

NEW MEXICO BAR ASSOCIATION

INTERVIEW – VIRGINIA FERRARA

AUGUST 30, 2007

INTERVIEWER: TERRENCE RIVO

VF – Virginia Ferrara
TR – Terrence Rivo (Interviewer)

FERRARA – SIDE A, TAPE 1

TR: This interview is part of the oral history project sponsored by the State Bar of New Mexico and its Senior Lawyers Division. I am Terrence Rivo, a member of the Senior Lawyers Division of the State Bar. Today is August 30, 2007 and I am interviewing Virginia Ferrara in Albuquerque, New Mexico. Before we get started, you had indicated that you wish to be addressed by Ginny, is that correct?

VF: That will be fine.

TR: All right. Can you tell me Ginny, was there anything about your early childhood or adolescent experiences that influenced your decision to practice law or become a lawyer?

VF: When you say early, do you mean like kindergarten, 6th grade?

TR: [Laughter]. Anywhere.

VF: I don't know. I just always was kind of a pro underdog kind of person. I also was argumentative. I don't know if that came first or if it led me there or what. I used to argue with my mother about...I'd always have to serve the dessert, and she would say I'd make a point of putting pie down with the crust toward the person as opposed to the point, and she told me, "You always serve pie with the point toward the person," and I said, "Where is that written down?" So I think I was thinking about law even back then even though I didn't know.

TR: When you were a teenager or in your early 20s, were there any television shows that you watched that featured lawyers and the legal business?

VF: I am so old. I mean we watched Westerns. I don't think they had any law TV shows back then.

TR: Well Perry Mason.

VF: Perry Mason, that's right. How could I forget Perry?

TR: When you went to college, were there any of your educational experiences that impacted your decision to become a lawyer?

VF: When I went to college my goal in life was to get married, and I remember I had a lovely advisor. She was super. She was a maiden lady as we say, and she called me into her office and she said, "Miss Cushman," – that was my name then – "you have got to do something about your grades or you're never going to get into graduate school." And I thought, "Is she crazy? I mean, she obviously needed

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graduate school because who would marry her? But me, I'm going to get married. I don't need to do anything, so no; it didn't cross my mind until much later to become a lawyer.

TR: Well tell us about what experiences you had that did inspire you to become a lawyer.

VF: There are a couple. Before I was a lawyer I was a school teacher, and that was in Albuquerque at Highland High School, and I tended to attract as students, because students could pick which courses they wanted to take to some extent, and I was kind of a rebel and I got rebellious kids, and they were forever getting thrown out of their houses or knocked up, or this, that or the other, and I'd think, this isn't right. Somebody has to stand up for these kids. So that was one of the reasons. Another reason was I was just kind of getting fascinated by the whole concept of the law. Another reason was that when you teach school, or at least back then, you had to be there at 7:15 in the morning, and I decided right away that I didn't want to be part of any enterprise that required my presence at 7:15 in the morning, so that plus my then husband was dead set against it, so put them all together that's not a very good reason, is it?

TR: Well you had mentioned to me before that when you were in graduate school some of your fellow graduate students were talking about laws school.

VF: Right, they were. I was just taking graduate courses kind of to kill time while I waited for my then husband to graduate from his graduate program, so all these guys were taking the LSAT and I thought, I could do that, and we'd had to study international law and I really liked that.

TR: When you talk about the concept of the law in the way that you were looking at law affecting society, can you bring back any of those memories for us?

VF: At what point in my life?

TR: When you were thinking about the kids in your class and how law impacted their lives and their connection with the legal system.

VF: Well I just kind of went back to my underdog mentality thinking somebody's got to do something about this you know. I want to do something about this.

TR: How do you take that underdog mentality and connect it with what you've done for the last 26 years being the Chief Disciplinary Counsel?

VF: Well because many, now not all, but many of the complainants are the underdog. We're not setting out to right wrongs for them. We can't do that, but sometimes we can find remedies for them or help them out even though that's not the goal of the

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disciplinary system. The goal of the disciplinary system is to protect people in the future and not to provide anybody with a remedy, but some of these people are pretty sad, and sometimes we've gotten restitution for people if we work it out with the attorney.

