the D.C. Court of Appeals, is responsible for the administration of the bar exam and recommendations to the court on the character and fitness of bar applicants for fitness to practice in the District of Columbia. When I first was appointed to the committee, that meant I wrote the questions that were asked on the bar exam for certain topics and I graded the exams and I sat essentially as a trial bench with the

other members of the committee on character and fitness issues. For example, if you passed the exam, were you fit to practice law—had you committed a crime, did you have issues with bankruptcy, had you abused your spouse, all manner of issues, each one very interesting but each one very troubling, and it took a fair amount of time.

MS. KAGAN: Was this after the *Sitcov* case?

MS. GERE: No. This is years before. But having been on the Committee on Admissions for two terms and my ethics role at the firm, I then represented a number of people who were trying to be admitted to the D.C. Bar and had something in their background they knew was going to be a problem. I developed another niche area of practice as a result of court service.

MS. KAGAN: Yes. A niche practice.

MS. GERE: Right. But this would have been fairly early on. I'm trying to remember what year. I was on the Committee on Admissions for eight years. It was very time-consuming. There would have been back then, probably a couple of hundred people who took the bar exam, maybe 250, so you would have that many bar exams to grade. And the way it was done was we divided up who graded which questions.

MS. KAGAN: Internal consistency.

MS. GERE: Yes. And grading consistency. And then we would go to Chicago and have organized trial runs on grading because the National Conference of Bar Examiners started writing uniform national questions and attempting to impose some consistency on how questions were graded. But the grading of

bar exams was quite time-consuming. And then the number of people who had issues with their admission to the D.C. Bar even after they passed definitely took a lot of time. I was on that committee, so basically, I was a bar examiner from 1995 to 2002. We had during the time that I was on the committee we had a very senior partner from a very well-known firm who had been practicing law in the District of Columbia for about a decade at a D.C. law firm without ever getting admitted to the D.C. Bar. By the time somebody said to him you may think you're pretty hot stuff, but you have to be a member of the D.C. Bar, he had a problem. It might have even been an opposing counsel who complained. I don't know how it came to light. He may have actually filed an application after somebody suggested that he seek admission. We had expert witnesses. We had the name partner of the firm who came in and testified. And I think as a result of that, of course, the Committee on Admissions has no authority over a law firm qua law firm, but it sent a signal to the legal community and to law firms that you don't want to be held up to this embarrassment, so to the extent as a firm you are paying for the lawyers in your firm to belong to the bar, you better be checking that they actually belong to the bar as well as paying their dues.

We had so many interesting matters. Another one that was a real cutting-edge issue is that we had an individual who had been involved in the murder of the first female officer killed on duty in the District of Columbia, and he applied for admission to practice law in D.C. There are a number of jurisdictions which have automatic prohibitions against admission. If you've

been convicted of a felony, don't even think about going to law school because you won't get admitted to the bar. D.C. has a somewhat different standard, and back in the day, I don't know, I haven't looked at the cases in a while, it used to be an eleven-factor test as to whether you had taken responsibility, how long ago the crime was committed, how old you were, what your role was, what you have done with your life since. There is a question whether you have rehabilitated yourself. In the matter before us, the person who had applied had done meaningful work while he was in prison and had been admitted to law school with the full knowledge of the dean of his background. The students elected him president of his law school class, and so if one believed in redemption and followed the case law, you had to give careful consideration to all of it. At the end of the day, my recollection is that he was on parole, and that was one of the disqualifying factors for admission in D.C.

MS. KAGAN: He was still serving a sentence?

MS. GERE: Yes. He was released but still under sentence. I believe he applied for his parole to be concluded. After I was off the committee, I lost track of it. But we had all kinds of issues with all sorts of people. Sometimes you would just sit there and say to yourself, how did you think you were going to be a lawyer. You lied on your law school application, you cheated on the bar exam or whatever the transgression.

MS. KAGAN: How do you cheat on the bar exam?

