

**NEW MEXICO STATE BAR ASSOCIATION**

**Oral History Project**

**INTERVIEW – RICHARD CIVEROLO**

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**INTERVIEWER: KATHLEEN LEBECK**

RC – Richard Civerolo

KL – Kathleen Lebeck (Interviewer)

### **CIVEROLO INTERVIEW – SIDE ONE, TAPE ONE**

KL: I'm Kathleen Lebeck, and I'm here today with the New Mexico State Bar Senior Lawyer Division, Oral History Project, and I'm here to interview Mr. Richard Civerolo, whom I've known for 30 years, and we're going to start this morning with your early life. You were born in 1917, Gallup, New Mexico, right?

RC: Correct.

KL: And tell us a little bit about your early life.

RC: Well, my folks...my father came over from Italy during the turn of the century Kathleen, and he came to Gallup to work in the mines. It was my understanding that he was in the service and there was a lot of...several Italian gentlemen that didn't want to go to Africa where they were being sent at that time, so they came over and some of them went to Raton, some of them to Trinidad, and he with several of them came to Gallup and sent for my mother several years later, so she came over with a son and a daughter. They settled in Gallup and he worked the coal mines until his death in the early 30s. During my youth, of course in those days we didn't have all of the facilities and things that we have now. I recall that we had a coal stove. There wasn't any gas available at that time. Matter of fact, we even had an outside oven where my mother baked breads, and it was my responsibility as the youngest one to see that it was stoked properly.

KL: How many brothers and sisters did you have?

RC: Yeah, one of those old fashioned ovens, and as a matter of fact, we had an outdoor water bathroom because we didn't have a bathroom until later on, but my mother preferred the coal stove, and even when we were able to get gas stoves into the house, she wasn't very happy about it. She wanted the good old coal stove, but we lived a pretty routine life. We never had an automobile. Of course, in those days, shopping in grocery stores was pretty convenient. We could walk to it, but also I remember buying a loaf of bread for 10 cents. Now you can't hardly buy anything for 10 cents. I...we had our own vegetable garden. We had chickens and rabbits that we raised and we...I recall delivering newspapers from an early age. I would walk to the railroad station early in the morning and pick up the newspapers during the winter, and winters were pretty...can be severe in Gallup. I recall standing by the old locomotives in the steam to warm up before I took off delivering my newspapers. I graduated from high school. As a matter of fact, I was active in sports, and I began working at the Charles [sounds like "Elfield"] Company five days a week for \$15 a week.

KL: What was your job?

RC: Actually it wasn't a bad salary in those days.

KL: What was your job?

RC: I was loading trucks in the morning and they had an ice plant. I would cut the 300-lb. pieces of ice into 50s or 25s to send it wherever they wanted, and then I worked in a hardware department, and I recall very vividly in those days assembling wagons for the Navajos. We'd put them together; they'd come in all disassembled and we'd put them together. I remember mixing paint. Of course nowadays the lead, but in those days you had a gallon of lead and a gallon of tint and you mixed your own paint. I also remember handling barbed wire. We sold a lot of barbed wire, and you had to be sort of experienced at handling that barbed wire, because it could be very difficult lifting them and carrying them. I always wanted to progress because I realized that in Gallup there wouldn't be a great deal of future. The only type of jobs that were available were either with Charles Elfield Company or Gallup [unintelligible] or the railroad, or the Highway Department, something of this sort, and my brothers worked for the highway and also for the railroad.

I was in Santa Fe, New Mexico visiting a friend when Pearl Harbor happened, and I realized that there may come a time when I probably would have to either enlist or they would induct me. At that...right after Pearl Harbor, there was a move on to get the young people in Gallup and elsewhere in New Mexico to volunteer for the National Guard to go over to Batan, and I remember very specifically that I thought, everybody thought it was great and quite a challenge, but I was at the age that required my mother's signature and she refused to sign. Unfortunately, most of the Batan veterans that came out of New Mexico didn't make it, but when we became involved in World War II in Germany I volunteered, and I recall going to Santa Fe and being inducted up there in Santa Fe, and I was...and the next week I was shipped off to El Paso and I started my army career.

I quickly realized that I would much rather be an officer than an enlisted man, so I took some intelligence tests and apparently I made a fairly good score, because they classified me as being officer candidate material, so I went to officer candidate school for six months, and when I graduated I was a second lieutenant. I was sent to Camp Robinson in Arkansas. I was a platoon officer and then I became an assistant battalion adjutant, and that's when I met my wife. She was a secretary in headquarters, and our regiment decided to have a sort of a dance, an affair to introduce the officers into the camp, and my company commander was the only one that had a car, so he was recruited to try to enlist or get some young ladies that might want to come to our dance, so one weekend he and I got the names of all of the young ladies in headquarters, thinking that was probably the easiest way to find someone because we didn't know anybody, and I recall Mary's father was a regular army man, and he was stationed out of Washington, DC, and we went to her home one Saturday morning to see if she would be interested in attending our dance, and I recall very well she was a very attractive young lady, and she came to the door and had shorts on and looked very

attractive, so I remember telling Captain Bradley, Captain, I don't know about you, but that one's mine, and it was a very prophetic utterance.

After we were sent to England and I was the assistant adjutant there in the camp just outside of Liverpool. I made friends with some of the Liverpool officers, I mean some of the English officers and some of the camp people nearby, and I recall specifically that being so close to Liverpool they had a great opera house, I mean a great opera, and I enlisted. I bought a membership and I would go in and I met some nice people, and from there we shipped overseas. We went to...we hit Omaha Beach, not on D-Day but shortly thereafter, and I remember specifically going down the ropes, getting into the water and walking to the beach, and the first thing I recall was at the top of the cliffs on Omaha Beach, the engineers had built a huge sign. The Germans had set what they called Bouncing Betties booby traps, and if you'd walk by within a couple of yards it would activate them and they would jump...they would spring up about waist high and cause a lot of damage, so they had this huge sign; it was billboard size saying, if you get out of this path, you'll get a Bouncing Betty up your...and that was very effective in keeping everybody within the path.

As far as being a soldier was concerned, I didn't do anything extraordinary. I just...I got my own command and I was a company commander, then I was a battalion adjutant. I remember General Patton coming onto the beaches. If you've seen the movie General Patton, perhaps you recall the scene where he was talking to all the troops. Well, I was there, and he was a two-star general at that time, and sure enough, he comes wheeling up in his jeep with his dog and his pistols, and he gets on this platform with a megaphone, and the first thing he said was, "I expect every one of you SOBs to get killed." And I turned around to the major next to me and I said, "I don't know about you, but he's not talking about me." And you know those are the kind of things that you remember.

You have one of my pictures in the book that I've given you of me on the banks of the Rhine River in Alsace Lorraine in the wintertime, which was kind of cold. We just did what we had to do – nothing spectacular. I just...I remember St. Lowell. If you've seen the recent movies that they've been running of the war and all, it shows all of the airplanes when they bombarded St. Lowell. It was an unbelievable sight, and I remember it very, very well because it was something that one can't forget. Just...according to statistics and what they were telling us, that was the largest bombardment during the war ever. There were just hundreds and hundreds of bombers coming over and all, and what really struck me is that they were...they had markers. They would drop smoke signals or smoke bombs to delineate the lines between the Germans and the Americans, and the wind shifted, and some of the bombs fell on some of our own troops, and even that was chronicled [RC's word] in the newspapers and everything else, but after that bombardment it was just unbelievable. Tanks were then on the scene and the landscape in that area was pretty level. There were a lot of grapevines and all up...if you...I'm sure you've been to France. You know how those

[unintelligible] are, but the French were very...they had their own troops and all of course, and what rather interested me is to see tanks along the road rolling down the road with the young ladies in them, heads sticking up from the turrets, you know, and chicken in cages in the back of a tank. They know how to travel.