TR: I'd like to come back to that in just a little while. When you were in law school were there any courses that you took or professors that you met that eventually influenced the direction that your career would take?

VF: I think my favorite professor when I was in law school was a guy named Lee Titlebaum who taught Domestic Relations and Juvenile Law. In fact, he was a juvenile advocate and it kind of tied into my wanting to help the kids I'd been a school teacher for. He was a pretty nice guy.

TR: Well he taught Evidence at the law school that I went to.

VF: Really? You're kidding!

TR: Yeah, at the University of Buffalo.

VF: I didn't know that.

TR: Yeah. He was there first and then he came out to New Mexico. I didn't know him. I wasn't in his section at that time, but he was there before he came out here. Were there any courses that you took while you were in law school that you said, hey, this is really great stuff? I want to do more of this.

VF: I guess Evidence and Criminal Law. I like slice-of-life kind of stuff. Taxes, Real, Estate and even Wills and Trusts it just was like...in fact, my least favorite course was Business Associations because it didn't have any drama, but Criminal Law, Juvenile Law, that kind of stuff, was kind of interesting I thought.

TR: So when you talk about slice-of-life type of things, what you really mean is life drama type of situations.

VF: Yeah, Judge Judy kind of stuff.

TR: When you were in law school you graduated in '76. Do I remember that correctly?

VF: Correct.

TR: Who were some of your classmates that you were friendly with?

VF: Well my two best buddies were [sound like "Lemuel"] Boyd, who is now an attorney in Santa Fe and has owned Capital Title Company and Linda Blume,

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who's a bankruptcy trustee, and Ken Waltz who's the editor of The Journal and Bill Tryon. In fact, we still get together for lunch about every two months.

TR: Anybody else that you can remember in your class that you were friendly with?

VF: Gosh, I mean I wasn't unfriendly with anybody as I recall. Woody Smith, Dave Archuleta.

TR: Well we all know Woody because he's been on the bench and is now a mediator par excellence. What was Woody like in law school?

VF: He was Woody, same old guy. Actually, he didn't come to our law school until we were second year. He transferred in that year, and I think he was part of the Waltz-Tryon basketball team. Those guys played a lot of basketball back in those days, but they did a lot of other good stuff too. They started a newspaper called The Tattler that was the gossip rag sheet of the law school that we all looked forward to with bated breath every month or six weeks, whenever it came out.

TR: When did you pass the Bar?

VF: In the fall of '76.

TR: How did you start your legal career?

VF: Well I wanted to be a public defender that worked with juveniles, but I didn't get hired. I got interviewed by Jim Brandenburg who was the DA then and got hired to be Children's Court Attorney and work with juveniles, and I thought that would be okay because it was a problem-solving kind of deal. Children's Court law is not quite as aggressive as adult felonies. You're more trying to see if this kid can be straightened out. Now some of them couldn't of course, but a lot of them could.

TR: So when you were back in Juvenile Court, were there any treatment options or alternative options available in the Albuquerque community for these kids that hopefully could be straightened out?

VF: Well a lot of them were labeled as CHINS, which was a Child in Need of Supervision, and they'd usually get put on probation and have a probation officer. In fact, our branch of the DA's office was in the Juvenile Probation Office, back in those days in the basement of the courthouse, so we worked closely with the probation officers, and there weren't that many programs. There was one called [sounds like "Ogaris"]. I don't know if it's still in business or not, but there weren't that many at that time.

TR: How long did you stay with the juvenile prosecutions?

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VF: I think it was only about a year. We had a case that came along of a juvenile who was accused of abusing her baby, actually it was her stepson, accused of throwing him down the stairs, and she got bound over as they say to be tried as an adult, and I tried that case with Peter [unintelligible name] from upstairs, and I guess he decided that I belonged upstairs in the adult division rather than with the juvenile division. When I was an assistant DA the child abuse cases were always assigned to me.

TR: So you wind up doing a lot of the child abuse prosecutions?

VF: Yes.

TR: Who were some of the attorneys you worked with in those early days in the DA's office?

