

ABA Senior Lawyers Division
Women Trailblazers in the Law

ORAL HISTORY
of
WENDY WEBSTER WILLIAMS

Interviewer: Jennifer Lyman

Dates of Interviews:

March 20, 2006
December 19, 2008
December 15, 2010

Women Trailblazers Project

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Interviewer -- Jennifer Lyman**

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Women Trailblazers Project
Wendy Williams Oral History
Interview #2
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Tape 1:

JL: This is the second session with Wendy Williams for the ABA Women Trailblazers in the Law project. We're taking up after three years. From my review of our original session we had made it to the end of law school and maybe the start of Equal Rights Advocates?

WWW: Yes.

JL: So if you could kind of take up there.

WWW: I know that I talked about flying in that little plane with Herma from the Yale Conference down to New York City.

JL: Yes.

WWW: That's where it ended.

JL: It was not completely sequential.

WWW: Yes. Okay, so, you're right. I'm not a sequential person. I just loop around. I guess then that we were really starting to look at maybe my first legal job.

JL: After your clerkship.

WWW: Yes.

JL: We had talked about the case you worked on during your clerkship.

WWW: Yes, the *Sail'er Inn v. Kirby* case.

JL: And before that we talked about the pregnancy case that went to the Supreme Court -- that one started when you were working for San Mateo Legal Aid. You talked about the strategy of the case and the federal courts versus the state courts and the California Supreme Court at the time was one of the most wonderful courts.

WWW: It was. It was. It's gotten more conservative since then. But, nonetheless, that court has recently made another astonishing leap forward, just as they did with the *Sail'er Inn* case. I'm thinking of *The Marriage Cases*, holding that the statutory distinction between heterosexual and homosexual partners violated equal protection.⁴ I was so proud that one of the two cases they relied on to reach that conclusion was *Sail'er Inn*. They actually held that sexual orientation is a suspect classification, as they had held sex is a suspect classification in *Sail'er Inn*. The other case they relied on was the *Perez* case⁵ which said that the Constitution required that African Americans be allowed to marry whites and vice-versa. The use of *Sail'er Inn* meant so much to me personally, because I have one of these families which couldn't have looked the same way 50 years ago. I have a sister and her spouse, my sister-in-law, now.⁶

JL: I have a brother and a brother-in-law.

WWW: Yes! And I have a little nephew, who Barb and Renee adopted, who is so special. He was abandoned in the hospital after he was born, so Barb and Renee have had him since he was a baby. He is brown and beautiful. It was so thrilling to see the line of cases that came together to produce this.

JL: The continuity.

WWW: The continuity as well as the change. Who would have thunk it.

⁴ *In re Marriage Cases*, 43 Cal.4th 757, 183 P.3d 384, 76 Cal.Rptr.683 (Cal S.Ct, 2008) (The Court held the statutes violated the California Constitution: "The statutes in question properly must be understood as classifying or discriminating on the basis of sexual orientation, a characteristic that we conclude represents – like gender, race, and religion – a constitutionally suspect basis upon which to impose differential treatment. . . ."),

⁵ *Perez v. Sharp*, 32 Cal.2d 711, 198 P.2d 17 (1948) (State law banning interracial marriages is inconsistent with the fundamental constitutional right to marry.) Perez anticipated by almost two years the U.S. Supreme Court's holding in *Loving v. Virginia*, 388 U.S. 1 (1967) (Virginia law banning interracial marriages unconstitutional.)

⁶ Barbara and Renee Webster-Hawkins were first married on Valentine's Day, February 14, 2004. For the story of the California gay marriage litigation, including the Valentine's Day weddings in San Francisco, see Patricia A. Cain & Jean C. Love, *Six Cases in Search of a Decision: The Story of In re Marriage Cases*, in *Women and the Law Stories* (Elizabeth Schneider & Stephanie Wildman, eds. 2011) 337-378.

JL: Continuity in a good way because sometimes those things come back and bite you.

WWW: Yes. Yes they do.

JL: It's nice to have it come back and hug you.

WWW: Quite the opposite, yes! So the interesting news is that my sister and her wife had gotten married the first time on Valentine's Day in San Francisco in 2004. The California Supreme Court said the Mayor didn't have the power to do that so their marriage and about 300 others were undone. But after *In re Marriage* cases and just before Proposition 8 passed amending the California Constitution and slamming the door, they got married again. I remember driving out into the countryside near Sacramento for their ceremony and along the way there were signs posted saying "Vote yes on Prop. 8," which was very distressing. But right next to some of them were little signs saying "Webster-Hawkins Wedding" with an arrow pointing in the direction of the wedding site, a hopeful symbol of a different world. My law partner from Equal Rights Advocates, Nancy Davis . . .

JL: Right.

WWW: and her partner of 30-some years, Donna Hitchens, got married just under the wire, too. They were both superior court judges in San Francisco and they had raised two girls. I think they were the first gay or lesbian couple who were not just in practice but legally the coparents of a child.

JL: In California or the whole country?

WWW: I think in the whole country.

JL: Wow.

WWW: I think. I've been poking around for years and haven't found anybody else who did that. So they have two daughters who are . . .

JL: Grownups.

WWW: Anyway, so it's been an exciting time to be thinking about all this. At the trial level the *In re Marriage* cases trial judge analyzed the problem as a sex discrimination problem, citing *Sail'er Inn* and certainly one could

analyze the case as a sex discrimination case, but I think the California Supreme Court took the better route.

JL: Yeah.

WWW: They said, and I think this is the right approach, the classification in it is better analyzed as a gay-straight line and that line is suspect in its own right.

JL: So it's a step forward.

WWW: Exactly. It's not just repeating. It's recognizing that each class of people who have had to struggle with prejudice and second-class status have their own set of ways they are disadvantaged and an impetus for the discrimination which is different. A little different. So, anyway, that's my thrill of the year.

JL: Isn't that the beauty of the common-law?

WWW: Indeed.

JL: When it works well. . . .

WWW: Yeah. Yeah. Exactly. And that was a little update on where Nancy Davis, who was a cofounder of ERA [Equal Rights Advocates] with me is today.

JL: You just alluded to it at the end of our . . .

WWW: Yes.

JL: And I remember ERA because it was an externship opportunity when I was at Stanford.

WWW: Yes, it was.

JL: And my best friend from law school did that while I did Public Advocates.

WWW: Well, here's how it goes. Public Advocates was, I believe, the first public interest law firm in the San Francisco Bay Area and it really impressed young lawyers and law students. It gave Mary, Nancy and me a model to build ERA on. Mary was a year behind me at law school. Nancy was two years behind me at law school.

JL: Both at Boalt.

WWW: Both at Boalt. So we knew each other. We had gone to this conference in the late spring of 71 at Yale about teaching women in the law courses that you and I talked about last time. That's where we hatched the idea. More as a fantasy than anything else. Herma Kay, bless her heart, our professor, was encouraging us. Of course, we had to wait when we got back because one of us wasn't out of law school yet. Mary had graduated just that spring and went to Napa for a year to work for her father who was a lawyer there. I had just finished the clerkship and Nancy was about to enter her third year of law school. So we had a year of waiting before we could get own public interest law firm up and running. What I did in the meantime was a Reginald Heber Smith Fellowship in poverty law. I think we talked about that last time. The Reggie Program. I was placed at San Mateo Legal Aid and that's where the *Geduldig v. Aiello* case started. During this hiatus, we began to try and conceptualize how we were going to support this new law firm. We drew up proposals and sent them out.

JL: So you were going for grant money?

WWW: Oh, yeah. We didn't want to be limited to money-making cases. For a while before we got the grant from Carnegie, though, we did set up shop as Davis, Dunlap and Williams, upstairs from Public Advocates. Then when the grant came in we expanded to the space across the hall. We were so lucky. On one end was Herma Kay, saying you can do this! At the other, Barbara Babcock had begun teaching at Stanford as the first woman teaching there.

JL: Did she come directly from Washington?

WWW: She came directly from Washington.

JL: From the Public Defender Service?

WWW: Yes, she was first head of the D.C. Public Defender Service which was one of the best in the country.

JL: I spent 12 years there.

WWW: It's really been a model place. So there you were in Barbara Babcock's shadow. Babcock was not her last name while she was there. She was Barbara Bowman, then.

JL: Barbara Babcock. She was married to a guy named Addy Bowman.

WWW: Anyway, so Barbara has just started, first woman professor out there. She had been working on a case book with the group that put on the Yale conference in 1971. What I had learned since I talked to you last -- either I didn't know it or didn't remember it -- is that that conference at Yale on teaching women in the law was funded by a guy name Eli Evans. He was with the Carnegie Foundation whose focus is education, and the conference and the book were about teaching this new subject, women and law. He was genuinely excited about the project.

JL: At Yale?

WWW: At Yale. So Mary, Nancy and I and Barbara Babcock were there together at that conference. I don't know if we had met her before that conference (I don't think so), but we certainly felt her presence at the conference. When Nancy graduated from law school the next year, I think she then spent the summer working for Barbara Babcock as a research assistant, working on Barbara's part of the casebook. In any event, it turned out that Barbara Babcock and Eli Evans had been classmates at Yale Law in the early 1960s and they were real buddies. So when the time came to look for funding for Equal Rights Advocates, Barbara contacted Eli to see if we could get funding and that's how the concept of a teaching law firm with Barbara taking the lead at the Stanford end with the training seminar came to be and Carnegie funded it. There was an interim period though while we were working on getting the funding. Nancy was out of law school and we were impatient to get going. So we hung out our shingle as Davis, Dunlap and Williams for a little while in that interim period. We moved into the upstairs in the two-story building where Public Advocates had its office. We were upstairs/downstairs with Public Advocates for a number of years.

JL: Was that in the Mission District?

WWW: It was on Turk Street. After I left, ERA moved to the Mission.⁷ But at that point we were in this building on Turk Street about two blocks from the federal building where the federal courts were and the state building which housed the California Supreme Court. Turk Street became a bit

⁷ In 2011, Equal Rights Advocates moved from the Mission District to 180 Howard Street in San Francisco. See www.equalrights.org, the ERA website.

seedy a few blocks from us, but our office was very conveniently located for our purposes and we loved it.

JL: Right. It's kind of a vacant part of town.

WWW: It is. But we were also right close to Hastings Law School, too. So it was a good location and we started out in some upstairs rooms. When we got out money we expanded across the hall into a larger space. We called our office "the fishbowl." There were no offices with closed doors; instead there were cubicles facing into the middle, where we had a big long table where we would meet with the students for legal discussions and also to have our Friday afternoon parties where we would drink wine and sing. Nancy would sing like an angel and play her guitar. Mary would sing like a sailor. I would sing off-key and they'd kindly try to ignore my vocal limitations. Everybody around would join in. It was great fun. It was our Friday afternoon TGIF event. Cheap wine, horrible, cheap red wine.

JL: Hey, hey, the cheap wine wasn't so bad. It was *California* cheap wine.