I remember Dachau. I remember...I wasn't among the troops that took Dachau, but I remember going there shortly thereafter, and I have a photograph that I took myself of the ovens that I have here. It was something that we just couldn't understand, and now with all of the talk about well, it never even happened. It's just a matter of imagination, I assure you that it was not a matter of imagination and it's unbelievable. As a matter of fact I...for some reason or other, I picked up a little urn that they would put the ashes in the cremated bin, and I had it in my knapsack, and when we were discharged, I just threw it in my trunk because we had a foot locker, and after I got home it was a...there were things I just couldn't forget and I had a hard time sleeping, and one night I got up, picked up that little urn and walked out in the street and slammed it on the curb and broke it, and after that I could sleep well. It's just those things that stick with you.

I remember Birches Garden, beautiful view. There were some nice things that happened. I remember going through [sounds like "Reems"] and picking up a truckload of good champagne, and I bought it; I didn't steal it, and I was...my headquarters was a nice place for the officers to meet because I always had some champagne. It lasted a couple of months, but I'd also made a deal with the English, because I'd been involved in the Red Ball Express, and they gave me a voucher for every officer that I had in my battalion, and I would send them back to Kohn once every month for one bottle of scotch and half a bottle of gin, or vice versa, either, so I was always well equipped to take care of my troops as well. My colonel would go hundreds of miles just to come and have supper with me sometimes, but you learned how to take care of yourself because if you didn't...and I have a sign on my desk there [unintelligible] that was made by a German prisoner who was my jeep driver, and I kept it and I have it there as a kind of memento. As a matter of fact, I was going through some of my things at home to sort of prepare for this, and I found my old bayonet. I have a German Lugar that I had picked up from an officer, a German officer. Matter of fact, Bob Curtis has it and now; he's going to clean it up for me, and I still have my old helmet. It's amazing how you just put these things away and then suddenly they bring back memories. I got hurt during the war. It was not a war injury. As a matter of fact, I don't know how it happened, but when I was discharged they determined that I had a traumatic cataract in my left eye and that...I lived with that very severe cataract for years. I went to school with it and practiced law for a while until I found someone who could remove it and replace it with a lens. Matter of fact, they classified me as disabled, so I became involved in veterans' affairs, and I...that's why I was commander of the...state commander of the Disabled American Veterans. I thought maybe that I would be able to do something for some of these veterans.

I had been gone for a couple of years, and Mary and I had gotten engaged before I left. When I came back, I took a troop train from New York to Gallup – through El Paso to Gallup – and she was...her father was a regular army officer stationed in...camp commander in Utah, and she came from Utah down to Gallup. I got to Gallup one Friday, we got married Saturday morning and I started to school next week. We got married on the 10<sup>th</sup> day of November, which will be 62 years tomorrow.

KL: Tomorrow; tomorrow's Saturday too.

RC: That's right, and we didn't have an automobile, but one of my young friends had an automobile, so he drove us to Albuquerque because I determined, you know, I'd better get an education, and the army, if nothing else, it certainly made me prove myself that I could do something, because I found out that I could lecture to troops, I could command troops. As a matter of fact, I have a letter in one of my files for where the inspector general said my company was one of the best companies they ever inspected, and they made me an offer to stay in as a regular army officer, but I decided I needed to get out and do something, so I came to Albuquerque and enlisted or enrolled in the University of New Mexico on the...I think it was the 12<sup>th</sup> or 13<sup>th</sup> of November in 1945. We didn't have a place to live, but my brother was living here in Albuquerque, and he was working for the State Highway Department as the chief clerk, so he had a basement apartment, so we stayed in the basement apartment until we were able to find a place. In those days it was very difficult to find any living...houses or rentals. We found a little place down on South Broadway, believe it or not, and we stayed there for quite a while. I enlisted in the...when I enrolled in college I enrolled under the GI Bill, and I was getting \$90 a month. Mary went to work so that we could live adequately, and I immediately began getting involved in matters at the university. I decided that not only did I want an education, but I realized that you gotta get involved in things if you want to make your presence and also reputation, what not.

I know I've been asked, well why did you pick...why did you want to be a lawyer? Well it's really interesting how I became a lawyer. I'd always wanted to...I admire our...I had a lawyer friend in Gallup. He and I were involved in Little Theater over there, and I became acquainted with him and his wife, and he lived a pretty good life and I thought, you know, this is not bad, and then my wife – my mother rather – had a doctor whom I really admired. I thought he was a great guy, and I wanted to...I thought it might not be bad to be a doctor, but I wanted to go...I had lost my father by then, so I wanted to go...I thought it would be nice to go back to Italy and maybe go to school there. I contacted the Italian Consular in Denver, and he cautioned me not to go back to Italy because my father had been in the service, and the moment I hit the Italian soil he said they'd conscript me into service, so he warned me not to go, so that discouraged me from wanting me to be a doctor.

When I enrolled in the University of New Mexico – and by the way it was late in the semester because it was mid-November. They opened the law school in 1947, and it suddenly occurred to me that gee, maybe I ought to get a profession because I really didn't know what I wanted to do, and I was working while I was going to school by the way. I was working in the summertime for the State Highway Department. As a matter of fact, I helped lay the asphalt on Menaul Blvd., as an example, and I was also part time with the Charles Elfield Company who had a warehouse here in town, and we didn't have an automobile, so Mary and I generally walked. I decided that I would try to get in...see if I could enroll in law school, so I went over and checked with the dean, and I worked out a deal with him to where I could earn both degrees. I would go to...I would work on my BA during the summertime and go to law school during the fall and spring, so I did, but I also worked. When I was going to law school, I remember that Joe Woods and I – who later became a Court of Appeals judge – were quite good friends, and he had a car and I didn't. He used to drive me to school and back all the time. We went to work for Professor [sounds like "Polavard"] who was the librarian. We're making a buck ten an hour, and the first law class was in the old stadium. There was one classroom in the library in the administrative offices. Whenever there was a football game or anything of any activity using the stadium, of course class was dismissed because it would be impossible...it was impossible to do any work or anything. I recall that our first class they were practically all veterans. We had one young lady, Raquel Marcus. She did not graduate, but I think you have some photographs. I was able to...I became acquainted with the new dean of the law school and I was visiting with her one day, and I don't think they had any...much material about the first law class. I had some alumni albums at home, so I dug some of them up and found some photographs of the first class, some photographs of the graduating class, some information about the professors and the students and all, and I made them available to her, and also they were in this book that I had prepared.

KL: The current dean. You've given...

RC: Pardon?

KL: You've given those to the current dean.

RC: Yes, they're in there. Yes ma'am. I became involved in political activities and other activities on campus. I joined a fraternity. I became involved in the student senate. I organized the veterans association, and by the way, the second class after the...of course, one of the...they needed additional classrooms, so we were able to work with the people out at Kirtland and had a barrack moved down for the second year class after the...after we graduated from the first-year class. Actually we graduated from that barrack when I got my [unintelligible]. Then it was LLBs rather than JD. It became a JD later, but I found out that when I went to get...when graduation time came that I lacked three hours of some basic class for my BA, so I had to arrange with the dean to transfer three hours of my

criminal law over so I could get both degrees, and I got two degrees the same night. I'm not sure they do that any more. I don't know, but...