VF: Well you were there I guess.

TR: I was.

VF: Doug Henson, Sasha Seimel, Bob Schwartz, Marty Diamond, Kristen Anderson, Bob Martin, Dave Williams – quite a crowd.

TR: Those were some interesting days, weren't they?

VF: They were.

TR: I still see people like Ken Downs, Dan Schneider and Barbara his wife. So you were there at the same time that all of those people were there also.

VF: Yes I was.

TR: Of the cases that you handled while you were a prosecutor, are any of those cases the type of cases that you would consider to be memorable cases or cases you thought were really important to do?

VF: I think the most memorable case that I had as a DA was the case that we convicted the wrong guy, which was not a good thing. It was a murder case, a double homicide out in Torrance County, and the defendant's name was William Smith. We had to try that case twice. The first time it was a hung jury. Come to find out his then attorney, whose name I will not mention, had apparently bribed one of the jurors, so it was an 11:1 hung jury, and the second time around he was convicted, and I remember standing there arguing to the jury about this little window of opportunity, that he had to have done it within this particular time or he couldn't have done it, and I'm thinking, I don't know if he really did that or not, and then I had to talk to myself and I said, look, it is not your job to decide whether he's guilty or innocent. You just put the stuff out there and they decide, and I made myself feel

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better. Well then after he got convicted, he hired Alice [unintelligible name] to do a habeas, and I ended up testifying for him about...it's a whole long big mess about some evidence that apparently his attorney was not aware of that I didn't know the attorney was aware of, and he got a new trial and the victim's mother hated me. It was a big mess but he got out, and I'm glad, and he's still out and he has a job now. He hasn't done anything to anybody since, and I don't think he ever did anything to anybody in retrospect.

TR: That was also the period of time where the convictions against the motorcycle gang got turned around.

VF: Right. I was not involved in that at all.

TR: By the time I got here Ira Robinson was the DA. I think Jim had lost the election primarily because of that. When you were with the DA's Office, aside from the case that you just talked about, any other memorable cases that you participated in or memorable moments with some of your co-prosecutors?

VF: Nothing really comes to mind. There were a lot of child abuse cases I remember prosecuting. They were kind of sad. In fact, when I left the DA's Office and went to the Public Defender's Office it was with the caveat that I don't take child abuse cases because if anybody came up to me and said, oh well the baby got a fractured skull because it fell off the couch, I couldn't possibly be a good advocate for that person because I'd heard that too many times.

TR: When you left the DA's Office, did you leave to go to the Public Defender's Office?

VF: Yes.

TR: Why did you make that jump?

VF: I guess I was still wanting to help the downtrodden. It takes a little while to make that switch because I'd be reading through these cases as a DA and I'd think, oh that person thinks they're so smart. I'm going to show him or her, and then you get over on the other side and you realize of course after two or three weeks that they didn't think that they were smart. They didn't think, period. The transition is kind of interesting, but it's possible to do.

TR: Memorable cases while you were in the Public Defender's Office.

VF: I have a memorable case, but I also have a memorable moment.

TR: What's that?

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VF: We were defending – and I can't remember this kid's name – he was like 19 or 20 years old. He had been involved in a purse snatching of a little old lady, and the little old lady fell down and she had died unfortunately, and he was looking at... I can't remember what he was charged with, but the possible sentence was two to six years, so one of the memorable things about that was every time we had a hearing his mother would come to court, and every time she came to court she would walk out in the hall and fall over in a dead faint, and every time she fell over in a dead faint Justice [sounds like "Stowers"] would come out and step over her. I mean it got to be like, oh there she goes, there she goes. Well Justice Stowers kind of liked people to take pleas. He would encourage you to take a plea, so he was encouraging us to take a plea, and I said, "Well my client's kind of worried about the sentence that he might get. What would you think?" "Well I'm not going to say," he said. "I'm not going to say if it's two years or six years," but he said, "I've never screwed one of your clients yet, and I'm not going to do it now." So my client pleads, big letter-writing campaign to the judge, all of the people in the community are outraged, we wrote a sentence saying...and six years, bam! And of course his mother faints out in the hall and my client was a little upset and wanted to withdraw his plea, so I had to file a Motion to Withdraw Plea and allege that he was under the misimpression that perhaps he was going to get a different sentence than the one he got. So we get there in front of the judge and he says, "Well Ms. Ferrara, what's the basis for your argument?" And I said, "Well Your Honor, my client was under the impression that he was not going to get six years, that perhaps he would only get two or four." "Well where did he get that idea?" "Well Your Honor, after talking to the Court I was under that impression myself." "Well what did I say to make you think that?" I said, "Well you implied that that's what you were going to do." "No. I didn't ask you that. What did I say to make you think that?" So I said, "Well Your Honor, what you said was, 'I've never screwed your client before and I'm not going to now.'" Well the whole place went crazy and he got red in the face and banged down his gavel. Things weren't quite the same between us after that.