WWW: Well, it wasn't bad then. It's only in retrospect I realized we were drinking rot-gut. We lead a fast-paced, hard-working, wild woman, sort of existence.

JL: Did you have any idea by that point how long cases last? So that when you get into something, you're stuck with it?

WWW: Well, we certainly learned. Yes, we did. The insight came from my first job at San Mateo Legal Aid, and then stuck with me through Davis, Dunlap and Williams. By the time I got to Washington for the oral argument in *Geduldig v. Aiello*, it was an ERA case. But, yeah, cases last, especially Title VII cases. We did all kinds of cases. The sky was the limit. Everything was wrong with the law on gender at that point. Focus was the tricky part, because there was so much to do. So we had that pregnancy case and we did some other ones along the way, too.

JL: Other pregnancy cases?

WWW: Other pregnancy cases, yes. We did amicus briefs. We did representation in some Title VII cases. My second biggest case after *Aiello* -- actually it was a series of cases: I represented women in several county jails because the counties had work release programs for the male prisoners but not for the women. The first one was against San Mateo County which would

furlough male prisoners during the week so they could work, which allowed them to continue to support their families, and hold them in jail on the weekend.

JL: What was the reason?

WWW: I don't know, maybe . . . They never really gave one. It could have been that they just never thought of it because women prisoners were fewer in number than men, combined with the assumption that women prisoners weren't breadwinners.

JL: One experience in the prison system is that women are smaller in number. There is always a hassle because they can't be stored with the male population.

WWW: Yes. Yes.

JL: They end up just being this administrative thorn in the side and the jailers just want them to go away and not really have to deal with them.

WWW: Exactly. I think it either didn't occur to them or they said it's too much of a hassle. One or the other or a combination of the two -- but in any event I then learned that in fact Marin County and San Francisco County had the same thing. So I filed suits against them too. I had a hearing on a motion for preliminary injunction in one of those prison cases. I finished my argument and everything was over and we did what we always do at such a moment -- we marched off to the women's bathroom. I'm in a stall actually and I hear this voice say, "Hi, my name is Sonia Soehnel and I go to the University of San Francisco Law School and our dean said if I can find somebody to teach women in the law at our school, he might allow it. Would you want to do it?"

JL: Laughter.

WWW: I said, "Sure, but wait until I come out the stall." Nancy, Mary and I put together a course partly using the materials we'd gotten at the Yale women and law teaching conference, the reading list and stuff, updated. We taught the course at the University of San Francisco for several years. A little later, we added Golden Gate Law School and we also taught it at Santa Clara. We called ourselves "the traveling road show." Once ERA kicked in, we had to give it up because we had to devote ourselves to Stanford students and our new arrangement.

JL: They'd gotten an exclusive contract?

WWW: Yes, right, exactly.

JL: Tell me a little bit about how the cases got to you? How did a woman prisoner find you or you find her?

WWW: Honestly, I don't remember how we got found. I don't. But it could have been that I'd got onto the first case while I was still a Reggie, and took it with me. People who didn't have the money for lawyers would come to the Legal Aid and Legal Assistance offices or CRLA. It's been so long ago. . . .

JL: Right. And you'd think you remember all the details, but . . .

WWW: No, I don't, so I'm actually constructing the probable but not necessarily the accurate. But I do know that once the word got out about ERA, we heard from other women in other places.

JL: Right, at a certain point there's . . .

WWW: There's a self-generating momentum. The other thing is because I'd been a Reggie and a legal aid lawyer, I was sort of plugged into the Reggies all over the state. I know that some cases came through that.

JL: The Reggie Network.

WWW: Also, we were on panels at various conferences and meetings talking about sex discrimination and law, and of course, we were teaching lots of law students, so word got around. I think that was a feeder and that factor continued after we became ERA. Remember, we were doing this work just as the women's movement was heating up all over the United States and lawyers with expertise were in short supply.

JL: When ERA was being conceived, as it were, what did you think of as your mission? What were you talking about as the primary driving force?

WWW: We were going to change the world as we knew it, period.

JL: For women or . . .

WWW: For women. Okay, let's think about this. At the point at which we became lawyers, there were hundreds of laws, federal and state,

distinguishing between men and women. There was too much to choose from almost. There was no problem getting clients. The problem was, as I said, how pick and choose and focus. My orientation was the Reggie orientation which is selection of maximum impact, biggest bang for the buck cases. Mary Dunlap was quite the opposite. She spent the year before Nancy got out of school working in her father's law firm which was a longstanding general practice in Napa. She came in with a more practical sort of how-you-help-individual-people-one-at-a-time orientation.

JL: Sort of a small town lawyer?

WWW: Yes, small town lawyers. Medium town lawyers actually.

JL: Medium.

WWW: Yes. So in Mary we actually had somebody who knew something about the practicalities of a law practice, we had me with my Reggie class action training, and then we had Nancy who had a third useful orientation. She liked to work on proposals. She was good at figuring out budgets and that type of thing. We actually got lucky in that way. We had a simple plan for our office structure and it was that everybody in the office would be paid exactly the same and given that it was public interest that wasn't a whole lot of money. I think \$12,000. So Nancy, Mary, I and our staff all got \$12,000 a year. We had some wonderful people doing the typing and stuff.

JL: Typing was serious business then.

WWW: Then it was really, yeah; it wasn't like today with computers.

JL: Where you could just delete mistakes.

WWW: There were no do-overs. Right, exactly.

JL: Did the staff all go to law school and give you up?

WWW: Let's see. One of them surely did. Yes. She did go to law school. She definitely did. One of them was a guy. I don't know what he ended up doing, actually.

JL: One staff person at a time?

WWW: Yes. Also, we were really lucky. There was a lawyer who had just had a baby and wanted to work part-time.

JL: What a concept.

WWW: What a concept. Joan Graff, a New Yorker, who had gone to school . . . I can't remember if it was Columbia or NYU, joined us half-time and eventually full time. As far as I know, Joan's still a public interest lawyer in San Francisco, heading up the Employment Law Project. New Yorker Joan thought Mary, Nancy and I were from Mars because here were three very Western cowgirl people stomping around and wearing pants to court and all that stuff. I think she was a bit shocked. She actually called us a bunch of cowboys once but at the same time she civilized us a little bit. So that was good. Joan was a very smart lawyer, too. She was really a gift from the Gods, adding another dimension to what we were able to do.

JL: Tell me about the beginning -- you sit down and you've got your first office and the door is open. What do you do? What did you talk about?

WWW: At first, when we were Davis, Dunlap and Williams, we had to make some money. We had some family law cases and this and that. That was when Mary really came in handy because I didn't know anything about family law. I'd never taken it even though Herma taught it; I couldn't bring myself to take it because that was what women in law school then were *supposed* to be interested in. Once we had our Carnegie grant money, that was behind us.

JL: Did you make a go of it as Davis, Dunlap and Williams?

WWW: I would say we might have broken even because Mary knew what she was doing. But basically it was dicey.

JL: How were you eating?

WWW: Eating? I'd just gotten divorced so I moved in with a good friend, Nancy Kreinberg, who charged me almost no rent. Nancy Davis gave me a loan. She was able to do that because her family had considerably more money than I did with my more humble background. Nancy may have loaned Mary some money, too. But I remember Nancy gave me a loan to tide me over.

JL: Was there any money in the divorce? We didn't talk about the divorce in the last interview. I mean you said you'd just split and that was it.

WWW: Yeah, Barry's a nice guy. I had nothing against him whatsoever. It just wasn't where my head was then. We had all these, on the West Coast we called them encounter groups.

JL: T-groups.

WWW: Yes, T-groups. What were they called on the East Coast? They had a different name?

JL: T-groups.

WWW: Well, anyway, all the women I knew had their T-group. In those groups, we'd explored all the old assumptions about women's minds and bodies and proper roles and we redefined ourselves.

JL: Consciousness raising.

WWW: Consciousness raising, indeed. It was quite wonderful but the project was each one of us was reassessing our entire lives in light of basically feminist principles. So a lot of husbands went by the wayside. There was a lot of readjusting, rethinking, and I certainly did that. My husband, Barry Williams, did workers compensation law and he was later on the workers compensation board for a while. He died maybe a year or so ago. Maybe two years ago. He was a good guy and I loved his mother.

JL: I remember you said you never gave up his mother.

WWW: I never gave her up. When Barry and I divorced, we just split up our material possessions and went our separate ways, two lawyers who would each take care of our own selves.

JL: Right.

WWW: Which is why Nancy gave me a loan so I could eat, buy gas for my car and pay my rent. When you're young like that, you don't really worry about it. So and then we started getting that \$12,000 a year and that seemed like big time money. We didn't have to go looking for cases – they just seemed to keep coming through the door. We gave talks to anybody who called us up and said they needed a women's rights lawyer to speak. We were always on the go. We were teaching classes.

JL: Did the classes develop? Of course, one starts with one set of ideas and then

WWW: The course developed because remember what had happened in 1971 at that teaching women law conference at Yale. I think there were two or three people in the whole United States who tried to teach a woman and law course before the conference. But we and many others came home from the conference with reading lists and suggested topics, so by the time we started teaching, suddenly there were many more courses and it was possible to share updated reading lists and stuff like that. Of course, in that time period a lot was happening on the legal front – newly decided cases were changing the law and law review articles on gender topics proliferated after 1971. Barbara Babcock was working on her case book with Ann Freeman and the others – Eleanor Norton and Sue Ross – and we had access to those materials as we went along. In January 1974, the Kay, Ginsburg, Davidson casebook, the first ever on sex discrimination, came out, then about a year after that the Babcock casebook became available.⁸

JL: What do you remember about the relationship of those two groups?

WWW: I'll tell you honestly, I never noticed any tension at all. It doesn't mean there wasn't any, but they were different kinds of casebooks with different goals and I know I felt there was plenty of room for both. Of course, Herma's and Ruth Ginsburg's was much more disciplined and organized and every chapter was the length of the class, reflecting their years as legal academics. By contrast, Barbara's team threw everything relating to women and law they thought was interesting or important, which meant it was quite a bit longer and somewhat unruly. (Later on I did an update supplement for that book and was a coauthor of the second edition.)⁹

⁸ Kenneth M. Davidson, Ruth Bader Ginsburg & Herma Hill Kay, Sex-Based Discrimination: Text, Cases & Materials (West, 1974); Barbara Babcock, Ann Freedman, Eleanor Holmes Norton and Susan Ross, Sex Discrimination and the Law: Causes and Remedies (Little Brown, 1975). For a treatment of these casebooks as historical artifacts see Linda K. Kerber, *Writing Our Own Rare Books*, 14 *Yale J.L. & Feminism* 429 (2002).

⁹ The Supplement was published in 1978. The revision and update is Barbara Babcock, Ann Freedman, Susan Ross, Wendy Williams, Rhonda Copelon and Nadine Taub, Sex Discrimination and the Law: History, Practice, and Theory (1996).

JL: If you were putting up pictures of people, I don't see Barbara Babcock and Ruth Ginsburg as in the same photo. It doesn't happen.