KL: Did anyone else in your class get two degrees?

RC: And I know that...

KL: Did anyone else in your class get two degrees?

RC: No, I was the only one. I was the only one, but...and I worked part time too. When I was going to law school I was fortunate in working for Bill O'Sullivan as sort of a clerk, and I became acquainted with him and with Joe Smith and with some of the best...I got...I learned how to...law school taught me the law. They taught me how to be a lawyer, which is a significant difference, and they not only became friends, but when I got to the point where I decided I wanted to practice myself after I graduated, I went around to some of the big firms in town to check to see if they needed a young lawyer. I remember going to the Rodey firm. I remember going to the Modrall firm, and in those days it was Johnson's firm too, and then I decided, you know, let me see if I can make it on my own. If I can I don't have to go to work for somebody, so I talked to Gino Mateucci and he had an office in the old First National Bank building on the second floor, and Gino let me share offices with him, and I did my own typing. As a matter of fact, I still have my Underwood typewriter under my desk back in my office. I have my first chair I bought. I bought a chair for \$5 from a used furniture store downtown and carried it to my office myself. I have it at home in my study at home, which is the best chair I still have, but it's an old, old, solid chair.

Let me tell you about the bar exam. I understand that I was the first student that took the bar exam. Of course, we were the first ones to take it here in New Mexico, because we were the first class, but one of my professors, Professor [sounds like "Whitehoefer"], who was a contract and one heck of a professor but very strict and very particular, he called me in when he found that we were going to take the State Bar, and he said, "You know, Civerolo, can you type?" And I said, "Yeah, I'm a pretty good typist. Why?" He said, "Well, I think you could have raised your grades at least one point if I could read your writing, so if you can possibly arrange to use the typewriter to take your State Bar, you might be better off." Well through my activities with Disabled American Veterans of New Mexico, one of the fellow members was the state treasurer. His wife was the secretary for Judge McGee on the Supreme Court, so one day I was visiting with Bob and I said...and I was discussing this with him and he said, "Why don't you talk to my wife and have her talk to the judge?" I thought, "That's a great idea." So I pursued it, and sure enough, Judge McGee talked to Lowell Greene, who was then the chief clerk, and arranged for me to take my typewriter to Santa Fe, and he put me all by myself in the library, so I typed my bar exam, and what I recall specifically about it is that every half hour Lowell would come and look over my shoulder to be sure I wasn't cheating, and I finally told him, Lowell, you know

you're kind of bothering me. How in the heck would I cheat? Frankly, I don't know what the hell I'm doing, and I certainly can't go and visit with any of these books in this library, because I wouldn't know what to look for, and it wouldn't do me any good anyway, but I passed. In those days you took your exam one day, they graded it and you knew the next morning. They posted the...those who passed on the Supreme Court chambers, and then we were sworn in.

I recall that two days after I got sworn in I tried a case for Gino, and the rules are pretty fresh in my mind. As a matter of fact, my opponent was a member of the Rodey firm, and the issue involved a miner who was working for a mine, and the issue was whether he was...he wasn't getting any salary, so Gino sued for him and I was trying it for him. Well during the trial, the lawyer contended that he wasn't entitled to a salary because he was a partner, so having remembered the rules, I got up and moved that the complaint be amended to claim partnership interest in the mine, and sure enough we got a partnership interest in the mine. That was my first case and my first time I'd tried it.

Well, it's rather interesting how I got involved in doing trial work and insurance work, Kathleen. Bill O'Sullivan was a great criminal lawyer. As a matter of fact, he and Joe Smith were probably the first real plaintiffs' lawyers around. They started that doing negligence work, and I remember the Kelleher firm had an office in the First National Bank building too, and I recall when I was working for Bill O'Sullivan that one day he dumped an abstract on my desk and says, give me an opinion. I didn't even know what he was talking about, but fortunately I made friends with Will Kelleher's secretary, and I was chatting with her and she said, "Well you know, we do a lot of that work. Tell me what you need, and I'm sure we've got a written opinion." So that was another source of friendship that I had, and it was my first introduction to title work. There were just...I didn't like criminal work because the feeling I had that I...I could tell whether they were lying to me or not, and I just...although I realize that being a lawyer that if you...the idea is that they have rights, but when they were just outright lying to me I just didn't feel as though I could exercise the necessary effort to try to protect them, so I stopped doing criminal work. I tried a case for Gino involving an automobile accident and I won. The next day the insurance company came by and hired me. That's how I got started doing insurance work.

I remember I did my own typing for a couple of years, and I recall Judge Rogers, District Court judge who later became federal judge. He called me in one day and he said, "Civerolo, who does your typing for you?" I said, "Well I do all my own typing. I don't have a secretary." He said, "Well I suggest you get one part time because your typing isn't very good." So I...Gino let me borrow one of his secretaries part time. That's how I got started, but suddenly I found that I liked trial work, and it was challenging, it was interesting, you had to exercise judgment, it wasn't easy, it wasn't very much pay, but I liked trial work, so I got involved in doing trial work, and pretty soon it began the more cases you tried,

the more cases you won, why the more insurance companies that came by and knocked on your door.

In the meantime Kathleen, I decided that it was easy for me to get involved in other things too. I became involved in the Council of Social Agencies, who was the forerunner to the United Fund, and I was president of it. I was involved in veterans' affairs. I was on the Veterans Service Commission. I incorporated the Legal Aid Society. I have the documents in my office. I got interested in the Cancer Society. In those days they didn't have the beautiful building they have now. Matter of fact, where they are now was the old Bernalillo County Indian Hospital. They made arrangements. Somehow or other they got involved in trying to get a cancer clinic. I was with the Cancer Society for 45 years. I was their lawyer; I was on the national board. I would go back to New York. I helped write the national bylaws. I volunteered my time. I remember carrying a typewriter into the office at the old Bernalillo County Indian Hospital. It was the first tumor registry in New Mexico other than the Veterans Hospital, the only one they had here. Then a couple years later when I was state president of the Cancer Society, I got them a \$37,000 grant from national and bought them one of the first electronic microscopes for the cancer clinic. Matter of fact, some place in my file I have a photograph that was taken of me by this monster, and I got a lot of publicity out of it and so did the Cancer Society. I didn't much care about it myself, but I got involved in all those things, and not only were they personally satisfying to me, but I became acquainted with a lot of people that helped me broaden my law practice. As a matter of fact, you remember Wayne Wolfe, he and I were involved when the developers from New York came here and tied up all that land in Rio Rancho that later became Rio Rancho. In those days it was nothing but prairie dogs and sage brush.

KL: That was when Wayne and Leroy became your...with your firm.

RC: Yes ma'am.

KL: Leroy Hanson.

RC: Yeah. Leroy and I were involved representing the city and the first cablevision television company that came to town. We helped with the agreement with them.

KL: When did Wayne and Leroy join the firm?

RC: Pardon?

KL: Wayne and Leroy when was that about?