Then I guess my memorable case was the William Wayne Gilbert case. After the Supreme Court reinstated the death penalty old Wayne came along, and he was the first one to be charged under the new death penalty statute, and there were four of us assigned to his case – myself, Joseph Riggs, a gal named Debbie Boll and my former spouse A. J. Ferrara, and the four of us worked on that case from February through August, and the week before we were supposed to go to trial...this was really strange. We all had different little jobs, and my little job was to keep the client happy, because we had had a seminar where somebody came from the Southern Poverty Law Center and said, you've gotta love your client and you gotta go see him every day, and I was the go-see-the-client-every-day person, and I got reasonably close to Mr. Gilbert, who was a very charming sociopath, as most sociopaths are charming, and the week before trial it came to the attention of the District Attorney that there was after all a plot afoot between Mr. Gilbert and an associate on the outside to have one of his attorneys kidnapped and held for ransom, so Judge Traub took us off the case because we were like, oh my gosh. Bless his heart, he died about four years ago of cancer. He didn't

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get the death penalty after all because Toney Anaya pardoned him, and he swears that there was never any such plot, but it kind of gave us pause, and Judge Traub was worried that perhaps we wouldn't do a good job, thinking that maybe somebody was going to get kidnapped.

TR: Well that's one of the more bizarre stories I've heard.

VF: Well it was a little bizarre, and I kind of lost my mind for a couple of weeks after that. It was like, oh my God. Here we'd been so intense with this person and then all of a sudden we weren't involved in the case any more and we weren't supposed to talk to him. Well we couldn't talk to him because he had new lawyers by then.

TR: We lawyers like to talk about judges, and of course the judges like to talk about the lawyers. Any other favorite judge stories that you might have to share with us?

VF: Well I used to like Judge [unintelligible name] on arraignment day. He was always kind of funny. He loved sentencing, and he'd say to these people, "Come on up and get a little justice." [Laughter]. Then he'd sentence them. Another time I had a client that was – this was in front of Judge Traub – I had a client that was from Maine where I grew up, and he and his cousin were charged with some nefarious plot. I forget what it was now. Anyway, they were both sitting up in the jury box in their blue jumpsuits, and I'm trying to argue to get my client out on bail and Judge Traub says, "Well is there anyone in the courtroom who knows this person and his cousin in the box? What's his [unintelligible]?" [Laughter].

TR: So what made you decide to leave the Public Defender's Office and go with the Disciplinary Board?

VF: Well I think after the Wayne Gilbert case I was kind of stressed out, to put it bluntly, about the whole criminal law thing. That case stressed me out, plus...well you remember those days where you'd start the week off and you might have six cases on a trailing docket and you wouldn't know which one was going to go, if the guy in front of you was going to plead, or if he was going to go to trial, or if you were going to be here, if you were going to be there, so you spent every weekend getting ready for five or six trials because you don't know if your guy's going to plead, and it was kind of getting me down, so I thought this sounded kind of like something more tame.

TR: Well was it?

VF: Yes, to some extent.

TR: When you accepted the position, what were your thoughts about what you were going to do?