MS. GERE: Oh my. We had lots of those cases. People were very ingenious about writing things on paper, on themselves. This is of course in the day before computers. You couldn't even use a computer for the bar exam, but people would write codes to themselves on parts of their body and then go to the restroom or try and take a backpack into the toilet stall. We had people who worked out with somebody else, turn your test paper a certain way so I can see it, but we'll sit next to each other. People are creative, and not in a good way. What makes you think you would ever be a good lawyer. A client is supposed to be able to trust you.

So fast forward, not only was I then for two terms on the Committee on Admissions looking at people at saying I'm not sure we should admit you because you know what, we're going to see you down the road before Bar Counsel because you will have done exactly what we feared you would do. So then I served two terms on a hearing committee for the Board on Professional Responsibility, another court appointment. In other words, the trial court that hears Bar Counsel complaints against lawyers who have been charged by Bar Counsel. Again, fascinating cases. Sometimes you would look at them and say there but the grace of God, and others you would look at and say what were you thinking.

Of those cases, the most interesting case that I worked on involved a former federal judge, Abraham Sofaer, who was the Legal Adviser at the State Department when a Pan Am airliner was downed by alleged Libyan terrorists. Sofaer left the State Department and went to work at a private firm

and was representing Libya in connection with the downing of the plane. So then-bar counsel Len Becker, another brilliant lawyer, decided that this warranted a sua sponte charge, so he, as Bar Counsel, filed the charge for violating the District's Rules on Professional Responsibility. I was on the hearing committee that was assigned to hear that case. There were very high-powered lawyers and considerable testimony. I think it went on for two weeks maybe. Meanwhile I was still trying to juggle my law firm work. These are things I was supposed to be doing in my spare time and not my billable time. At the end of the day, we concluded that he had violated the D.C. Rules on Professional Responsibility and should be sanctioned. We wrote a very lengthy, I want to say sixty- or seventy-page opinion. I should give due credit. The person who had the heaviest pen because you sat in panels of three, two lawyers and a non-lawyer. The other lawyer on my panel was Glenn Fine, whose name you may recognize because he was the Inspector General at DOD who recently was asked to resign from the position—solely for political reasons. Glenn is a brilliant, brilliant lawyer. So obviously it was a pleasure to work with him. He was so smart. We, mostly he, crafted a terrific opinion that I thought was exactly where it should be. Our non-lawyer member was not in agreement. The bar member, Judge Sofaer, appealed, but was not successful. The appeal goes from the hearing committee to the Board on Professional Responsibility, which adopted our decision. Then, if it is appealed further, it goes to the D.C. Court of Appeals. The D.C. Court of Appeals upheld the decision by the Board on

Professional Responsibility against Sofaer. He then appealed to the Supreme Court but was unsuccessful there as well. I don't think the Court even took cert. So that was very interesting.

I always had a lot on my plate because that was not all I did. I was on a number of other court committees at the same time. And then along the way, tell me to stop when you're ready, but along the way, I also decided that it would be very good to teach, particularly at the time, and this would have been in the mid-1990s. The person that I was dating, Bill Causey, had been teaching. First, he taught at AU, and then he taught at Georgetown where he taught a trial practice course. I remember saying to him, do you have women in your class, and he said yes. I said what kind of role model are you. You need to have a woman in there. So one thing led to another, and I applied to become an Adjunct Professor. For many years, we co-taught a course on trial practice, and eventually, the dean asked us to come up with a course that was two semesters long. So the first semester was basically the building blocks of civil litigation, doing discovery, interviewing witnesses, selecting your client, figuring out which court you're going to be in. And then the second semester was the traditional trial advocacy, how do you do an opening statement, a direct examination, a cross examination, a closing argument. But this was putting the two pieces together so people understood there was actually a good reason to think about what kinds of interrogatories you were sending out or what questions you were asking in a deposition because those were the underpinnings for when you had to go to trial. I think

there's a real disconnect for young lawyers who want to litigate to understand how that process really all fits together.