RC: I don't...the specific date I don't recall, but I remember this is the first time that cable television came to town and needed a franchise, and we were doing some work for the city, and Leroy and I...Leroy worked on it primarily, but both of us

worked on it, and those were some of the things that we were involved in, but I've got a list of things in my resume there that I've given you that shows how involved I was. I also participated in bar affairs. I helped start the Lawyers Club. I was president of the Albuquerque Lawyers Club. I was a charter member of the Albuquerque Bar Association.

KL: You spent a lot of time with the Medical Review Commission.

RC: Well that was later on when the...plus all of the other committees that I worked on. I worked on quite a few of them. Matter of fact, one committee I worked on specifically that I'm going to mention later on had to do with lawyer advertising and all. In those days of course that was before the famous Arizona case, Supreme Court, that said you know lawyers can advertise. I was chairman of that committee, and we were trying to see if we couldn't define some limits for lawyers' advertisements. I got a nasty letter from the Yellow Page people saying, we're going to sue you because you're violating lawyers' rights. They have a First Amendment right to do what they want, and we want their advertisement; it's important to us, and if you try to restrict their advertisement we're going to sue you. I resigned from the committee. I said I don't want to do this. By the way, that's one of the things I'm going to mention later on if you ask me about some of the things I like and dislike about the practice of law now. I've enjoyed all of these efforts, and not only has it really enriched me personally, but I think it's helped establish a reputation.

KL: You were national president of ABOTA, weren't you?

RC: Yes, and it also helped me professionally. It's helped me. I had some clients that were in the real estate business. In those days it was so easy to get involved with them as far as investments were concerned, and through my relationship with some of these organizations, when a neighbor of mine started the Western Bank, came to me to help him, I help put that together. I helped them get their charter, and later on it's been one of the best investments I've ever made. In addition, I was on the board of directors and general counsel from 1973 until 2000 when they sold to Compass Bank. It was a great introduction to business. I conducted every corporate meeting, set holder meeting the bank had except one, and I was ill at that time, so it also helped me in business. The Bell Company right now, Saul Bell came to me in the early 60s, and I incorporated him, his company. I had a share of stock, and now of course he's got about 400 employees, and I think they've got an \$80 million a year business. I helped him get started. I wrote all of their bylaws and I represented them for years. Of course, I'm not involved in that kind of business any more, and it's through simple relationships. I remember the way I met...you know a lot of these things that have happened it's you've got to be a little bit lucky. You've got to be at the right spot at the right time, and honestly any of the "achievements" I might have made or the contacts I had were being at the right spot at the right time. In those days it was easier to get started without a bunch of cash than it is now, but also business-wise I learned real quickly that credit was important, so I went down to the Albuquerque National

Bank, which was down on the corner of 2<sup>nd</sup> Street and Central, and borrowed money, kept it for a month, didn't spend it, paid off my debt, used the same money and created credit, and later on it was very important in my getting started in my business when I needed to do that, but that's one of these things you learn when you grow up in a family like I did, because what we had we earned ourselves and we made it. We were happy and didn't realize it. It wasn't the idea you're buying it because you wanted it. We bought it because we needed it. That's what I've been trying to teach all of my kids and friends, is don't buy it just because you want it. Buy it if you need it, because you're better off if you do. Fortunately over the years I've had some great associates. I've had some intelligent associates. We've had some great staff. I recall specifically Gino and I talking to Peter Domenici to getting involved in politics, and we helped finance to get started, which I think is probably one of the greatest thing that a politician could have done for New Mexico, for all that he's done for...you know, and his son Pete was with us for a while. You remember that?

KL: Yeah.

RC: Let's take a break.

KL: Okay.

RC: Kathleen, you've asked me about some of the activities I've participated in in the Bar Association. I'm referring to my resume and I notice that...I'm just going to comment because it's easier from here. I served as chairman of the New Mexico State Bar Unauthorized Practice of Law Committee from '69 to '77. I was a member of the New Mexico State Bar Grievance and Ethics Committee from '78 to '81. I have been chairman of the New Mexico Medical-Legal Grievance Committee since 1984 and still am. I've been chairman of the New Mexico Medical Review Committee since 1983 to the present. I've been chairman of the New Mexico Medical Liaison Committee since 1983, and I'll comment about those a little later, because I think that this is something that has been worthwhile not only for the State Bar, but for the Medical Society and also for the courts later on.

KL: What exactly did you do in those liaison positions and...?

RC: Well, the Liaison Committee was established as sort of a hearing board between the medical society and the, say bar. We met quite frequently discussing issues such as rather than being controversial and arguing with one another, especially with the type of legislation and the Medical Malpractice Act, we would meet and discuss those things. As a matter of fact, I have a nice letter from Steve [sounds like "Durkovich"] who is a rather well-known plaintiff's lawyer setting out some of the things that the liaison committee has done and how it's been a forum for rather than fighting in court we meet – and I've been chairman of it since '84 – and resolve a lot of the issues rather than be controversial, and an equal number of

plaintiff's lawyers, defense lawyers and physicians on it and it's worked out rather well rather than...we don't do any lobbying at all. We're not permitted to and we wouldn't want to do it anyway. Of course the plaintiff's bar has a lobbyist and they have their own interests, but this Liaison Committee has been able to alleviate all of these problems rather than coming out in public or before the legislature. We'd talk about the individual problems. As an example, there was an issue a couple years ago about the cost of insurance and the limit as far as recovery is concerned. I arranged to have the president of the insurance company come into town and visit with us and set out what they're doing and what the risks involved and the different risks as far as the different professions is concerned, and that's the kind of things that we do. We don't meet every year. We only meet when it's necessary.

The other committees were set up for circumstances such as when a lawyer complains about a doctor or a doctor complains about a lawyer. If they file a formal complaint, it comes to me and I look at it. If I can't resolve it, then we have a committee meeting, and we've been able to...really if you think that in the past 10 or 15 years there haven't been very many controversial issues between the physicians and the lawyers and the courts, because frankly, some of these committees won't even resolve these things, and the most important committee, however, is the Medical Review Committee. That's a statutory provision that requires before a lawsuit can be filed in court against a medical practitioner who is qualified under the Act, and I want to accent that, because they have to qualify under the Act, they must submit the petition before the Medical Review Committee, and the statute provides that three lawyers and three physicians serve on this committee. The State Bar has always cooperated. Matter of fact, some of us helped write the Medical Malpractice Act, so we realize the involvement of the State Bar. In 2006 this committee had 250 volunteers, which is the largest committee, numerically anyway, in the State Bar, but what it does is that it whenever a petition is filed, the specific procedure and the policy that we prepared that they must follow and send all of their records and all to this panel, who will review the...have a hearing, and they then vote as to whether or not there's probable cause and whether or not there's injury. I'm just paraphrasing – and actually, statistically this...I have a document here that I prepared in 2006 when this committee received the award from the New Mexico State Bar as the outstanding section committee award. I went back and looked at my records and prepared some statistics as far as the type of work the lawyers are working and the doctors because there are three of each, and I was able to find that since the inception of these Medical Review Commission statutes – and this was in 2006; since then there have been others – there's been 3,180 panel hearings, but when you break that down, three lawyers and three doctors and they look at the material, they travel to the panel hearing and they spend four to five hours on each, that relates to 9,540 attorneys and doctors who have volunteered over those years, because you need six for each panel hearing, and that's between 38,000 and 47,000 hours of their time that they devoted, but the significant number of cases that have been resolved without lawsuit and without the involvement of the judge