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VF: I wasn't really sure. I was going to be working for this nice board of people that were very pleasant, and I thought well this would be a nice change working with these people, and I wasn't going to have six trials a week, and apart from that I didn't really know. It's not like I woke up one morning in the 7th grade and thought, by golly, I'm going to be a lawyer disciplinarian. It never entered my head. It's like most things that people do in life I think. They just kind of drift into it.

TR: So as you were drifting into this job how was it set up? I know that Mr. Gilbert was the Chief Disciplinary Counsel at that point in time, and he was in Santa Fe as you had mentioned to me when we were talking before, so how did you wind up doing whatever it was that you were supposed to do?

VF: Well, what would happen back in those days, the early days of...we were the branch office in Albuquerque, and it was just me and a secretary. Mr. Gilbert would come down to the office on Fridays. All the complaints would have been written to him, and he would bring down the ones he thought that we should handle. Five, six or seven a week maybe. We weren't a booming business back in those days. I would write a letter to the lawyer and listen to his response. A lot of them would get dismissed. The first big case I had involved an attorney. I learned right off the bat that sometimes the ones that sound the worst, the complaints that sound the worst – nothing. As an example, my lawyer is a vampire and drinks blood on weekends with other people out on the Mesa. I mean that's not usually good, but one that you can look at and say, oh, this one is going to go away real fast. Somebody wrote and said, I put some money into the Court Treasury in connection with my probate and they won't give it back, and I'm feeling like, oh good. I can send this off to somebody else. So I call up the Court and they said, we don't have any money for this person, and what the lawyer had done was dummy up a receipt from the Court and put a stamp from something else on it and Xerox it through and gave it to the client and had taken the \$15,000 himself, so I learned that things are not always what they appear to be on the surface.

TR: Wow! Were there types of complaints against lawyers back in – we're looking at 1982. Were the types of complaints against lawyers much different then than they are today?

VF: We did not have our brochure back then that we send out and tell people well we can't get you any money back, and we can't change the outcome of your case, and we can't provide you with a personal remedy, so people would kind of file complaints looking at us as the last resort. They would want their conviction overturned, or they would want their divorce settlement reopened. I remember a complaint that said, my lawyer didn't do the right thing in my divorce because I specifically asked for my graduation tassel and the Snoopy bedspread, and I got neither one, and we can't really fix that, and now that we have our brochure to send out and people understand that they're not going to get a personal remedy, then the kinds of complaints are a little bit different now, a little bit more sophisticated I

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would say. Lawyers are complaining more about other lawyers than they did before. Judges are filing complaints more frequently than they did before, and we're not involved in as many divorce disputes. However, I say that with a caveat. I should tell you that this morning we had a person who filed a complaint. This is a non-lawyer, and his complaint was that these lawyers took over his client and won't let him participate any more in the litigation. Well he's not supposed to be practicing law, so we're not going to do anything. We wrote him and explained this. Now he wants it reopened, so we sent it to somebody else, a board member, which is what we do when somebody wants the thing reviewed, and the board member said no more investigation. This is fine. He calls up this morning and says, "Well the Chief Justice's secretary told me that I can meet with the entire board," and I said, "Well you have her call me and we'll take it from there." "Well no, no, no. Don't you believe me?" "Do have her call me." Well he didn't and I called, and this lady answers up at Justice Chavez's office, and I said, "I need to speak to Justice Chavez's secretary," and the lady says, "Well he doesn't really have one today. Can I help you? I'm his paralegal." I said, "Well this person called about..." "Oh him. Yes, he did call up here, and I've tried everything in the world to make him go away. You know I can't find him in the Bench and Bar." I said, "Well he's not a lawyer." "Okay." So we do still get a few fringe people that hang on. Am I wandering too much?

TR: No. One of the reasons that I asked you to come here today was because most lawyers, and we know there are 6,000 or so lawyers in the state, don't really know about what the legal community looks like from your perspective. They just know that there's this disciplinary thing, and most of us don't have a tremendous amount of contact with the Disciplinary Committee, so that's part of what we're trying to do here today, is that if people want to watch the video at some point... [VF interrupts].

VF: Yeah, they'll look at this and they'll say, Sally's worried about her?

TR: But it's very important for people to be worried about you, don't you think?