WWW: They are temperamental and stylistic opposites. Herma and Ruth are very much more similar. But you know what? They get along okay. In fact, while Barbara was in the Justice Department, she supported Ruth Ginsburg's appointment to the DC Circuit.

JL: I'm sure they're wonderful.

WWW: You're so right. We (Mary, Nancy and I) were so lucky these two feminist treasures of the Bay Area, Barbara Babcock and Herma Kay, were helping us and urging us on. For years, Herma was on the Equal Rights Advocates board and, of course, Barbara was an integral part of ERA's Stanford program. So, yeah. It all worked out amazingly well. Actually Nancy Davis had been Herma's research assistant when she was at Boalt and worked on her casebook and then worked with Barbara on the other book.

JL: Yeah. Yeah.

WWW: The other thing that was happening in the 1970s -- and this is a lovely part of doing Ruth Ginsburg's biography which I'm just totally enjoying -- was how at each step it looked like we were all pretty much in communication. We were all watching Law Week for the newest developments. They would find their way into somebody's brief and the brief would then be shared, or several of us from different parts of the country would join together to do an amicus brief.

JL: Without email....

WWW: Without email... It was a miracle. Also there were institutional connections. For example, Ruth Ginsburg not only headed the Women's Rights Project of the ACLU, she served on the board of the Cleveland Women's Law Fund, and for a while, was on the NOW LDEF Board. I was on the, let's see, when I got into teaching I was on the board of NOW Legal Defense Fund and chaired the ACLU Women's Rights Project advisory board. I also served on the Women's Legal Defense Fund litigation committee. We were all interlocked in many ways and I could see it clearly in Ruth Ginsburg's Library of Congress papers. She was writing to and receiving letters from women's rights lawyers, including

some to me that I had forgotten about. Also the Women's Rights Project made it one of their priorities to keep all its state affiliate offices apprised of legal developments in women's rights.

JL: She managed to keep all these letters?

WWW: Unbelievable. She was more organized than the ordinary human being. She had files on everything.

JL: I have files, but . . .

WWW: One lovely thing happened to me was that Ruth Ginsburg was on the editorial board of the ABA Journal. She got both Jane Picker of the Women's Law Fund and me onto some advisory committee to the board, so we had this cross country way of seeing each other from time to time. Also, we'd get money from various foundations to hold face to face strategy meetings of women lawyers on particular issues and future priorities. And, of course, we'd all show up for the annual National Conference on Women and Law. So the women's legal movement kept evolving from something serendipitous to a coherent national interwoven group of women working on these cases, and a couple of good men, too. I remember flying back here to Washington to watch oral arguments in the Supreme Court. I watched Jane Picker argue the *LaFleur* case¹⁰, the pregnancy case preceding *Geduldig v. Aiello* in the Supreme Court. I also came to hear Ruth Ginsburg argue the *Wiesenfeld* case.¹¹ It was a great life. It seemed to me at some point that I was born to teach because I so enjoyed the teaching part of Equal Rights Advocates' work. I had been encouraged by a teacher from my little home town to be a secondary school teacher and she'd been very disappointed in me when I went to law school. I think somehow I was also trying

JL: Trying to please her....

WWW: Trying to please her after all those years.

JL: How would you describe the teaching function of ERA. You called it a teaching law firm and the students were there all the time.

¹⁰ Cleveland Board of Education v. LaFleur, 414 US 632 (1974).

¹¹ Weinberger v. Wiesenfeld, 420 U.S. 636 (1975).

WWW: Yes. Well, we would have meetings once a week about the cases and they'd be assigned to particular cases and we'd all be working together. But we ran a substantive seminar which we did at Stanford and Barbara was the lead person on that.

JL: Were there more people in the seminar than were externing at ERA?

WWW: No, it was integrated. I think the externships came later. What we were doing in the early years wasn't considered an externship so much as it was an integrated clinical course.

JL: I see. I see.

WWW: Yes. Like a clinical course with

JL: Right, with field work.

WWW: With field work, yes. It was so much fun.

JL: How many students at a time?

WWW: I don't remember. I know, maybe eight or 10, something like that.

JL: So, very, very much like a clinic.

WWW: Yes, very much. We'd teach the developing substantive law and also do simulation exercises with the students. A number of our students have gone into teaching themselves. I keep running into people who are teaching now.

JL: Any names ring a bell?

WWW: Well, Kate Bartlett, who was several years behind me at Boalt, worked with us in the summer and went onto to be the dean at Duke Law. Then I was out in California a year or so ago at U.C. Davis Law School. I'd been invited out to talk about Ruth Ginsburg at one of their faculty lunches. This guy came up to me and I said, "You look familiar." He said "You changed my life." I said, "What?" He'd been one of our women and law students when we were doing our traveling road show, and here he was, teaching at Davis. I hadn't seen him since he was a student. Those things happen. There's another student, a Stanford student, who went on to clerk at the Supreme Court for Justice Brennan while Ruth Ginsburg was litigating before the Court. Important gender cases were coming to

the Court regularly and I know he worked on a dissent for Brennan in one of them, I think it was *General Electric v. Gilbert*,¹² which was the Title VII sequel to the *Geduldig v. Aiello* case.

JL: What was his name?

WWW: Stewart Baskin. Stu Baskin. When he was in our Stanford class he was going with another student in the class, Ronni Mann.

JL: She went to Stanford?

WWW: Yes, they both did. Ronni Mann went on to become a really good prosecutor in the U.S. Attorney's Office in New York City. I remember she had a simulation of an oral argument for the seminar. Or was it a cross-examination. Whatever it was, she was so anxious she actually threw up before she had to stand and deliver.

JL: Before the simulation?

WWW: Yes. It's good to get it out of your system before you have to do it in an actual case! Ronni did a great job once she got up to perform. Stu and Ronni were both so smart and so able.

JL: Do you remember any more specifics about the course? Of course, the law was changing. It was almost in current terms it sort of reached the tipping point and went over and just....

WWW: Yes, it was unbelievable. I remember that when I was working on the *Sail'er Inn* case, I went through (and cited) just about everything there was on women's equality – which at that point was a recently published book by a University of New Mexico law professor named Leo Kanowitz,¹³ a few good cases and one or two law review articles. The most helpful article was a classic called *Jane Crow and the Law*, by Mary Eastwood and Pauli Murray, published in '65 or '66.¹⁴ That was everything there was on women's equality.

JL: That was a challenge?

¹² *General Electric Company v. Gilbert*, 429 U.S. 125 (1976).

¹³ Leo Kanowitz, *Women and the Law: The Unfinished Revolution* (1969).

¹⁴ Pauli Murray & Mary O. Eastwood, *Jane Crow and the Law: Sex Discrimination and Title VII*, 34 *Geo. Wash. L. Rev.* 232 (1965).

WWW: It was easy. Mostly the cases were terrible but there were one or two little hints of something better to come when I was working on the case in the fall of 1970 and spring of '71. *Reed v. Reed* hadn't even been decided.

JL: Yes.

WWW: In fact, speaking of *Sail'er Inn*, that's how I probably met Ruth Ginsburg. *Sail'er Inn* had just been decided as Ruth was writing the brief in *Reed v. Reed*, and it gave her a case to cite for the proposition that sex is a suspect classification. The *Reed* brief was the first time that argument was made to the United States Supreme Court.

JL: Yes. Yes. My first year moot court case was the Oklahoma drinking beer and driving case.

WWW: Yes. *Craig v. Boren*.¹⁵

JL: That was the problem for my first year.

WWW: That's hilarious. That case, *Craig v. Boren* -- this is why going back through the Ginsburg files in the Library of Congress files is so valuable. I'd always viewed that case as kind of an outlier. The lawyer in the case was Fred Gilbert from Oklahoma and the case was not an ACLU case. But I learned from the files that Ruth Ginsburg's fingerprints are all over that case. She was there for the oral argument and sat at counsel table with the lawyer. She contributed to his jurisdictional statement, helped with his brief and submitted an amicus brief. And she had an oral argument in a case of her own immediately following his.¹⁶

JL: Wow.

WWW: In her files I found her contributing to many cases in ways that I never dreamed of. She would draft things for other lawyers or write letters advising them.

¹⁵ 429 US 190 (1976). Curtis Craig challenged an Oklahoma law which allowed women to purchase near-beer at 18, but required men to wait until they were 21. The Court struck down the statute, and Justice Brennan used *Craig* as the occasion to strengthen the standard of review in sex discrimination cases.

¹⁶ Her case was *Califano v. Goldfarb*, 403 U.S. 199 (1977), in which she won a challenge to a Social Security Act provision which provided survivors benefits for widows on their husbands' social security account, but not for a widower on his wage-earning wife's account unless he was her dependent.

JL: Like Tony Amsterdam in the death penalty cases.

WWW: Yes. Very right. Very like that. It's so fascinating.

JL: As ERA became established and became a go-to place rather than a reach out place, what happened to the process of figuring out what to do?

WWW: Let's see. I left in the summer of '76. Up to that point we had just become very well known in the community with people who were doing women's issues. We never had a problem finding clients once ERA was up and running.

JL: But did you have a problem figuring out what to take?

WWW: Some people we couldn't take. I imagine our original proposal would be helpful, because that's where a lot of the thought went into describing the clients we hoped to serve. Maybe I'll see if Nancy Davis has it.¹⁷

JL: Surprise. Surprise.

WWW: I remember how one case came to us. There was there was a young woman who later became a lawyer. But when we met her, she was working at Saks Fifth Avenue. There were women in Saks Fifth Avenue who were on welfare because they were paid such low wages.

JL: So low.

WWW: And her background was kind of a union organizer type person.

JL: Was she covert?

WWW: I think she was covert until it all became public. But she came and saw us about the Saks Fifth Avenue situation. She had found out that the men's bottom pay began where the top women's pay left off. All the men who were at Saks made more than all the women.

JL: I wonder what the revenue stream looked between women customers and men customers?

¹⁷ Alas, most of ERA's archived material, stored in the basement of ERA's Mission Street office, was hauled off to the garbage dump by an overzealous landlord. This was discovered when ERA moved its office from Mission Street to another location around 2010.

WWW: Yeah, right! That was a big case. We filed a good complaint against Saks Fifth Avenue on behalf of the women. We had to do lot of discovery – interrogatories, depositions, etc., and we really got the goods on how badly the women were treated. Then I left ERA for Washington and the lawyer who replaced me, Joanne Chandler, who had worked at Public Advocates, took over. She was a very good lawyer. It was time for a summary judgment motion. Most of our work had been done or at least the outreach work had been done and now it was time to press the case in court.

JL: The fact-gathering we never talked about in law school.

WWW: Right, right. We had gathered the facts. We had a pretty good case, And what finally happened was they settled. It was so outrageous. If you wanted to work at Saks Fifth Avenue you had to live with your parents or have a husband who supported you. I still can't bring myself to shop at Saks.