and the jury and the judicial system has been extremely significant. As a matter of fact, we're one of the very few states that have a Medical Malpractice Act, and I've gotten correspondence and comments from different states. Matter of fact, just a year or so ago I had a judge in Texas contact me wanting to discuss with me and get copies of what we've done and all, because apparently they were thinking about doing something similar, but it has functioned quite well because it lets the plaintiff's lawyer, among other things, find out whether he's got a case or not, and then it also has the medical practitioner know whether he's got a problem or not, and it's amazing the number of cases that are either dropped or settled because of this process, and it has smoothed the relationship between the medical profession, the legal profession and certainly not overburdened the courts, and I hadn't really looked at all of the efforts that they have put out, and that's a significant number of hours and a significant number of lawyers and doctors involved. My function has been these volunteers they submit their...when the case is filed the staff that's set up by the Medical Society they are on contract with the chairman of the Medical Review Commission who is appointed by the Supreme Court. They review these petitions, and then they send out a card to those volunteers to see who would volunteer to serve on any one particular panel, and then they follow up, and after they get a certain number of names, they submit them to me to select six, and the reason we select six is although only three serve because the parties have a right to disqualify or some of them have conflicts and can't show up. This is true also of the doctors. What is rather interesting, and what I've been trying to resolve and haven't been able to as far as the lawyers are concerned, is that the doctors get \$50 for each hearing, plus they get some credit to their CLE. I've been trying for the last several years to see if perhaps the lawyers who spend all this time and effort might be able to get some pro bono hours, and so far I haven't been able to convince the State Bar that maybe they're entitled to something like this, but to me, and I've given you a copy of what I did, is being unable to correspond with each member of this committee over the year, I took it upon myself to publish a letter in the State Bar Bulletin telling them what they had done and thanking them...

**[End of Side 1].**

#### **CIVEROLO INTERVIEW – SIDE TWO, TAPE ONE**

RC: That's one of the accomplishments as far as I'm concerned 'cause I've...and you know, I've spent a few hours at this too over the years, and the policies and all that are in effect I hope prepare them. As a matter of fact, one of the first set of policies that were prepared, Jim Parker, who is now a federal judge, was a practicing lawyer and so was Gene Frankini, they were on my committee, and that's some of the things that we've done, but this to me has been one of the better things that I've accomplished as far as being a lawyer is concerned. As a matter of fact, several years ago the State Bar awarded me a special award for the type of work that I've done. To my knowledge, it's the only award that any medical society has ever given to a lawyer.

- KL: You mean the Medical Society gave you the award.
- RC: The Medical Society gave it to me, yes. I mentioned it in here, yeah, but to me this has not only been worthwhile to the State Bar, but it's been worthwhile to the Medical Society, and certainly to the citizens of the state of New Mexico and the judiciary, because it's been...it's not only had a tremendous effect financially, but also certain...it stopped from overburdening the court system, and it's worked rather well.
- KL: And it was an early form of alternative dispute resolution.
- RC: Yes.
- KL: You want to take...[unintelligible]? Do you want to talk about ABOTA a little bit and then the cases?
- RC: Yeah, okay.
- KL: Okay? So you were going to tell us a little bit about your involvement with ABOTA, the American Board of Trial Advocates.
- RC: Kathy, in addition to being involved in matters with the State Bar of New Mexico, I belong to several national organizations, such as the American College of Trial Lawyers, and that's an organization of trial lawyers. Only 2% of the trial lawyers in the country belong. I've belonged for a number of years. As a matter of fact, I was state chairman at one time, but in addition I got involved early in an organization called American Board of Trial Advocates that is an organization that rather than being either plaintiff or defendant, it includes both, but in order to qualify, you have to have X number of jury trials to a conclusion, and I got involved in that through some cases I had with lawyers from California because that's where it really got started, and I became interested because of some of the things they stood for. They stand for jury trials. The 7<sup>th</sup> Amendment requires a jury trial, which is now being disregarded by a lot of people, and in order to qualify, an associate is...28 trial lawyers, 20 trials to a conclusion and then 50 is the next rank, and a diplomat is 100. I have 100. I've been a diplomat for a number of years, and by the way, at one time it didn't take a million dollars and six months to get ready for a trial. It just wasn't done that way, and I can relate to that later on when we visit here, but I became interested in many of the [unintelligible] they were doing, and after working with him on a number of the committees, I became national president, and I assure you that some of the finer plaintiffs and defense lawyers in the country belong to this organization, because they have established what they call a circle of...I've forgotten the type of circle, but it has prestige in that they meet with Congress once a year and they go back to the judiciary department and discuss all these problems the lawyers have and all, and then the Inns of Court. Matter of fact I was at a meeting when we...back in

Washington, DC when the American Board of Trial Advocates contributed \$10,000 to the Inns of Court to get started. The local Inns of Court I was instrumental in getting that started here.

KL: What do they do? Tell us about what they do.

RC: They try to get law students, lawyers and judges together and discuss types of problems that they have, and it's sort of a forum, and they generally have a meeting with the principal speaker and they discuss subjects and topics, and it's been very interesting and very educational too. I have not been active in it. I was instrumental in getting it started here, but I think it's still functioning, and I know that nationally it's quite worthwhile. One of the things that the American Board of Trial Advocates has undertaken recently that has gotten a lot of publicity is mock juries. Matter of fact, we here in Albuquerque and in New Mexico, interestingly enough, when we started ABOTA in New Mexico, Jim [sounds like "Toulouse"] and I were the first two members, and I volunteered as treasurer and I'm still treasurer today. We sponsored the mock jury trial at the University of New Mexico and all of the...since the team here was... rather the winning team here, we had them all at our dinner party and gave them an award just to recognize them. We're now trying to get involved and they're going to have a district team competition here in Albuquerque in January or February, and we're trying to get some ABOTA members and others to volunteer as judges. It's a good accomplishment for students and also teaches them somehow what lawyering is about and also good for the judges and the attorneys who volunteer as...to assist them in training for the mock jury trial. That's just one of the things we do, but it was indeed a pleasure being national president of it, because I tried to visit every chapter in the state, I mean in the nation, and I found out that it was almost impossible to do, but they have excellent CLEs.

KL: Continuing Legal Education?

RC: Yes, and in addition, they pick beautiful places to go.

KL: Oh, that's good.

RC: As a matter of fact, I recall going to England, going to the Inns of Court, meeting with the judiciary or so-called judges in London, going to Ireland, and at that time the ambassador to Ireland was a member of ABOTA from San Francisco, so we were all guests of the ambassador. I recall going to Hong Kong where we met with the British Bar there before the Chinese took over. We toured China with members of the Bar. Two years ago they met in Florence. Last year they had a meeting in some place in Africa. You know, they go to wonderful places, and as a member I've been able to do a lot of traveling I wouldn't have done otherwise, among other things, but I've met some wonderful, wonderful people, and really you know, basically lawyers are pretty good people, honestly. They may be controversial, but still they like one another and they get along. That to me has

been one of my favorite organizations because of the friends that I've made and the things that I've been able to assist on; not necessarily accomplish, but assist with, you know, in the State Bar's award to me with the distinguished bar service, recognition of the long-term commitment to the Bar service's significant contributions to the legal profession, but in addition I forgot my first one in '69, but since then I've gotten one in '71, '86 and '97, so I've gotten four of those. In 1976 I got a special award for outstanding work in improving the status and image of the legal profession in the administration of justice. You know it's surprising how people remember things Kathleen. When the firm published in the Bar Bulletin that I had been practicing 57 years, I was surprised at the number of people who wrote me, and quite a number of judges, and every one of them had nice things to say, which made me feel good, and I've got some of them here, and I don't necessarily think they belong in the book, but I'm certainly going to keep them in my file.