VF: Well it's important that they write back to me when I write to them. The reason I say that is because we have a lot of people who, I won't say a lot, but more than I would expect that get charges filed against them simply because they ignore letters from the Office of Disciplinary Counsel, and one of the rules that we work under is we can dismiss complaints without formal proceedings, but in case of doubt, all doubts shall be resolved by way of formal hearing. Well if we don't hear back from somebody after writing to them two or three times then we have doubts, so we have to file formal charges. Did I answer the question right or wrong?

TR: You didn't quite answer the question that I asked.

VF: Well you can yell at me and say that's not what I asked.

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TR: That's not my job. Where that question was coming from is that you've got 6,000 lawyers sitting in their offices conducting their legal business on a day-to-day basis, and hopefully most of the people, a vast majority of the people practice with honesty and practice with integrity.

VF: I would say that's true.

TR: We do have a blind business in that people don't really know much of what we do. Even our clients who are well educated and who we talk to don't really understand much of what it is that we do on their behalf, so a lawyer has a tremendous fiduciary responsibility, as you are well aware. Within that fiduciary responsibility there are several ways that you often can choose to go, and if a lawyer knows that there's a strong Disciplinary Council and a strong Disciplinary Committee out there, then that thought is really sitting on his shoulder as he's evaluating options, at least that's my perspective. Is that something that you have seen, or do you believe that to be accurate?

VF: I guess that's true. I would say that the vast majority of attorneys in New Mexico are doing the best job they can, are doing a good job, are honest, are responsive to inquiries from our office and are just doing things right. You're correct that I think some complaints come about because of the misunderstanding of a lawyer's role. I don't know if people are afraid of our office, but I think there are enough cases out there that lawyers can look at and see, gee, I don't want to do that. In fact, when I first became Disciplinary Counsel, the Court did not write opinions. There would just be a little note that so and so got suspended, so and so got disbarred. Fortunately, over the past 25 years the Court has begun issuing opinions to guide lawyers more in their conduct. You hear all these horrible stories about lawyers, and when I have to give these little speeches, sometimes I say, well we get about probably about 850 complaints a year. If you figure that there's 5,000 or 6,000 lawyers out there and that each one of them has got to have at least 10 clients, so that's 50,000 or 60,000 possible complaints, multiply that by opposing counsel and you can double that, and we only get 875 complaints, I'd say that the lawyers are doing pretty well.

TR: That's very interesting, and that's part of what we were looking for, is to get that perspective because it's fairly common in today's world that lawyers get bashed and there's no dearth of television programs or movies that show lawyers and demonstrate lawyers in a bad way, so that's very interesting to hear the way you look at it in terms of the number of potential complaints that could be out there as opposed to ones that you actually get. There has been some comment recently that the number of disciplinary complaints is dropping. Is that accurate?

VF: Yes. The volume, the sheer number is probably dropping. It's a higher percentage of serious ones. Our business hasn't really fallen off. The volume has but the

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number of complaints that require action has not. That may have gone up. I don't know if that makes any sense.

TR: Yeah, it does. Basically you're saying that the smaller stuff the lawyers are getting a better handle on or people are not complaining about.

VF: And I think part of that is the State Bar has instituted the CAAP program. It's run by Tanya Herring, and it's the Client/Attorney Assistance Program, and whereas before people would call up and say, my lawyer doesn't return my phone calls, they now can call up Tanya, because the only thing we could do was send a complaint form, so we'd have all these forms about my lawyer doesn't return my phone calls, which by the way nationally is probably the biggest gripe that people have about their lawyers, and some people expect too many phone calls back, but that's neither here nor there. Now they can call Tanya and say my lawyer doesn't return my phone calls, and she can say, what's your lawyer's name and they will tell her, and then she will call up the lawyer and say, hi, this is Tonya Herring and your client so and so is feeling neglected, and I would suggest that you might want to call him or her. Otherwise he or she will probably file a complaint with the Disciplinary Board, and even though most lawyers realize that an isolated unreturned phone call is not going to subject them to discipline, they'd also prefer not to take the time and trouble to write to me if they can avoid it, so I think that's part of the reason for the falling off of complaints.