Tape 2 & 3:

JL: This is tape 2 of December 19, 2008 of Jenny Lyman talking with Wendy Williams and we were just talking about our commonalities and you being right before the tipping point and me being right after the tipping point of the women's movement.

WWW: It was an amazing time. By 1975 the National Conference on Women and the Law was a huge event. There were also regional conferences. Hundreds of woman lawyers, judges and students came from all around the country to these conferences.

JL: '75 was the year I entered law school because I'd been working for three years and didn't go straight to law school.

WWW: So you came upon the scene when things were basically up and running.

JL: Right.

WWW: We were in the midst of that intense ten year period of litigation from 1970 to 1980 where the law was undergoing profound change. The Women and the Law Conferences were at the heart of the change, the place where everybody was communicating. There were workshops on all the various topics and new ones kept emerging. People doing the actual cases would talk about them. Right after I argued *Geduldig v. Aiello*, I remember I flew directly to the conference – I think it was in San Antonio that year -- and talked about the case and my experience.¹⁸ We litigators would all be talking about our cases and the professors would profess on developments and legal theory. It was a wonderful way of massively transmitting information of use to people all around the country who would then go home and litigate, write, teach, agitate, do whatever they wanted to do with it.

Before the women's movement took off, back in the early 1960s, President Kennedy had established a federal commission, the President's Commission on the Status of Women, to study the existing laws and make

¹⁸ WWW: Inconveniently, my leg was in a cast. A few days before the *Aiello* argument, I twisted my ankle going down the front steps of the State Building and tore a ligament in my ankle. When the doctor sentenced me to four or five days at home with my leg elevated, I explained that I had to leave for Washington in two or three days, so he put the cast on, prescribed pain medication, and sent me on my way. So I was on crutches when I did the argument. I later joked that I deliberately injured myself in a play for the justices' sympathy vote.

recommendations for change. Even before the Commission completed its work in 1973, states began to set up commissions on the status of women all over the country, patterned and encouraged by the feds. Then the state commissions began having annual conferences in Washington DC hosted by the Women's Bureau. Information on women's legal status in the various states was collected and shared at the annual meetings. The mass movement that was underway by 1970 was really jump-started when, in 1966, frustrated by the slow government progress, a group of women with ties to the federal and state commissions founded NOW. By 1970 or early '71 NOW had a legal branch modeled on the NAACP Legal Defense Fund, the NOW Legal Defense and Education Fund, NOW-LDEF. Also, by the spring of '71, the ACLU had committed itself to women's rights and Ruth Ginsburg was working on *Reed*, which was decided in the November of 71. The ACLU's Women's Right Project started up in early 72 and Ruth agreed to run it.

JL: The women's rights network in this country became strong, very strong. How much did you know to look at, think about other countries?

WWW: I was taken with Sweden, myself, for good reason. In the area of work and family issues, Sweden was way ahead of us.

JL: The gold standard.

WWW: The gold standard. Given what I was working on, international developments in reproductive health, women and pregnancy were on my radar screen. Certainly Ruth Ginsburg had her eye on international developments and from the first included cites to them in her briefs. But I think it's fair to say that at this point, the women's legal movement in the United States was a national movement, looking inward. We weren't international, yet. In fact, I think the internationalization came maybe not even until the nineties...

JL: Beijing?

WWW: It was Beijing.¹⁹ I was there. It was Beijing. And just as we had started teaching Women and the Law also known as sex discrimination and the law, which morphed into Gender and the Law and then Feminist Legal

¹⁹ The United Nations Fourth World Conference on Women, September 1995, Beijing, China.

Theory, finally, courses and clinics began to be taught on women's human rights under international law in addition to U.S. law.

By the 90s some of the U.S. approaches were highly theoretical, and some just totally went off into the stratosphere somewhere, but a lot of it stayed grounded in what women actually needed and the practicalities of getting courts and legislators to respond. So it was both. Back to the state commissions on the status of women for one second. The thing that state commissions were doing -- and the feds were doing this at the same time -- was reviewing all of their laws and gender neutralizing the state and federal codes. The growing numbers of public interest lawyers working on women's rights brought cases as well as serving on or advising the commissions and state and federal legislators, generating a flood of judicial decisions and legislation. Also, by the early 1970s, NOW and all these other players were working for the Equal Rights Amendment as well.

JL: Were the people who were actually doing the work on the ground nitpicking? Were they believers or were they sort of ambivalent whether or not to do this?

WWW: No, they were believers. Of course, there were people who wanted to belittle this. A lot of women, women legislators and lawyers and activists of various kinds were hooked into the federal government folks who were coming out with studies and circulating information. Here's a really funny story. It's about Ruth Ginsburg's first federal appellate case, the first one in which she not only did the brief, but actually argued the case. It was called *Moritz v. IRS* it was a tax case. Her husband Marty, a tax lawyer, found it in the tax reports in November of 1970. Marty takes it to Ruth who was sitting at the dining room table working and said "Here's a case you'll be interested in." She says, incredulously, "A tax case? I don't do tax cases." He says, "You'll like this one." Ruth did like it -- and together, Ruth and Marty got some money from both the ACLU and his firm for expenses and together they appealed the case. He was the tax expert. She was the gender expert. Charlie Moritz's aged, ill and dependent mother lived with him, and he had applied for and been denied a tax deduction available to wage-earner caretakers of dependents. The deduction was not available to single men -- had he been a single woman in the same situation, he would have qualified. As Ruth Ginsburg said, he lost because he was a dutiful son instead of a dutiful daughter, and that

was sex discrimination. Moritz had represented himself in the tax court and lost.

JL: Classic.

WWW: So the Ginsburgs took his appeal to the 10th Circuit, in Denver. I believe that was Ruth's first oral argument at that level. And the brief --oh my God, the brief was a gem. In it, she made the argument that sex should be treated as a suspect classification. While she was working on that brief in the Spring of 1971, the Supreme Court granted review in *Reed v. Reed*, which the ACLU had picked up from the local Idaho lawyer. As soon as she finished the *Moritz* brief, she sent it to the litigation director of the ACLU saying he might find it useful in *Reed* and suggesting that perhaps he might want a woman as co-counsel. He invited her to join him to work on the *Reed* brief, and the rest is history. She adapted and expanded her *Moritz* argument about the level of review appropriate in sex discrimination cases for the *Reed* brief. Later she called the *Moritz* brief the "Grandmother brief" and the *Reed* brief "the Mother brief."

JL: And the *Reed* brief went straight to the Supreme Court.

WWW: Yes, and it was the first time the Supreme Court ever struck down a statute on the ground that it unconstitutionally discriminated against women. Ironically, even though *Moritz* was argued to the 10th Circuit a week or so before *Reed* was argued to the Supreme Court, the decision came down just about a year after *Reed* was decided. One of the judges on the appellate panel had gotten sick and died. As it turned out, the Ginsburgs won the case for *Moritz*²⁰ -- and the decision cited *Reed* as the precedent for its holding.

JL: So that's a great story.

WWW: Yes, and here's my favorite part of it. The solicitor general files a petition to the Supreme Court asking it to review *Moritz*. His argument to the Court is basically that it can't let the *Moritz* case stand because the literally hundreds of federal laws contained sex-based provisions and they were all called into question by the Tenth Circuit's holding -- and what does he do? He attaches as an exhibit to his petition a print-out of all of those sex-based laws. It was so useful that Ruth suspected that maybe

²⁰ *Moritz v. Commissioner of Internal Revenue*, 469 F.2d 466 (10th Cir. 1972).

the S.G. was secretly on her side and was providing the printout so she would have a list of federal legislation that needed challenging.²¹ But in any event she had this printout, with this list. She later said it was a gift that kept on giving.

JL: I didn't know there even *were* printouts at that time. Were there computers then?

WWW: Yes. The Department of Justice had one – a big old clunker to do something that a laptop could easily do today. It was a huge list with something like 700 or 800 statutes. A few years later, Ruth Ginsburg and her students at Columbia did a study on sex bias in federal law for the federal Commission on Civil Rights which became a report of the Commission.²² That Appendix had to be useful to them!

JL: It would be wonderful to be able to talk to the person who generated that printout now.

WWW: Yes.

JL: It seems he'd just made the biggest blunder of his life.

WWW: The S.G. was Erwin Griswold, who was dean of the Harvard Law School when Ginsburg was a law student there.

JL: Oh, he was. Oh, my goodness.

WWW: Yes. Yes, yes.

JL: Well that kind of supports the theory.

WWW: That's right. Yes, yes. Anyway, it's just so funny. Ruth wrote an opposition to the S.G.'s petition for review. She won that. So *Moritz* did not get reviewed by the Supreme Court.

JL: So back to Equal Rights Advocates.

WWW: ERA.

JL: Tell about your decision to leave ERA.

WWW: Do I have to?

²² U.S. Commission on Civil Rights, Sex Bias in the U.S. Code (Apr. 1977)

JL: Uh-huh.

WWW: Here's the decision. Barry Williams and I were divorced by that time. I was just finishing up clerking for Justice Peters on the California Supreme Court so it must have been sometime in August of 1971. The Federal Building housing the federal courts was right across the street from the State Building where the California Supreme Court was. There was a cafeteria in the State Building, but anyone who actually wanted a good cheap lunch would go over to the Federal Building cafeteria. Much better! So one day my co-clerk Peter Weiner and I went over to the Federal Building for lunch where we were sat down to eat with one of the federal clerks who had gone to law school at Yale with Peter, John Ladd. While we were eating, who shows up but one of the incoming clerks for a federal judge who had also gone to Yale Law school, but had stayed behind for an extra year to get a masters in something, maybe history. That was Richard Diamond. By the end of Richard's clerkship year we were spending a lot of time together. Then off he goes to clerk for the U.S. Supreme Court. After that, he took a trip around the world. He'd accepted a job at a San Francisco law firm for when he returned (actually the firm where John Ladd was then working), but then he chickened out and went to work for Steptoe and Johnson in Washington DC, where his brother lived. Richard had grown up in Manhattan and was as much an East Coaster as I was a West Coaster. But we had stayed in touch. I guess we finally decided we ought to try to be in the same city and see what happened. So he applied for a job teaching at Stanford and didn't get it. I applied for a teaching job on this coast and this wonderful thing happened. I got a job here at Georgetown University Law Center. The reason I got the job, I later found out, was because Georgetown's women students had founded a women's collective, as they called it, and began pressing the school administration to hire more women on the faculty and, specifically, a woman with my expertise in women and law. They had been getting along by importing adjuncts to teach women and the law. Barbara Babcock was their first, in the fall of 1970, while she was still with the DC Public Defender Service, and I think Ann Freedman, who had just graduated from Yale and was working on the Babcock casebook, taught it next. Or maybe they taught it together. I must have gotten the offer in late '75 or early '76, and began teaching in the fall of '76.