Some of the other things I've done as far as the...I've been president of the defense lawyers here in New Mexico. I've gotten an award from them as distinguished service, and surprisingly enough, this year Joel Rael and his son established an award called the Rael Circle of Honor for New Mexico Trial Lawyers. They have a space at the bar center with the name and photographs of these lawyers that they pick. I think they pick two a year, but Jerry Rael called me up and wanted to know if they could put me on that list, and so I said, sure, as long as it doesn't cost me anything, and that's just another award I got, but to me it's just another recognition.

KL: Would you like to talk a little bit about some of the significant cases that you remember?

RC: Yes, I'm thinking of cases that not only were kind of interesting, but also that might have made some law in New Mexico. Among the cases I've tried, and by the way, I've tried cases in almost every jurisdiction in New Mexico, and I remember you and I tried a nice one down in Roswell once. One of the cases I remember, it's a matter of record, is *Bernadette Anaya vs. St. Vincent Hospital and the Blood Bank of New Mexico*. The reason I remember that is because it was the first HIV case in New Mexico that I'm aware of, and it was a Blood Bank/blood donor situation with a concern that the young lady who gave birth had been subjected to blood transfusion that might have been HIV infected. I learned all about HIV. I'd never heard the word before.

KL: What year was that?

RC: In the early 80s, and to my knowledge it was the first HIV case in the state of New Mexico that's related to that. I recall reading For Whom the Bell Tolls, which is a book about HIV and how it started and progressed and what are some of the problems that it's created, but that to me was sort of a milestone as far as HIV is concerned and the Blood Bank, and it also encouraged the Blood Bank

system to be a little more strict as far as their treatment of the blood was concerned.

I was also involved in the early 80s with the I-125 cases here, since I represented St. Joseph's Hospital, that were the first type of radiation cases that I'm aware of in this area. It was a treatment of men with cancer of the prostate with I-125 seeds, and they utilized a computer in order to determine the number of rads for the life of the seed, and there was apparently a malfunction in the type of computer, and if the results of the seeds after they determined the number of rads that was delivered didn't reach a certain level, they would give external beams, and because of the error, the external beam they gave far exceeded what they should have been, and we had 18 men that were subjected to this with different results. Some of them resulted in death, but I represented St. Joseph's Hospital during all of those. Matter of fact, it took up to about three years of my life, but it was a fascinating experience. Everybody was blaming everybody else. From the person who prepared the computer, to the hardware they bought, to the advice they were getting, to as far as the doctors that were...the radiologists that were inserting these seeds, plus the urologists who were...they were the doctor for the patients, and it was a very interesting matter as far as that was concerned, but it also got some national attention unfortunately because of the radiation that was involved, but it resulted in better techniques; it resulted in better treatment as far as the new patients were concerned. As a matter of fact, I went back to Lowell Anderson back in New York for some experts, and as a result of my contact I represented him in several cases here in New Mexico later on, but those cases are cases that I think were significant as far as treatment of patients are concerned and also the development of techniques and the new type of instruments and delivering them.

I had also an interesting case, and one of the reasons I remember this one is because of what happened during and after the case. It's styled Frank vs. Dr. [sounds like "Zukal"] and St. Vincent's Hospital. I represented the hospital and Rand Miller represented Dr. Zukal. He was a general practitioner and this young lady gave birth to twins and one of them did not live, so she filed a lawsuit against the doctor and the hospital. I represented the hospital and as I said Rand represented the physician. They hired an expert out of California to testify, because they couldn't find anybody locally to do it, and they used one of the nurses from the University of New Mexico as one of their witnesses for the plaintiff. I want to tell you something about the case because to me it was significant. The nurse that testified was one of these very specific type of persons that if it wasn't written it didn't happen, and I could tell that she left the wrong impression on the jury, and when the expert...when the plaintiff put the expert on, they put him on out of place because he was charging a thousand bucks a day, and the plaintiff was on the stand, and they interrupted, took her off the stand, put the expert on. When the expert was finished, the plaintiff wisely didn't call his witness back on the stand because all she did is cried for four hours. Rand Miller got up to cross examine her, and I called for a recess and told him, don't ask her a

question Rand, because they're [unintelligible] for you. Since they've closed their case as far as she's concerned, leave her alone. I sent my expert...my nurse home. She was outside as a witness, and I got up and said, Your Honor, we have no questions to ask, and you could have heard a pin drop in the courtroom. In my closing argument I told the jury, how would you like to have this nurse take care of you if you were sick in the hospital? And the jury actually burst out in a laugh, and I said, Rand, we got 'em. Sure enough, we got a defense verdict, but what was the important...by the way, Carl Butkus was second chair on that case, but what I remember specifically about it is the doctor was so pleased that he took the whole jury out to the Palace Bar and bought them a drink, which had never happened to me before, but in addition, the foreman of the jury got up and toasted the attorneys, and I told Carl Butkus, "Carl, you'd better relish this because this isn't going to happen again during our lifetime." That was just one of the cases I remember.

One of the other cases that I recall because of what was involved was [unintelligible name] vs. Alabama Freight Lines. It's a case that happened down in Lordsburg that I tried in Lordsburg. It was a truck pickup accident where two young men, the [unintelligible name] brothers, were killed in the truck and...in the pickup and they found a case of beer in the pickup and the question as to fault and all. In the mortuary they took blood from them and tested out the alcohol, but it was my duty to relate the amount of alcohol in the blood, in the dead body, bring it back to the time that the accident happened, so I hired a toxicologist from the Veterans Association, from the Veterans Hospital and flew him down to Lordsburg and put him on, and we were able to relate the amount of alcohol that was in the bloodstream to time of the accident back, so to my knowledge it was the first time. It was the first time I'd ever done it, and it was interesting trying to get it done, but it was rather a fascinating case, and we finally settled it out for...just to get rid of it, but what was also interesting about it was our principal witness was a postal truck driver from Mexico who supposedly spoke only Spanish, so we put him on the stand, and of course with a translator, an interpreter, and it took us almost all day for his testimony, but when I discharged him, he gets up to the...he walks up to the judge and he says, "Judge, can I go home now?" in perfect English, but in addition to that, he walked down the jury box and shook hands with every one of the jurors, and I thought, well, I'd better make a note of this because this has never happened to me before, but that's one of the reasons I remember the case.

Another case styled *Archer vs. Roadrunner Trucking Company*. The reason I remember that case is because it was a case where the wife sued for loss of consortium because of injuries her husband had sustained and for which he received workman comp. There was a court ruling that she was not entitled to loss of consortium because the injury had gone to the...had been compensated in the Workman Comp Act, and that was exclusive, which is a matter of law in New Mexico too.