So I taught at Georgetown for a couple of years with my then-significant other, now my husband, and then he moved on to teach other things. Teaching together was not the best thing for our relationship anyway. We have very different styles, which was one of the things I think that the students liked. So I set about finding another professor to teach with, and, over the years, I taught with several of my male partners at the firm, each of whom had very varied careers and strong communications skills and would introduce a different perspective from mine. I think the students in the class enjoyed that, and seeing that trial practice, the rules are the rules, but how you use the rules and how you personally present something to someone, there's discretion, there's flexibility. You've got to figure out what works for you as much as anything, figuring out how to be a good lawyer in the courtroom.

MS. KAGAN: Did you talk to the women about how they should dress in court?

MS. GERE: You bet. Because when I first started, and the way that the class culminated, the two-semester class, was that the students would actually try the case that they had been working on all year before a real judge. Sometimes I was able to talk a federal judge into it. Sometimes it was a Superior Court judge. Either way, they were terrific people and saints for taking a Saturday to help train new lawyers, because it took a whole day to preside over one of these trials.

MS. KAGAN: Did you have a jury?

MS. GERE: Yes. We would have a jury. We frequently asked the students to, at the beginning the year, we would say each of you, and we had maximum enrollment of eight students in the class, each of you will be responsible for at the end of the year for putting two people on the jury for an entire Saturday in the springtime with whom you have not discussed any of the case over the preceding year. We had one student who got his high school English teacher, who had been such a role model for him and encouraged him to go to college and then to law school, to come and sit on the jury. We had people's parents, we had other students. So it really was good because we had a whole collection of people, and then as part of this exercise, the jury got instructions from the judge, they went back to the jury room, they deliberated, and while they were deliberating, the judge did the constructive critique of the performance of each of the students, and then we would bring the jurors back in, and they would render their verdict. Sometimes there were some shocking results. People who thought I put my friend on there, my friend wasn't supposed to vote that way. Then we would all go out and have a drink and debrief and talk about the trial and the class. The other professor and I, whichever person it happened to be, would wish the students well. I was uncannily lucky that two of my star students, Brant Martin and Matt Blecher, from my entire teaching career came to work for me at OAG. One of them, Matt, is still there.

MS. KAGAN: Did you try to recruit them?

MS. GERE: Yes. I told them this would be a good place for you to work, and that was at the beginning of when we had what was, and still is, a very active legal fellowship program, the Charles F.C. Ruff Fellows Program, that Attorney General Irv Nathan began. It was a one-year fellowship that was offered in local law schools. We, the Office of Attorney General, put up part of the money, and the law school put up the other, and then the students came to the Office for a year. If the Fellows had done a good job and they happened to get lucky and there was an opening, a number of them got to stay on at OAG. Life works in strange ways.

I enjoyed teaching. I was very gratified that Georgetown, which every year gives out an award for the best adjunct professor, awarded it to me one year. It's always nice to have an accolade.

MS. KAGAN: When did you stop teaching?

MS. GERE: I was diagnosed with breast cancer in 2012, and I did go back, as I recall, and I taught a couple of years after that, so I think I had a hiatus. I think I missed one year with treatment and so forth, but I did go back. I ended up teaching until 2015. A good, long run, 1994 to 2015.

MS. KAGAN: Where'd you find good replacements?

MS. GERE: Never letting any prior tie get too cool, one of the people that I got was Jimmy Rock, an associate who had worked with me at Ross Dixon. He left the firm to join the Office of the Attorney General before I did, before I had even thought about it. So he was there at OAG when I joined in 2011, and he's still there to this day. Another brilliant lawyer. He was, I had watched

him in court. I had obviously grown up with him from the firm to OAG. He did work for me, and I just knew that he was the next generation, the new technology, the new techniques, so I was very excited. I taught with him toward the very end, and then I decided to step back. There was another young lawyer who had worked for me at OAG who was extremely impressive and had tried a lot of cases, so I knew that she, Esther Yong McGraw, and Jimmy Rock would make a great teaching team as they also had worked together at OAG. They were in different parts of the Office, but through circumstances had ended up working on something together, so I knew they could get along. They kept up the teaching for several years after that. Esther then had a baby and just didn't have the time to work, raise her child, and teach. Then Jimmy got promoted, and he got too busy. Oh well, but we all had a good long run.