When I got to Georgetown, there were three women on the faculty. The first, Helen Steinbinder, a top Georgetown grad, had been brought out of her position as the law school's librarian and put into the classroom sometime in the late 50s. After that, nothing for almost two decades until, in the early '70s, HEW²³ was going after colleges and law schools for sex discrimination in faculty hiring. Ruth Ginsburg calls 1972 "the year of the woman" in law schools, because they were all scurrying to hire women. Columbia made her its first woman on its regular faculty that year and Stanford hired Barbara Babcock as its first woman. Georgetown hired Judy Areen, a Yale Law grad, in 1972, and Patricia King, a Harvard Law grad, in 1973. They were both much younger than Helen Steinbinder.

JL: Judy must have been 12 years old.

WWW: She looked 18. She did. So did Pat. This is actually quite wonderful. I didn't know Georgetown was a Catholic university. I didn't know anything about educational institutions in the East. I was not bicoastal. I was definitely distinctly Californian. I had applied to a number of law schools. I couldn't remember whether I was going to George Washington or Georgetown, but I straightened out and I showed up at Georgetown for my interviews. The way Georgetown would do its interviews was you'd go from office to office and there would be three or four faculty members in each office to meet and question you.

JL: That's still the way, isn't it?

WWW: That's still the way. Two things stick in my memory about my interview day. Maybe three. One of them was how I met Pat and Judy. At some point, I was delivered to this little inside office to meet with yet more faculty members. I knocked on door. It's opened. There's this beautiful woman with a huge Afro standing against the wall to my left. Sitting behind the desk is the 12 year old striking blonde. The third person who was supposed to join us wasn't there yet. The woman with the Afro -- that was Pat King -- pushes the door closed behind me and the blonde teeny bopper -- that was Judy -- leans forward conspiratorially and says, "What do you really want to know about Georgetown?" I thought, "Wow, maybe I'd like to work in this place," you know? After that, we, the three of us,

²³ The United States Department of Health, Education and Welfare, which around 1980 was split into two Departments, the Department of Health and Human Services and the Department of Education.

kept each other afloat for several years while Georgetown was still a wilderness for women. Judy and Pat are just remarkable people. Today Pat King's on the board of Harvard and Judy is the past dean of the law school. They've done extraordinary work along the way. Judy wrote the first feminist case book on family law. Pat King has made her mark in health law. But back then we were just scared and struggling to find our way in an alien environment.

JL: What did you tell them about what you really wanted to know but afraid to ask?

WWW: I don't remember what my reply was. I just remember how welcoming it felt that they asked the question. I probably asked if this was a place I can do what I wanted to do which was write and teach about women's rights. Because Herma Kay and Ruth Ginsburg had both advised me I'd have to do what's expected until after I got tenure. That's what they told me. But I knew that that was just not me.

JL: Wasn't worth it.

WWW: That's not me. But by the time I came up for tenure Georgetown had evolved just far enough that I could get away with it. But who knew? I just knew that's who I was. So anyway, they made me feel like I could do this.

JL: Do you remember who else came in?

WWW: Poor Judy Areen. It was really bad when I first started Georgetown. When Judy Areen came up for tenure the head of the tenure committee chased her around his desk. And then there was a picture of her, a nude figure, with her head superimposed . . .

JL: With her head on top.

WWW: Posted on a wall at the law school. These were things that happened to her because she was drop-dead gorgeous and in a job a woman wasn't supposed to have.

JL: Yeah. Was she married to Richard Cooper at the time?

WWW: I don't think she was.

JL: He was my first boss.

WWW: Oh, my God. You know Joan Graff, this person I told you was our part-time lawyer at ERA? She actually went out with Rich after his divorce and before he went for Judy Areen. This was just before I came to Georgetown. So it was hilarious.

JL: So the third person who came to Judy's office?

WWW: The third person was a guy named Charles Abernathy, who was also young then. Chuck Abernathy. While he was at Harvard Law, he worked during the summer for the Southern Poverty Law Center in Montgomery, Alabama and one of the cases he worked on was *Frontiero v. Richardson*, which was a SPLC case. Basically, the Southern Poverty Law people turned the case over to the ACLU and Ruth Ginsburg to do in the Supreme Court. Chuck Abernathy had apparently done the brief in the lower court and was going to draft the Supreme Court brief and then turn it over to Ruth Ginsburg to do the final version. But Chuck felt that the brief should not argue sex was a suspect classification and RBG felt just as strongly the other way. So they had a bit of a tiff. What happened is that Chuck's boss ended up taking back the oral argument and Chuck wrote the brief the way he wanted it. Ruth Ginsburg submitted an amicus brief for the ACLU. But then somehow there was something of a reconciliation and the SPLC split the oral argument with RBG.

JL: Where was she at the time?

WWW: She was at Columbia and the Women's Rights Project of the ACLU was in full swing. So, anyhow, Chuck arrived for the interview session and interrupted Pat, Judy and me. But Pat and Judy were great. Just great. Maybe I could survive. The second memory involved Helen Steinbinder. Like Judy, she hosted an interview meeting in her office. Other people were supposed to be there but it turned out to be just her and me. So I knocked on the door and there's nobody else in there but her. And she just lights into me. "You're one of those feminists ..."

JL: Who is this?

WWW: This is Helen Steinbinder. I think she's still living.

JL: Oh, this was the librarian.

WWW: This was the librarian. She'd been a Georgetown graduate, back in the days when the faculty was pretty much Catholic and she herself was a

Catholic. And there I am, interviewing for a job in the aftermath of *Roe v. Wade*.

JL: Reproductive rights?

WWW: Well, baby killer was more her view of it. She also told me she'd heard that all feminists were lesbians. But interestingly there was a way in which she later seemed proud of us, Judy, Pat and me. She never changed her view on abortion, but she made her peace with us. But at the time, it was a pretty unpleasant experience for me. So I thought whooooo! I don't know about this. My third memory was of my last interview which took place not in a faculty office but in the faculty lounge. It involved a guy who I think began the clinical programs at Georgetown. He had set up a clinic in 1971, the Institute for Public Representation, which he nicknamed "Inspire." Ever since he left, it has been known as IPR.

JL: So this guy, was it Greenhalgh?

WWW: No, it wasn't Greenhalgh. He started the clinic before Greenhalgh, I think, but Greenhalgh was already at Georgetown. I can't remember his name.²⁴

JL: I can't remember. But I remember interviewing with Charlie Halpern. I applied to IPR. I think I got an offer.

WWW: Yes, oh my God, I forgot Charlie Halpern.

JL: A brief stint among his many.

WWW: I thought he was really interesting that guy. Maybe he couldn't stay in one place to save his life, but he was an interesting guy. But this other guy founded Inspire. He was a founding father. So we're sitting around talking and all of a sudden a short little guy comes in. He climbs up on an end table, literally. Silence falls, and he stands on this little table and says, "I just have three questions." Now, I don't remember what the three questions were but one of them had to do with clinical teaching. And I passed that one because

²⁴ The forgotten founder of IPR was Victor Kramer. With Charles Halpern, he co-founded the Center for Law and Social Policy and became the first director of the Institute for Public Representation at Georgetown University in the early 1970s. For his obituary, go to: www.washingtonpost.com/wp-dyn/content/article/2007/01/12/AR2007011202109.html.

JL: Because you did it.

WWW: Right. Right. So anyway, he declares himself satisfied, climbs down from his perch and out he goes. So those are the things I remember. I later wrote a history of women at Georgetown for a faculty presentation. It was a multimedia presentation with pictures and history and the whole thing going all the way back. And one thing I did was go back through all the student newspaper articles and alumni publications. And that was how I first learned the pressure the women students had brought to bear that led Georgetown to hire me when they did.

JL: So what was your decision. . . . Go back to the decision question. You interview at Georgetown. Anywhere else?

WWW: Since the East Coast geographically wasn't very clear in my mind, I also interviewed at Temple in Philadelphia. George Washington never responded to my letter.

JL: What a surprise.

WWW: I'm glad because it was a pretty inhospitable place for a long, long time.

WWW: I realized how lucky how I got. I got an offer from both Temple and Georgetown, but I came to Georgetown because Richard was here. So I came on the 5th of July 1976. On the 4th I drove all around the Bay Area, over the Golden Gate Bridge and the Bay Bridge, all around the Bay. The next day I got on a plane and flew to D.C. When I got off the plane I said to Richard, who picked me up, "I don't want to go to the apartment yet" -- I was going to live temporarily in an apartment that belonged to a faculty member who was out of town that semester -- "I want to go get a car. I have to have a car."

JL: West Coast Girl.

WWW: California, right? So we went to a Toyota dealership, looked around and I said, "I want that one." Richard was horrified. He'd never seen anybody be so irresponsible buying a car -- you're supposed to shop around, bargain, get the right color car with the right color interior, etc. But I felt much better after that. I had my wheels. So that was that.

JL: Did you.... What was coming to Washington like in your mind? Were you making a transition or were you doing an experiment?

WWW: How was I thinking about it? I certainly didn't think I would be here so many years later – how long has it been? I lost count after 30. But no, I didn't do it as forever. I figured after a couple of years we'd go back to California. And who knows? It may not be forever. I may end up back in California.

JL: I keep saying that, too.

WWW: Maybe in retirement. It's still in my emotional home. I go home every year for Christmas – haven't ever missed one. When I had my December babies, both of them had had their first plane ride before they were a month old.

JL: How did your leaving go with Mary and Nancy?

WWW: They were very good friends. That was really hard. That was the hard part. ERA was such a great experience. But I kind of felt it was make or break time for Richard and me. If I'd stayed, who knows. It could have been a very interesting life that way, too. Who knows?

JL: So were you living with Richard or were you living in

WWW: I am a very independent person. I do not give my independence up easily. So, I kept my own place for several years. But then I finally broke an arm. My right arm. I was having so much trouble. Richard said, "Come stay with me until you get better." If it was my left arm I would have stood my ground. But it was my right arm. I couldn't even operate a can opener, which is how I ate. Richard had an electric can opener. So I just moved in and never moved out. That was that.

JL: Where did he live?

WWW: He had a little house on Capitol Hill. And I was staying at a place on Capitol Hill, as well.

JL: What was he doing at the time?

WWW: He was working for Steptoe & Johnson. He stayed there, became a partner, then switched to teaching at the law school. That was in '84 or '85, something like that. It worked out well. We were on the same schedule so we could coordinate vacations.

JL: Oh yeah.

WWW: It's a good thing. Let's see what else that's gender-related?

JL: Okay, well, you've come to Georgetown. You're at Georgetown and how was it compared to what you thought it would be?

WWW: Honestly, it was really scary at first. The classes were huge.

JL: Huge. 600 new students a year.

WWW: Yes, biggest law school in the country in one physical plant. The faculty was almost entirely male. It was a totally male culture. Pat and Judy and I had similar experiences, which was that the men in the class would challenge our authority in some way. Some male student would come forward to challenge you the first week. If you survived that, good. If you didn't, you'd have to struggle because then the wolves would really come out. It was fascinating, that psychology. The three of us actually consulted an expert in -- I don't know what the expert was in exactly -- but the point was that she could describe how we could set things up so that we could diminish that kind of behavior.