TR: You had said that the most numerous complaint about lawyers nationwide is failure to return phone calls. Given your experience what's the dynamic at play there?

VF: I think it's a failure of some lawyers to communicate to clients that look, I'm here for you, but there are going to be days that go by where nothing's happening. There's going to be weeks that go by where nothing's happening, and every time you talk to me or I talk to you it's going to cost you money, so I'm only going to talk to you when I have something to tell you. People don't go to lawyers to rent a friend. They go to lawyers because they're over a barrel, so naturally they're shook and they need a lot of hand holding a lot of times, and maybe more hand holding than the lawyer's ready to give them, so I think it's maybe unrealistic expectations on both sides. I think if lawyers would take more time to explain to clients that this is the way it's going to be and this is how it's going to take, then it would help. I remember reading an article one time. This guy was writing about deskside manner and pointing out that it's kind of like bedside manner for doctors, and that he had witnessed this lawyer talking to his client in court, a divorce client, saying, oh, this is just nothing. She's never been through this before, and he was reminded about when he was on an airplane, and we've all been on airplanes and you listen to the stewardess going, and in case of an emergency the thing's going to come out and the lights are going to go on up and down the aisle, and this is going to drop out of here and be sure to fasten, and everybody tunes it out. If you been on a plane you've been there, done that, but if you've never been on a plane...he said he was

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sitting next to this little old lady who was practically taking notes at what the stewardess was saying. We have to remember that sometimes our clients are like the little old lady who's never been on the airplane and needs a lot of instruction and reassurance.

TR: Do you think that a problem like that could be remediated in the initial client letter from the lawyer?

VF: Well it certainly could be included in a letter, but I think a face-to-face chat for some people would be more meaningful. If you're looking right into somebody's eye and they're telling you this, it's better than reading it on a piece of paper.

TR: In your years at the Disciplinary Board, what cases stand out in your mind? I understand that maybe you might not want to disclose names, but maybe some types of cases that you worked on that you thought were a particularly good outcome either for the Disciplinary Board, the complainant or the lawyer.

VF: My case that lived with me for seven years I think it was. It was probably my outstanding, in my mind, case involving a New Mexico lawyer who was a United States Attorney in Washington, DC and who took to heart the advice of then Attorney General Thornburg that after all, some of these disciplinary rules don't apply to you folks, and your job is to go out and get these people, and the one that was in question was our Rule 16404 or Model Rule 4.2 that says that if you're on one side of a case you cannot talk to a represented party on the other side of the case without that lawyer's permission. So this guy's sitting in his office and some guy in jail they're always like...in fact as a DA I used to have people call me from jail. They think, I'm going to talk to the DA straight up, and I'd say I can't talk to you; talk to your lawyer, but this guy thought, well I'll talk to this guy. He called me. What the heck. So they had repeated conversations about the guy's case, and there was a Motion to Suppress filed, and the judge in DC said this is wrong and I'm turning you over. I'm not going to suppress the statements, but I am going to turn you over to the Disciplinary Board of the District of Columbia, so they investigated and the position of this lawyer was I don't have a DC license and you don't have any control over me, so the DC Bar said, fine, send it to New Mexico, send it to me, and their position then was, frankly my dear we don't give a damn what you think out in the provinces. So we filed charges and bingo! We're in Federal Court on a Motion to Remove because this is a federal matter, and the supremacy clause says that we don't have to go by your little provincial rules. We got over that hurdle and Judge [unintelligible name] wrote a very compelling opinion that said baloney basically, so off we go with our charges again, and then – wham! I get served with a lawsuit out of the District of Columbia trying to enjoin me from interfering with law enforcement activities back in the District of Columbia, and that went on for three or four years. Finally the DC Circuit Court threw it out because there was no jurisdiction over me. The long arm didn't reach that long, and then we finally got back to the case at hand after five or six years, and