So that was good. And I had some other things that I did, at least during that time period, more for the District Court. There was a Lawyer Counseling Panel which I think the court now has let go dormant, in part because the bar has picked up and has so many resources. But the Lawyer Counseling Panel at one point was very active. Lawyers who practiced in the district court were referred to this committee, and we were tasked with working with lawyers before they made egregious law practice mistakes—or after having problems, helping to teach and correct them. They needed help figuring out how to balance their practice or refreshers on some of the substantive areas, so it was sort of like a super-mentoring role. I worked with

three or four lawyers over the time I was on that panel. Some of the issues the Committee handled, the bar has a lot of resources on now, practice management, and they have lawyer counseling that is staffed by professionals with counseling degrees and experience, that sort of thing. So that was another interesting committee assignment. You look at some of these lawyers and say oh my gosh. Others you go there but the grace of god because I could have gotten crosswise with that judge too.

During that time I was regularly asked to be a member of the D.C. Circuit Judicial Conference, which is the conference that meets every other year with judges and lawyers. It's an honor to be asked to attend, and it's all by judicial invitation, unless you hold some position, for example, you've been chair of a court committee. I always felt that it was necessary to give back to the profession and to do pro bono work because I was no longer in government service. These were some of the ways that I made sure that I didn't lose touch with how real people and real lawyers dealt with the world. I think that contributed to my satisfaction with private practice, if you will.

MS. KAGAN: Did the firm continue to give full credit for time spent on pro bono work?

MS. GERE: No. And then we went through various iterations of who would get it and was it a percentage of the hour. It got fairly sophisticated. I can't speak for now. I don't know, and I did what I was doing for the couple of years that I was at Troutman, but that would have been carried forward to what already had been pending. That was part of I think the appeal of the firm in the first instance too was that when it was young, it was very committed to pro bono,

to the point that we used to sometimes laugh that the people who would apply to us, the first question would be when can I start working on pro bono cases, and you'd have to say well there are a couple other things that you also have to do at the same time. People were somewhat naïve, and we may have overplayed the stock and trade of our firm, but not exactly.

MS. KAGAN: It would go in cycles, and depending on what the job market was like, students might not even raise the issue.

MS. GERE: Right. And while I was at the firm, because I really wanted young women to join the firm and once they joined, to succeed, I did, not to the exclusion, because I always had close relationships and some of the best associates that I worked with and the ones I remained close to, were men, but I really tried to make sure the women were treated equitably and became partners when they should have and got the work that they should and were treated by the same tests or actions that the men were. Unfortunately I was not always successful.

MS. KAGAN: Did you have a lot of associates come in, close the door, and complain to you or look for your advice?

MS. GERE: Yes. Regularly. There came a number of times when I would have to say to people stop, I'm a partner, and what you tell me, I know you want to keep it confidential, but as partner, I have an obligation to the partnership too. It was always very difficult. I thought it was important for any lawyer, and I had staff who came to me, men as well as women, and close the door. I never wanted to discourage people from talking or pursuing what they

thought that they should. I just needed them to understand that at a certain point, I would have to be putting on my partner hat and that they needed to be aware of that. I always thought that was kind of unfortunate. We had a very savvy HR director, Terri Carnahan, who had started out as a messenger. She was really something and just did a terrific job, educating herself and being someone who could spot personnel issues and work things out. That was one of the additional misfortunes when we merged with Troutman Sanders, there was a question about an overlap in D.C. of administrative staff, and Troutman tried to figure out how to work people in, but it ended up that I think five of our administrative staff, including the person who had been our COO, five of them got picked up and hired by another law firm here in the city as a group, and they're still working together. One of them has retired. The rest of them are chugging along. That firm doesn't realize, or maybe they do by now, it was quite a few years ago, but what a good deal they got. They were consummate professionals. It was a loss for us. The people at Troutman were good, but they weren't my Ross Dixon colleagues. I don't mean to say it that way, but they weren't people I had grown up with and helped form and understood how they thought and always knew I could trust and rely on. It wasn't that I couldn't trust or rely on the people from Troutman.

MS. KAGAN: It takes a while. Well, good. So is this a point that you think makes sense to break?

MS. GERE: Yes. I think so.