JL: Was she a social psychologist?

WWW: I don't remember what she was. But I do remember that she said to us that the most salient thing, initially, about another person is their race and sex. And if you're not the majority race and of a dominant sex you're going to be challenged, particularly if you're in a place where there hadn't been women in charge before. So you need to establish your authority at the outset. That was a very useful concept.

JL: Do you remember the first time it happened? Do you remember what the ostensible challenge was?

WWW: I don't remember a particular incident, but I know that it happened. It was always a guy sitting somewhere near the front of the classroom. Once I figured this out I just expected it. What I do was, I would laugh. I would just laugh.

JL: Perfect.

WWW: Which is the best thing. These huge classes -- 130 students. They had me doing civil procedure, which is a big first year class, as well as a seminar on women and law. There was so much to master in that early period. I was hanging on by the fingernails. It took me three years to get

comfortable -- to get really comfortable. Judy Areen had also had problems because she has a very quiet voice.

JL: And she's beautiful.

WWW: And she's beautiful.

JL: They hate you when you're beautiful.

WWW: I know. They take you apart because you're not in the right role. And she's also quite reserved. She would get angry and hurt. All these things we worked with and we got better at it all. Of course, Pat had a double whammy -- she was the wrong sex and the wrong race for these white guys. She's an African-American woman and that's as hard as being a beautiful white woman.

JL: Yeah, or worse.

WWW: Yes, worse. We really helped each other through those early years so we have a bond that goes way back. We also had our children in the same general time period beginning in 1980. That was a tricky business -- a new experience for the law school. We were concerned about the consequences but emboldened because by then we had legal protection from discrimination based on pregnancy. Still, we gave birth during breaks in the school year -- Pat & Judy had summer break babies, I had winter break babies. But a terrible thing happened. Judy's first child was killed in August -- I think it was 1997 because he was 17. He was about to enter his senior year in high school. He was driving home from his summer job and stopped at a stoplight at Nevada Avenue and -- I think it was Military. This dump truck with defective brakes comes roaring down the hill, swerves to miss another car, and flips over onto Ben's car, squashing it flat. That intersection is near our house. There's a planter with flowers in it to mark the spot.

JL: That was her first child? I couldn't go by that place either.

WWW: Every time I go by there I think of Ben. He was born four or five months before my Luke. I remember Judy gave me Ben's coming-home outfit to bring Luke home from the hospital in. But Luke was so long it didn't fit him. Anyway.

JL: Did Judy have the first child?

WWW: She had the first one and then I had one. Then Pat King had her only and then I had a second one. At some point Judy had a second one, Jonathan, who was a couple years younger than Ben. Older than my Ethan, I think, but younger than Luke.

JL: All boys?

WWW: No, Judy and mine were boys, but Pat's was a girl, and Judy and I were so jealous. We did want a girl. There were funny stories.²⁵ We were each other's support. There were a couple of good guys there, too, who were supportive.

JL: In what ways were they good guys and in what ways were they supportive?

WWW: They talked to us like human beings. In the beginning it was terrible. If we said anything in a faculty meeting, the next guy who talked would invoke what the guy who spoke before us said (or attribute to him something we said)

JL: As if you were invisible.

WWW: As if we were invisible. There was some of that for years and years. I think it ended, finally, when Judy became dean. Now at Georgetown, the women are real as anybody even though Judy is no longer the dean. I watched the transformation at law school. It's just light years different. Back then it was really retro. We wouldn't go into the faculty lounge for lunch. It was all about sports and boy jokes and stuff like that.

JL: When you came in, if you did come in, were you the focus or were you invisible? Or both?

WWW: Probably in one sense we were too visible. For example, if I'd come in with one of the other women somebody would comment.

JL: It was a conspiracy.

²⁵ WWW: I think one funny story I had in mind was this. One day Luke's childcare person was sick and I had to teach a class. So I took him with me and got Mike Seidman, the father of a baby girl who had an office near mine, to take care of him for two hours while I taught. When I got back from class, Mike informed me that Luke had wet his diapers, but Mike hadn't changed him because he only knew how to put diapers on girls.

WWW: Yeah, right. I recall one faculty meeting where we were accused of getting together before a faculty meeting and deciding to vote as a block, because we happened to agree with each other on something in the meeting. We hadn't. Yes, they did get a little threatened if you seemed to be seeing eye-to-eye or spending time together.

JL: When you had kids what happened to your thinking?

WWW: Let's see. Luke was born in December, 1980. I think I got tenure just before that. Or maybe just after.

JL: Was he an accident? We're both making faces. LAUGHTER

WWW: He was an accident but a good accident. Do I have to tell this part? Yes, I do. This is truth, right? What happened was, I was 35 and I had fibroids and this male doctor said to me you're not going to be able to have kids but that doesn't matter because you're too old to have kids anyway. This was, I think, in January of 1980. I was just completely frosted by that comment. I was so frosted, and I went home and called Richard -- Richard was at the San Francisco on a business trip -- and said we're going to have a child. But I didn't realize how quickly it would work. So by the end of January Luke was apparently on the way. I had morning sickness. After the last class of the semester Richard and I ran over to Virginia because in that state you could get the license and get married the same day -- and we got married before a justice of the peace in Alexandria. Luke was born in December, three months after I turned 36. Now that was interesting because students can count. Obviously, I got pregnant and then I got married!

JL: I proposed not getting married at all but my husband now wouldn't go for it.

WWW: Yeah. The only reason I did is because it was still true that single men were legally disadvantaged as parents. I felt it was important that the father have equal legal status with the mother. So anyway, Luke turned out to be a very exciting child. He had (and has) ADHD (attention deficit hyperactive disorder). He had such trouble paying attention which meant lots of difficulties with teachers. He would break bones all the time.

JL: His own or other people's?

WWW: His own! He was always taking risks. He was a wild child.

JL: When did you know that? How soon did you know that?

WWW: All I noticed when he was a baby was how easy he was because he was so distractible. If he wanted something he couldn't have and we could get his attention on something else, the trouble was gone. So in that sense he was easy. But when he got into group childcare the teachers would have trouble with him interfering with other children. But he wanted what he wanted.

JL: How old was he diagnosed, three or four?

WWW: When he got into pre-K at Georgetown Day School at some point the pre-K teachers said to us "we think you should have him tested." I'd never heard of ADHD before. So we took him and the diagnosis came back. What is ADHD? After that it was just trying to keep him in school, basically, and keep him out of trouble. He's turned out to be a wonderful young man. But there were horrendous moments. I remember one evening I was going to give a lecture on sexual harassment as part of a Smithsonian program on law in a big auditorium in the Department of Agriculture. I was at the law school putting finishing touches on my lecture at five or six when I got a call from Luke's school. "Luke has had a little accident." By this time he was a senior. This was back before we had cell phones but we had beepers and I always wore a beeper because you never knew what might happen next with Luke. Anyway, they said "He's been hurt and we need you to come pick him up. He's hurt his wrists and they might be broken." I called Richard and I said "Richard, Luke fell down again and I've got to go give this lecture." Richard said, "I'm on my way" and he went and picked him up and took him to an emergency room. The teacher had told me that his wrist, or maybe both wrists, were broken. So Richard and I made up this little code for the beeper. One beep if it was one broken wrist and two if there were two broken wrists. And he'd beep me so I'd know as soon as he knew. So, off I go to give my lecture. And I told the audience at the beginning -- I said, my son might have broken both his arms so I've got this beeper and it might beep right in the middle of things -- one beep if it's one and two if it's two. Halfway through, beep, beep. Two. He had broken both his arms.

JL: So he'd broken both his arms in high school?

WWW: Yes. Another time, when he was in middle school, they had a new, rather high strung principal. She didn't last very long. So she calls me on the

phone at work and she is yelling at me. She yells, "Do you know where he is?" And I said "No, where is he?" She said, "I'm looking out my window and he's up in a tree." What had happened is he had forgotten to take his medicine, so he was just full of energy. He was up in the tree because he was acting out the way he shouldn't, but always did when unmedicated. It was P.E. and the gym teacher, instead of having him run laps, which would have been the proper way to handle his overabundance of energy, told him to go sit down on the bench until he calmed down.

JL: Okay.

WWW: Right. So of course he climbed the tree.

JL: He had insulted him.

WWW: No, he just literally couldn't sit still. It was always like that. Of course, he had wonderful moments, too. When he was in second or third grade there was this graduate student doing a study on kids and gender and we got a call from her. I didn't even know she was doing this. She said, "In this study I am doing at the school, I tested all these kids and your son was the only one who didn't show any signs of gender bias. Can I come to your house and talk to you about why that might be so?" So, you know he's great, but he was just very wiggly-jiggly, always had something going on.

JL: Did he stay at GDS?

WWW: They kept him. There were people there who loved him and took care of him. Kept him there against all the odds. When he broke both his arms though, it was like the principal just couldn't believe it. How was Luke going to do his schoolwork? He threw up his hands, and said "Here's what we're going to do. I'm going to talk to each of the teachers, and ask them what the minimum is they in good conscience are willing to require from him in order to allow him to graduate. And we're going to graduate him out of here." I mean he couldn't write. Even when his wrists *weren't* broken, it was hard enough for him to sit and write, and this was just the last straw. So bright, such a bright kid. He got incredible standardized test scores but his grades were so-so because he forgot to do homework or if he did remember, lost it before he could turn it in, and he sometimes remembered to study for tests and sometimes didn't. He was like a Cadillac with no wheels. I could tell you stories all day. Hilarious. But

he grew up. He went to Landmark College for a while, which is for ADHD and other learning disabled kids, then he enrolled at the University of Maryland. After a while there he stopped going to classes. Just gave up and flunked out. But he had a plan – he wanted to go to culinary school, because he loved to cook. And at culinary school he met this young woman whom he married this past April. He's working at a wonderful restaurant. It's perfect for him. He gets to keep moving around all the time and he's producing actual, tangible, beautiful, delicious things. It works great for him. And he loves it. And he's just a joy. So, go figure. For a long time, I was just trying to keep him out of jail or from dying at a young age. Now he's blossomed. My second boy, Ethan, is also a joy – and he was much easier.

JL: Go back to when you had him, because lots of people have an awakening when they became mothers. You know.

WWW: Well, I thought it was wonderful.

JL: Did you expect it? What were you thinking . . .

WWW: What was I thinking!

JL: No, no, no. Not what were you thinking! Thinking really doesn't have all that much to do it. But, were you afraid? How were you feeling?

WWW: My mother had had six kids after me. So, I had an idea what babies were like. Going through childbirth, though, that I didn't know. So when I was pregnant with Luke, she said, "Look around you, all these people got here by being born, you know. So it's okay." So I held that thought. It certainly was a learning experience for me. I mean, I began to understand a little bit more about it. What our hormones do to us. Because, you know, he was born December 2, so I was back teaching in January. I would leave him with the child care person, get into my car, burst into tears, go to work, walk around the halls a couple of times, settle down, and then I was fine.