Another type...another case that to me was significant in medical malpractice was Goffey vs. Pharmaseal and Dr. [unintelligible name] and Presbyterian Hospital. I represented the doctor. This was a case where the...Mr. Goffey, the patient, had an intestinal obstruction, and in order to relieve the obstruction, the doctor used mercury in a balloon and he inserted it into the mouth, the intestine, to relieve the obstruction. In pulling it out, the balloon burst and he ingested the mercury. The people in the hospital attempted to relieve him of the mercury by putting him in a certain position on the operating table and pounding his back and all. He sustained a heart attack, so he sued the manufacturer, Pharmaseal, he sued the doctors, sued the hospital, and the reason I remember it is because the plaintiff, who by the way was Jim Toulouse, had an expert from Washington testify as to the standard of care. I had Dr. Simms, Governor Simms' brother who was a well-known doctor here, as my expert. At that time the standard of care in New Mexico as far as medical malpractice was a strict locality rule, period. I contested the use of the out-of-state expert on the basis that that wasn't in compliance with our strict locality rule. Judge Frankini agreed with me, but he says, "I think it's wrong. Why should the standard of care to practice medicine be different in Albuquerque than elsewhere? But that's the Supreme Court ruling and you're right. I hope somebody appeals this to show whether I'm right or not." Sure enough, he granted my summary judgment, our motion to dismiss, it was appealed, the Supreme Court reversed, and now the standard of care is whether you get an expert from New York it doesn't make any difference because that's the way to practice medicine, and I think that's right, but up to then it was a strict standard of care and locality rule, but to me that changed the standard of care for the best. I've got...some of these radiation cases made some significant law, because they dealt with fraudulent concealment as to the time that the statute of limitations ran from the date of occurrence or from the date of discovery or what, and the Supreme Court said from the date of discovery or could have discovered with reasonable diligence, which I think is the law now, and probably appropriate too.

I recall a case involving the Centennial Development Company, and that's reflected in some photographs in that binder where Leroy Hanson and I went down to the bottom of this mine in Grants, about 1,500 feet down, which was an experience in itself. This young miner...this young engineer had been working there about two weeks and went down to the bottom of this mine supervising the building of the shaft, and in building the shaft they would use tiles, wooden tiling to block off the walls so that they wouldn't fall onto the ground, and while they were doing this, he goes down to inspect it. He puts his head down underneath to look up and see if there was...whether the rocks were intact. One of them slipped and fell and killed him, so they sued the developer, they sued the mine and all, and we represented the Centennial Development Company that was building [unintelligible]. We tried it in Gallup. I had...Joe Holland was assisting us in putting it together, and I had him build a shaft in the front of the jury to show how it was done and the fact that...what he had done, and I got a defense verdict by the way, and one of the letters I've got in there is from the development company

saying how great a lawyer I was and all. Of course, if I had lost I probably wouldn't have got that, but nevertheless, I remember because of the type of case and the fact that Joe went down to the bottom of the shaft with us to take some photographs, but the water was so...it was just like a rain forest and ruined his camera, and we had to put on special gears to go down, and I can appreciate what my father had to put up with when he was a coal miner. In those days they had mules hauling it out and it was hand pick and all, but because of the conditions down there I remember telling Leroy, "Leroy, I don't know how much these miners are making an hour, but I'm sure whatever it is it's not enough." I remember the case because of the photographs and the fact that Leroy and I were together.

The first plaintiff case I ever tried was styled Morrison vs. Rodey. It's in the reports. It was an accident between a truck and a bus near the Arizona state line in New Mexico. Morrison was Gino's client, and I tried it for a plaintiff, but some of the things that happened during the trial. I got a plaintiff verdict in the early 50s for \$60,000, which was a hell of a lot of money in those days, but the problem we is that Mr. Morrison was quite a character, and unfortunately I found out liked to drink a little booze. He sells his interest in the lawsuit, but Rodey was the...Rodey was appointed as the guardian of the estate, and that's why he's the named party, but some of the things that happened they want to put into record, but we were late in getting started one morning, and the principal driver, his son was driving at the time of the accident because his father was sleeping. Well the reason his father was sleeping is because I think he was drunk, but I had put them up in a motel here in town, and fortunately, he wasn't the one that was driving at the time, but nevertheless he's the one that was charged with the operation of the truck. He didn't show up for trial one morning, so I sent the adjuster out to find out why. An hour later he brought him into the courtroom, and during a break he told me, he said, "You know, I had to wake this guy up, but in addition we had a problem. Did you know he had a glass eye?" And I said, "No, I didn't know he had a glass eye. He had authority to drive; he had a permit to drive." Well he said, "Not only that, but he dropped the damned thing and it shattered, and we had to put it together. It's now sitting in his hand and he's on the stand." Well since he wasn't the driver, I figured, you know, I don't have the responsibility of informing the court of all this stuff. Let them find out themselves, because his son was the one driving at the time of the accident, but can you imagine my sitting there for a whole week with one of my clients sitting at the table with a glass eye patched up with glue in his head during a trial? Don't ever experience that. I was a plaintiff and I got \$60,000. It was appealed, it was sustained in the Supreme Court, and in the meantime Mr. Morrison had sold his interest for cash value.

KL: Would you like to...are there any other significant cases, or can we move on maybe to your [inaudible]?

RC: Pardon?

KL: Can we move to some other topics that...are there other cases you want to discuss?

RC: Well just let me give you a list of them. A Hotel of Distinction West, Inc. vs. the City of Albuquerque. That to me is a significant case because it involves the Hyatt Hotel. The City had an agreement with the Hyatt Hotel people to develop the hotel site as part of the Convention Center. The Hotel of Distinction, which is part of Hilton Hotel, filed suit against the city contending that the arrangement that they'd made violated the state constitution against donation, and the city hired me to defend them. Matter of fact, Jim [sounds like "Whitland"] and I handled it and we had...we were...the time constraint for the agreement was almost over. We had about two weeks' time or it would have terminated, and they were in the process of building it. They dug the ground out and that was over at 500 Marquette, if you remember. We had a hearing in one of our conference rooms with this table one Saturday afternoon because we needed to get a decision, and Judge [sounds like "Deaton"] was the judge, and he ruled in our favor and they appealed it the next Monday. Because of the time constraint, I had to go to the Supreme Court and try to get them to accelerate the decision, the decisions in the books. They upheld us and so if it hadn't been for that, maybe the Hyatt Hotel wouldn't be there, because that's what they tried to stop. They didn't want any competition.

I had a...another case is Red River Ski Area. I tried it in Taos. Leroy Hanson and I did. During the summertime you know they have the ski tows for...

KL: Tourists.

RC: For visitor viewing. Two young ladies from Oklahoma were going up and this young man was coming down, and unfortunately he'd been drinking. He tried to...at one of the posts where they pass, he attempted to jump out of his car into their car and fell and broke his back, so he sued the ski people, and Leroy and I defended them in Santa Fe, and the reason I remember it is because during the trial it went...it lasted for two weeks. We went one Saturday but we were going to go to the jury Saturday afternoon. The judge had let the jury go out to lunch. When he came back in, one of them was so drunk he couldn't sit in the jury box, so we had to postpone and everybody agreed for the jury to come back on Sunday to deliberate. That's particularly what I remember, but some of the actions by the attorney handling that case that was very significant in the case, and we only got stuck for \$20,000, so to us it was a victory, but it was an interesting case. I had Joe Holland take the actual...

KL: Joe Holland was an investigator, right?