JL: Right.

WWW: It was just my hormones saying you shouldn't be doing this. You should be staying right here with this baby. INTERRUPTION -- Hi Richard.

Richard: Hello, hello.

JL: Hi.

WWW: This is my spouse, Richard Diamond.

JL: Do you want me to stop?

WWW: No. Do you want me to stop?

Richard: Ah, no.

WWW: Okay, okay, alright. END OF INTERRUPTION

WWW: So, that was it. When Luke was still a baby – he must have been about six months old -- I went to a Women In Law conference, and Richard came along to take of him. [To Richard]: People teased you about that didn't they? Your colleagues at work teased you because you went to take care of Luke while I was doing this.

Richard: [Richard claims that when WWW found out she was going to have a boy, she told her research assistant and when a friend of Wendy's called to see how she was, the research assistant answered the phone and told the friend, "Bad news. It's a boy."]

WWW: I don't believe that story. That story has gotten told and retold. I don't think it's a true story. You know, both times I was pregnant I got tested to make sure there weren't birth defects, which also reveals whether the fetus is a boy or a girl, so I knew early on that I was having boys.

Richard: I'm remembering the story about Luke fracturing his skull.

WWW: Oh, I left out the fractured skull story. An organization called CHADD, a national advocacy group for people with ADHD, had their very first national conference in Washington. Richard and I wanted to go, because Luke had been diagnosed with ADHD. For some reason our normal child care arrangement fell through that day, so I took Luke with me to work and I got my research assistants to take care of him while Richard and I went to the afternoon workshops at the CHADD conference.

JL: How old was he at that point?

Richard: 10.

WWW: Yeah, and he was a wild child. So my two research assistants had taken care of him. I get back to the Law School from the CHADD conference. . .

Richard: They had been taking care of him in the faculty lounge.

JL: [Laughter.]

WWW: In the faculty lounge. The research assistants had been playing with him in the faculty lounge. I get back and he's sitting in the Dean's office in a chair.

JL: In the principal's office.

WWW: Yeah, in the Dean's office, right, in the Dean's office looking strange. And I said what happened? And my research assistants couldn't say what happened, they were so distressed. They said "well, uhmm," and mumbled something about how he fell on his head, how they were doing acrobatics and he fell on his head." So I looked at him and his eyes are little unfocussed and he looked stunned. We have this professor at the Law Center who was also a medical doctor. So I called Doc Bloche and asked him to come to the Dean's office and look at Luke. And he looked at Luke and ran his finger past his eyes to see if he could track it and stuff like that. And he said, "I think you should take him to the emergency room." So, I get Luke in the car and I'm driving and Luke says, "I think I'm going to throw up."

JL: I'll bet.

WWW: Fortunately, he didn't. We get Luke to the emergency room at Georgetown Hospital. I carry this big ten year old in and they lay him down on a gurney. And then they seem to forget about him. And he's lying there zombie-like for what seemed like an hour, when he says, "I got to go pee." So, I help him up and I practically had to carry him to the bathroom; he could barely walk. So, then I help him back to the gurney. And I notice blood is coming out of one of his ears, his right ear.

JL: Ohhhh.

WWW: So, I go over to the nurses' station in the middle of the ER and I say, "You know, there is blood coming out of my son's ear." It was like bells going off. OH MY GOD! Into x-ray, they did a CT scan, everybody descended on him. It turns out he had fractured his skull. And that surely didn't help his ADHD. It made it worse. And he's lost part of his hearing because he fractured his skull. That was one long night. They had him in pediatric intensive care with wires attached to him to keep track of his vital signs.

At some point he discovered that if he held his breath, alarms would go off and nurses would come running. When I heard that, I knew he was going to be fine.

JL: What!!! Did you ever reconstruct what happened to him?

WWW: He couldn't remember because he was in La La Land.

JL: Yeah.

WWW: But, I think they were playing airplane with him and the RA was on her back and zooming him up in the air on her feet. And somehow he zoomed too far and fell on his head.

JL: Oh my God.

WWW: Or against furniture or something. I don't know. So, life with Luke was always exciting, it was always like that.

JL: That's the kind of thing where Child Protective Services looks at it and goes, yeah.

WWW: Yeah. That was scary.

Richard: I don't know why you are doing this interview.

WWW: It's Women Trailblazers in the Law.

Richard: Thank you. I thought you might be from Child Protective Services.

JL: [Laughter.]

WWW: [Laughter.] Poor Luke!

JL: No, I'm a defense lawyer.

Richard: Forget our Luke stories. It just goes on and on and on. . . .

WWW: But this is sort of back to how it changed

JL: Changed what you taught? Or the way . . .

WWW: I remember teaching Women in the Law when I was pregnant and one class session was on abortion law.. And it was an interesting feeling, you know. I said it out loud. I said, "I'm pregnant and here we are talking about this. This is really interesting, you know." But I felt then what I

feel now. Having a child profoundly changes a woman's life, and it is an experience which she needs to want and welcome, because it requires so much for so long from her and if she's not up to it, it's terrible for the child, too. Having Luke changed the way I lived. It changed the way I spent my time. It changed what was most important to me. I had this little elf on my shoulder all the time whispering, "I wonder what Luke's up to, I wonder what he's getting himself into." But all in all I am very glad I did it. I was not going to have children. That was not on my list of things to get done.

JL: Until you got challenged by that doctor.

WWW: Until I got told I couldn't. The story of my life. Do you know that that doctor didn't remember me, and he was going to some event in Georgetown at the Law Center and we somehow ended up in the same elevator, just the two of us. I'm going, I know him and I'm pregnant. But, I wasn't going to say anything. I just stood in the elevator, because he had made me so mad and he didn't remember me. All of a sudden he reaches out his hand, puts it on my pregnant belly and says "It's a boy." He didn't remember me, but he thought that my being pregnant made me kind of his property. He could put his hand on me and he could tell me it was a boy. Well, he didn't know that it was a boy and he had no right to put his hand on me.

JL: What did you do?

WWW: I guess I

Richard: She turned around and slapped the shit out of him.

WWW: No, I didn't!

JL: What was his name?

WWW: Fabro. Dr. Fabro. We used to toast Dr. Fabro annually on Luke's birthday. Because if I hadn't gotten mad at him, we never would have had kids. So anyway, but then we had Ethan six years and six days later. Luke said he wanted a little brother, but when the little brother arrived . . .
..

JL: He changed his mind.

WWW: He thought it would have been better if he'd gotten a dog.

Richard: That's not exactly true. We gave him the choice between the dog and a brother.

JL: And he opted for the brother?

Richard: He took the brother -- until the brother arrived.

WWW: He had second thoughts. But actually, they have been really important to each other and are to this day in a special way. So, Ethan's just graduating from Georgetown undergrad. He's a great kid. He was so much easier. So, in that sense, . . .

Richard: You might want to add to this story.

JL: Go ahead.

Richard: [To JL]: Did she tell you about the Bork hearings?²⁶

JL: No. What happened?

Richard: First of all, I was driving carpool that afternoon and we were in the car and listening to the radio. And suddenly there's Wendy's voice on the radio, testifying against the Bork nomination. So Luke does this report to his class on Bork. When was this?

WWW: Well, it was whenever Bork was up for Supreme Court.

JL: Supreme Court, right.

Richard: The paper consisted of colored pages and it starts out, Bork is a bad man.

WWW: I had forgotten that.

Richard: I remember the wonderful Women's marches. Wendy took the kids.

WWW: That was fun. I also remember taking my kids to the Gay Pride march.

JL: Really, exciting.

WWW: When they were about you know 4 and 10, and thinking, I wonder how this looks to them. You know, one of the interesting things is for young people today what the civil rights movement and women's movement

²⁶ Robert Bork had been nominated by President Reagan for a seat on the Supreme Court and Senate Judiciary Committee hearings were held in September, 1987. A majority of the committee recommended against Bork's nomination and the Senate ultimately voted not to confirm him.

meant to us, gay rights means to them. That is what they understand to be the area in which justice needs to be done.

JL: Right.

Richard: [Takes his leave.]

JL: Thank you, and I'm glad to meet you.

WWW: Richard read a book last night until 1:00 a.m. So he's moving a little slowly. My husband shares my inability to stop reading a book once he starts. So I don't start anymore, but he can't help himself.

JL: He can't help himself. Isn't that hilarious? Oh man. So, what other gender-related questions do I have? What does it seem like now?

WWW: Looking back?

JL: Yeah.

WWW: One of the things I feel, being 64 now, is sort of There's something very special going on, which is these kinds of things are happening: Some young woman came and interviewed me Monday about the pregnancy cases, because she's doing a Ph.D. thesis on it. And, there are these various celebrations. Some group called Veteran Feminists of America had a celebration of the early feminist lawyers in New York. They gave ten of us who had litigated back then these little medals. Nancy Davis and I got one of these little medals, as did Ruth Ginsburg and others Some of the people I haven't seen for many years have suddenly reappeared either in person or, you know, in my memories, as people ask for my recollections. And it's kind of a nice thing. The other thing I feel is, I feel like I can sort of let go. I've done my job, and now, it's up to a new group to define what the issues are and how to move forward. But along the way I did things I feel good about and I still believe in. I haven't changed my mind about anything or regretted taking any position that I took. I helped draft the Pregnancy Discrimination Act as an amendment to Title VII. The PDA went to effect in 1978 after we lost the pregnancy cases in court. I got to help draft the Family and Medical Leave Act a number of years later and I testified before Congressional committees on both the PDA and the FMLA.

JL: Interesting that you were so involved in the pregnancy issue and thinking that you weren't going to do it yourself.

WWW: Right. Well, it was, yes, but mind you, by the time the Family and Medical Leave Act passed in 1993, I had children. But the Pregnancy Discrimination Act was before I had any children. It was probably just because the *Aiello* case happened to come to me as a young lawyer. In its coming to me I learned a lot about all of these things. It might have even have opened me up to the idea of being a mother in a funny way. Because I'd been thinking so long about the workplace-family nexus issues and I'd served on a committee for the Bush Center at Yale that was looking at the workplace-family nexus issues.²⁷ So I was just so lucky. I was born at the right time. Go figure. I mean, I was just a kid from No Place, California. I just happened to be there at the moment when things were opening up and allowing me to really do some good work – and not think I had to give it up because I had children. I think I did make a contribution. Not alone, of course, but as part of a movement with other people. We as a group really made a difference. That feels good. Girls and women have so much latitude now that we didn't have back then. My daughter-in-law is in some ways a girly girl but also a marathon runner.

JL: Wow.

WWW: When I was a girl we weren't even supposed to run around the park; it might affect our reproductive organs.

JL: We didn't play full court basketball.

WWW: Half-court basketball. I still laugh about that. You'd go running along, you'd have the ball and, screeeeech, you'd have to stop right at that middle line. I was tall. You were tall. We could have been

JL: Yeah, but I was uncoordinated.

WWW: Oh, well, I'm not that coordinated either. But who knows how coordinated we would have been if we'd been allowed. But we spent all our time in high school gym waiting for the two days we could opt out because it was our menstrual period.

²⁷ The Bush Center is now the Edward Zigler Center in Child Development and Social Policy, named after Edward Zigler, who was running the Bush Center when WWW worked on the study.

JL: Oh, actually at my high school, we were so liberated that we sometimes had mixed gender PE classes. This was California

WWW: Wow.

JL: In the 60's, right. So we would have our period three times a month. [Laughter] Because you could tell the guy in charge and they wouldn't know.

WWW: What to do about it. Yeah. That was so funny wasn't it? I mean it was just hilarious. Yeah. That's the other thing. When I look at young women today and their connection to athletics.

JL: Title IX.²⁸

WWW: It's Title IX.

JL: Wow.

WWW: It was Title IX. Title IX really did that.

JL: So, there's one of those unintended consequences. The athletics part looked like the tail when it was the whole body of the dog.

WWW: It became the dog and it was so liberating. Girls play professional soccer. They're in the Olympics. It's just a whole different world. My daughter-in-law just ran the Richmond marathon. 26.2 miles. We all went down there and cheered her on. While she's very into clothes and all the things I never cared much about, she's also an athlete and I think that that's stupendous.

JL: Yeah.

WWW: So. They got married and she took Luke's last name.

JL: Isn't it amazing. And that would be Diamond.²⁹

WWW: Yeah. She had a perfectly good name. Her father said, it was so funny, her father said wistfully, "I don't think I want her to give up the name

²⁸ Title IX of the Equal Opportunity in Education Act of 1972 prohibits sex discrimination by any education program or activity receiving federal financial assistance.

²⁹ Penelope Crocker, in the years after this interview, changed her mind and kept her birth name, at least for professional purposes.

Crocker.” And I said, “Oh, I completely agree with you.” He looked alarmed and said, “Oh, oh, I didn’t mean it that way.” [Laughter]. I think he was just regretting letting go. He didn’t really think she shouldn’t do it. I of course viewed it as a matter of feminist principle. LAUGHTER. It was hilarious. It’s been really great having the boys. Much easier!

JL: Well, I guess it’s human nature. You love one after . . .

WWW: You love whoever arrives.

JL: Yes.

WWW: It was not a contest. And that was the other good thing, too. I worried, would I be too into my work. But they always came first even though I was a full time wage earner.

JL: You’re biologically programmed.

WWW: And a good thing it is that we are!

JL: Because otherwise nobody would go through it. Are you kidding?

WWW: Messy little diapers! And now when I smell a baby those pheromones still kick in. You feel like this little somebody needs to be taken care of here. It’s so cool.

JL: I’ve always said the reason why two year olds are so cute is because otherwise you’d drown them.

WWW: That’s exactly right. Exactly. Oh my God, it’s so true.

JL: And your own are different from other people’s. I mean they smell right to you.

WWW: Yes, they do. And until they become teenagers and start shoving real hard, we smell right to them. And then all of a sudden, it’s “Stay away from me.”

JL: But I’m sure that’s biological programming, too.

WWW: Oh, yes.

JL: It’s not like they stay around forever.

WWW: I was telling somebody who has four teenagers

JL: Oh, my God.

WWW: I guess it was the dental assistant who was cleaning my teeth. And she said, oh, I have four teenagers. I said, "Look, first of all just laugh. They are preparing you to let them go. This is a good process actually. If you could just laugh it will be alright." I can't really believe I have these two grown children. It happened so fast.

JL: What would you like to do next? You're finishing the book

WWW: I'm doing the Ruth Ginsburg book and what a great project for my last big project. Although I have another project that

JL: A littler big project?

WWW: A littler big project that I'd also like to finish up before I stop and that's a gender and law in American history book for Oxford Press which may or may not get finished -- depends on how long I live. So what I did was in June, 2009, I retired so I could work on my projects full time.

JL: Sort of like Barbara Babcock and the Clara Foltz book?

WWW: Absolutely. Barbara was my role model. She retired and her book is actually almost done. It's really on the very verge. I saw her recently. Barbara is so funny. She calls me to tell me, I'm coming into town and I'm going to have a party at Eleanor Norton's and I want you to come. And she and her old friend Gail from way back show up in town and they cook dinner at Eleanor's. Eleanor finally comes in -- she was the last guest to arrive in her own home. Barbara and Eleanor were roommates at Yale Law School.

JL: Wow.

WWW: Right. So they go back a long time. Barbara also was at this Veteran Feminists of America retrospective on feminist lawyers that was held this year. She was just so Barbara -- she had on these tennis shoes which were just so colorful and interesting. She's going strong. She's fabulous. And she really is very close to completing the book.

JL: So go back to your last big project.

WWW: Oh, so the other big project, which I've done a lot of work on, is -- and I just hope I have time to do it -- it's gender and law in American history. It

needs a flashier title. It's really something that hasn't been done yet which is a book you could use for law teaching purposes. They've done books like this on women's history as history. But *the law* and women's history needs done. I have a co-author on that, Richard Chused, and I have great stuff. A couple of summers ago, I was in London and I went to the British library. Great stuff. The chapters I'm working on are the law and women's reproduction and sexuality. Just fantastic and really interesting and I have some great stuff, I just have write it down. So I figure if I'm 64 now I should be able to finish all this by the time I'm 70. And I did retire so I can do this. Yeah, Barbara was an inspiration. Definitely.

JL: Tell me a little bit about the Ruth Ginsburg biography. Not to steal from publisher.

WWW: Well, you know I have a coauthor named Mary Hartnett. Mary Hartnett was my student at Georgetown way back when, and then she became head of a program . . . Oh, that's the other thing that I did. I'm so fortunate to be able to do. Remember when we were talking about . . . You were asking an international law question. And I got off on something else. I have two other things to say about international women's rights. I wasn't an international women's rights expert except that I had this Swedish model for work and family on my mind when I was working on the pregnancy issue. But that changed. I'd been one of the co-founders of a program at Georgetown called the Women's Law and Public Policy Fellowship Program, which took graduates of American law schools committed to women's rights. We ran seminar for them and placed them with organizations in the Washington area where they would work on women's issues of various kinds. We started that about 25 years ago. And then, 10 years in, we added our program on African women's rights, called LAWA – Leadership and Advocacy for Women in Africa Fellowship Program. We got some money for it and it became part of WLPPF program. And that was so fantastic for me. It was a window on a world that was totally unfamiliar. I learned so much from them. So, you know, part of my heart is really in Africa now. We initially had law fellows from Uganda, Tanzania and Ghana. Then that funding ran out, but we got some from to bring women lawyers from Southern Africa. We had South Africans, some Swazilanders, some from Zimbabwe and Botswana. I could talk about it all day. And then Sierra Leone. And this

year we got a whole new group from another part of Africa. So as part of that program, I taught a seminar on International Women's Human Rights. And so I got to learn that whole body of international and comparative law on women's human rights.

JL: You got to have all the papers, too.

WWW: All the wonderful African papers. One of the people I worked with, Johanna Bond, at one point gathered up a whole batch of those papers and put them in a book. She brought them up to date with footnotes and introductions. And so their papers are in this book out there.

JL: What's the book?

WWW: It's *Voices of African Women*.³⁰ I don't have a copy here or I'd show it to you. And Joanna had worked for several years with the Women's Law and Public Policy Fellowship Program and with Sue Ross on her international women's rights clinic. And she pulled all that together and published it. It's nifty. It needs to be done again though, because we now have many more papers and from more countries. But, that was just so great. A couple of years ago we had the 20th Anniversary celebration of the Women's Law and Public Policy Fellowship Program and the 10 year Anniversary of the LAWA Program, which is the African program. We were able to bring back almost all of our former fellows from Africa for the big event. Ruth Ginsburg spoke and so did Eleanor Norton. The former LAWAs are still in touch with us because our International Women's Rights Clinic does back up work for them on African litigation. Former LAWAs are in government, they are judges, they have founded and lead NGOs and are working for the United Nations. They are just -- I can't tell you -- they are just unbelievable people. And the other thing we were able to do is get former LAWAs to the International Women's Human Rights Conference . . .

JL: To Beijing.

WWW: To Beijing. We were all in Beijing together.

JL: Wow!

³⁰ Johanna Bond, *Voices of African Women: Women's Rights in Ghana, Uganda, and Tanzania* (2005).

WWW: And I took my aged mother, too. She had a wonderful time.

JL: My mother went to Beijing. I didn't go, but my mother . . .

WWW: [Laughter] Yeah. So you know international is indeed now a very important part of my perspective. It's Africa-centric international, but of course, in order to teach international human rights, I have to understand the European structure and the structure of women's human rights in the Americas. So that's been a wonderful experience for me.

But back to Ruth Ginsburg. When she finished her clerkship, one of her law professors persuaded her to come back to Columbia for two years to work on something they called the International Procedure Project. And her assignment was to write about civil procedure in Sweden. So, she learns Swedish and off she goes to Sweden. She arrives just as women's equality becomes a big issue in Sweden, after this woman, Eva Moberg, wrote a commentary in a Swedish newspaper which really rang true to Ruth, about women's double burden. Moberg said women had to do all the house work *and* they had to work outside the home for pay, and it wasn't fair. She argued that men should carry their fair share at home. The result was the Swedish government made policies designed to address the double burden of women. So Ruth Ginsburg, the internationalist, also got a good dose of feminism which, seven or eight years later, bore fruit when she took on women's equality in the United States. In her first brief to the Supreme Court, she cites the precursor to the International Women's Rights Convention. What's it called?

JL: The Convention?

WWW: The Universal Declaration of Human Rights.³¹ And that's in her brief in *Reed*. There's also a reference to Sweden's efforts on women's equality.

JL: So it's all about the network.

WWW: Right. So she's been an internationalist all along. And she's always been the world traveler, not as a child, because her family could not have

³¹ U.N. Universal Declaration of Human Rights (Dec. 10, 1948): "*Article 1*. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. *Article 2*. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

afforded it. But she married well and she chose her profession well, and it has taken her around the world. So anyway.

JL: I can see your broadening perspective. Has it changed the way you look back at the things that were done here in the U.S.?

WWW: Well, one of the useful things my U.S. work has done is it puts me in a position to be able to say to African lawyers, oh, you aren't alone -- we have or had that problem, too, and this is what we did or didn't do. And then I've gotten to learn from them the challenges given their particular cultures and how they think about solutions -- each African country is its own place. In fact, each one is several places because most are multi-tribal and multilingual. So each has a perspective on what the main problem is for women, what works, what doesn't work, how to move forward. AIDS is a huge, huge issue for many Africans, especially South Africans. And so, AIDS and women is something we spend a lot of time on in the International Women's Rights Class and that the Africans choose to write about in their graduate papers. Yes, my perspective has changed, enlarged, and I've learned so much. I hope I've been able to use that knowledge well in my teaching. I really feel I've lived such a privileged life.