RC: ...take the ski lift, put it in the jury room and put it in the...take it in the courtroom with a crane, and it was so heavy it almost fell through the floor in the

old courtroom in Taos, but there's several other cases that I thought might be of some interest, but they all relate to medical malpractice and making the statute of limitations and whether or not wrongful death involved a viable fetus, whether the legislature intended a viable fetus being entitled to recover under the Wrongful Death Act, and the Supreme Court in that case said yes it did. That's Salazar vs. St. Vincent's Hospital. Those are just some of the cases that I've had and I tried. Some of them more interesting than others. I remember the one you and I tried down in Roswell where the guy wanted \$2 million for a jury trial and we were successful, but...

KL: Richard, I think you could probably talk another several hours about cases that you've had that are interesting... [RC interrupts].

RC: Let me...you know, you had asked me about my feeling about the practice of law and how things have changed. You know, when I started practicing law it was rather simple. There wasn't very much discovery, there wasn't... for deposition, it was not nearly as detailed as they are now. The rules were very simple. I remember going trying cases with one or two files and that was it, and the reason I piled on so many jury cases is because if they lasted more than a week that was an extremely long jury, but I'm...I've seen the law practice change so radically that to some extent I feel concerned as to where we're going. Let me just quote from a article that appeared in the Experience Magazine I get from the State Bar, I mean from the Bar Association, and he says, "When our generation was admitted to the practice of law..."

KL: Who are you quoting?

RC: I'm quoting the president of Experience, which is part of the American Bar Association, and the president's name is Theodore A. Kolb, that really I think reflects my feeling too. "When our generation was admitted to the practice of law, we joined what was then a respected legal profession, a profession that was dedicated to the resolution of disputes between members of our society or the guardians of society in their engagements so that disputes would be averted. Unfortunately over the years, we are told that we are no longer a profession but a business. If that be the case, I think we're doing a very poor job, because our product costs too much and takes too long to be delivered. Our legal press rates members of the Bar not by the accomplishments of resolution or resolving complex problems, but rather on a monetary earnings [unintelligible]. Tools such as discovery, which were created in order to assist in the resolution of disputes, have become a weapon rather than an aid in the resolution" – which I would certainly agree with. "Disputes are settled not on the merits of either party's position, but on the cost of resolving a dispute." And at the bottom is a cartoon with a lawyer talking to a possible client saying, "You have a pretty good case Mr. Pitkin. How much justice can you afford?" And unfortunately I agree with the matter of rules. Every time you pick up a Bar Bulletin now there's a rule change. You can't file paper any more. You've got to have a special procedure

when filing in court. Obtaining copies has gotten to the point where we have to send our secretaries and paralegals to special courses almost every two or three months because something new comes up. Try to file something in Federal Court now. You can't file paper. You have to do it electronically. You have to know just exactly where to file it, how. Rules came out two weeks ago in filing Court of Appeals; number of words on the page, number of pages – that sort of thing. The courts are getting to the point where they're doing these things to accommodate themselves, not to accommodate the clients or the public, and they're making it more difficult for the lawyers. To me, all of these electronic gadgets instead of making it more efficient, to me they've made the world a little more complicated.

KL: Well I imagine a lot of people would agree with that. Can you...Richard, can you tell us a little bit about your family and how the practice of...your practice of law affected your family and... [RC interrupts].

RC: My family?

KL: You haven't mentioned your kids. You had a couple of kids I think.

RC: My family of lawyers?

KL: Yeah. Well your family, your children.

RC: Oh, my children. Well fortunately, they both graduated the University of New Mexico. Paul is now a lawyer on his...and practicing alone as a workman comp. specialist. My daughter Gina is a graduate of the University of New Mexico. She has a Masters Degree and is a psychotherapist with the University of New Mexico Hospital. Paul has two sons. One wants to be a musician; the other one he's an electronic engineer student in Cal Poly Tech, straight A, just made the dean's list, and what I'm proud of is I taught him how to play golf and he's now a scratch golfer. My wife Mary is in ill health. I have a health care taking care of her, but one of the reasons I've been able to do all these things is because my family has been very understanding, and I remember when I was first in law school – I had been out of high school, out of school for some years, and I had difficulty reading because of my eye condition. My wife used to read to me so that I'd be able to go to school. Without putting up with me, so to speak, I don't think I would have been able to work as well as I did. Let me tell you about the time I ran for public office, may I?

KL: Sure.

RC: I was involved as the state treasurer for a governor candidate at one time, and I was told that I'm the only treasurer that ever handled a campaign that came out with a little extra money because they got an accurate account. After that people kept wanting me to get involved, but I didn't particularly care what I had gone

through. They talked me into running for County Commission at that time. It was some time ago. John Simms, who was former governor, called me and he said, "You know, we'll put you on a ticket. Can we run you for county commission?" I said, "Sure." I thought it was going to be a lot of fun. I attended two meetings. I spent \$17. I didn't go to any more meetings or anything, but I told Gino who wanted to finance me, I said, "Gino, look. I can't go to these meetings because I can't lie to these people. I'm not going to make the Rio Grande River run back towards Santa Fe. That's what these people are offering. Every time they go to a meeting they tell people, the audience what they want to hear for their vote. I can't put up with that. I'm...forget it." I darned near won and it scared me to death. That was my last venture into being a politician, so now I look at everything the politicians say with a critical eye.

KL: Yeah. Do you have any other interests or involvements outside the law, outside of your legal profession?

RC: Well let me tell you my view of some of the judiciary and some of our lawyers if I may. I think they ought to have a...well, another rule maybe, that before you can be appointed to a judge you have to have some experience as far as trials are concerned and actually court appearances. Some of these judges, I'm afraid, lack that kind of experience, and they're as novice as some of the lawyers that appear before them who neither of them know the...and they have to learn just like now. To me, law school teaches you what the basic law is. They don't teach you how to be a lawyer or how to be lawyering, and that's...well, you've been through it, and you know that there's a distinction between graduating law school and being a lawyer, and that's why Bob Curtis tells me, you know doctors when they go to medical school that's why they have to put in an extra three years so they'll know how to...they get the experience to be able to do it, and I think maybe something like that ought to happen with lawyers too, because so many lawyers...and it doesn't work well for the client either because they're not getting that kind of service.

KL: Indeed. What would you say your...what's your legacy to the legal profession? Do you feel like you have any particular thing you'd like to be remembered for?

RC: Well I hope Kathy that others will certainly become interested in not only wanting to do things for the State Bar. I did them because I wanted to. I did them because I enjoyed it. I did it because I thought it was part of being a lawyer. In addition, getting involved in community affairs. I tried to talk to the lawyers that are here in our firm now saying, you know, get...please get involved in doing something for the Bar, because if you don't, it's not going to progress, and it's not only best for the legal profession, but certainly for the public and for the clients and for the courts. If some of the things I've done – and I'm especially proud of what I've done for the Medical Review Commission and the Medical Society and the State Bar in that respect and my 45 years I worked with the Cancer Society. I had a great deal of satisfaction doing that because I think that that is just as valuable as

contributing to their fund. I just hope that lawyers get involved and do some of these things. They now say that well it's difficult for me because I'm so busy racking up hours for my salary. Well I found time to do it. They can find time to do it. Of course you have to have the help and understanding of your family, but it can be done. I know because I did it. I just hope that other people do it too, especially some of our younger lawyers. They can add a lot to society and to the legal profession. They've got to do other things other than just practice law. It enriches your life. It did mine and I would do it over again.

KL: That's a good note to conclude on.

RC: Thank you.

KL: Thank you. Well that was kind of fun.

**[End of Side 2].**