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the Court formally reprimanded this person, and that was kind of interesting going back to DC. I had a lawyer that...this was funny too and I'm going to tell you this. I'm not a State employee but we're covered by Risk Management. They weren't asking for money, so the AG was appointed to represent me, and I wasn't real comfortable with that, so I called up my buddy in the DC office who had sent me this wonderful case and I said, "Look man, you got me into this mess. Now get me out." He called back and he said, "I've got four law firms that are dying to represent you *pro bono*. This law firm they're like E. F. Hutton. When they open their mouths people listen. This law firm here they're so nice. You would love them. They are so nice." And then there was a third law firm, and then the fourth one he said... "And these guys are animals." I said, "I want the animals." And I'm always telling lawyers be polite, but it's funny, if your neck is in the noose I want the animal, and they would send our office bills every month and then write them off, and I think the total bill came to something like \$240,000 which they wrote off. We didn't have to pay for it, but it was a learning experience.

TR: So the eventual outcome was that you did have jurisdiction and that there was a formal reprimand?

VF: Yeah, and this guy by the way – this is apropos of nothing but he was like you're making me the poster boy for this and it wasn't my fault. I'm advised that he eventually got his license in DC and has recently been the subject of further proceedings wherein he bribed several witnesses as a prosecutor and there's a recommendation of suspension for him. I think he was a bad guy.

TR: Maybe he looked at things in a bad way.

VF: Attitude is everything, isn't it?

TR: Do you see much attitude in terms of the way you have to conduct your business?

VF: Yeah, I do see attitude. I can understand this too, but they're kind of outraged that anybody would see fit to criticize them, especially if it's another lawyer. We have this little thing that we an issue called a Letter of Caution, which isn't discipline at all. The attorney came real close to violating a rule but didn't quite. We call it a dismissal, but we issue them a Letter of Caution that says, please bear in mind that in the future you might want to think about this, this and this rather than what you did this time, otherwise you could violate the rule, and people will write back and attorneys will be outraged, like how dare you criticize me? I want this reopened. I want it reviewed, and I'm like, we're not reopening a dismissed case. We dismissed it. We're just giving you advice. You could take it or leave it, whatever you want. So there's a little attitude out there.

TR: Any other significant cases that stick out in your mind? You've handled or you've reviewed thousands of them in your 26 years.

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VF: Well there have been some complicated trust account cases. There have been cases where attorneys have literally stolen money out of their trust accounts. There have been other cases where attorneys literally don't have a clue on how to keep records about a trust account, which leads to problems. They're not dishonest but they're at a loss what to do, and I have talked myself blue in the face to try to get the law school to teach a little bit of Accounting to everybody. Everybody at the law school is going to work for the Rodey Firm, right? They don't need to take Law Office Management because I'm always told they can take Law Office Management. What money goes into trust, what stays there, when it comes out, how it comes out is just totally foreign to a lot of people. One time I had a guy who was merrily bouncing checks of his trust account, and I said come and bring all your trust account records for the last year, your bank statements, and he did, and they were still in their envelopes, so he had no idea that these checks were bouncing around the way they were because he didn't look. Little things like that I wish would be taught to attorneys.

TR: What kinds of cases are you seeing today for example that you wouldn't have seen 10, 15 years ago?

VF: I'm trying to think. That's really hard to say, and I shouldn't say that because there isn't a week that goes by that I don't look at someone and say, you know, they can't make this stuff up. You read these cases in law school and you think, who made that up? And you think, nobody, and it's always a new twist, but it's coming out of the same old maybe we're not communicating. If you had asked me what kind of cases are you not seeing as opposed to what are you seeing, I could tell you and be very happy that we are not seeing attorney advertising cases, because people have gotten used to the idea that attorneys can advertise, and the Legal Advertising Committee has gone bye-bye and is not referring cases to us all the time and everybody's happy about it. I think that the consumers are happy. I think the lawyers are happy. About the only time that we get anything about advertising now is there's this multi-jurisdictional practice thing kind of heating up and lawyers maybe from Texas are advertising over here, and that is troublesome to a number of people, but all the phone book ads and the letters, and you know all about the letters.

TR: Yeah I do.

VF: Why did the Advertising Committee get disbanded?

TR: I think it was for a number of reasons. One was they couldn't find people that wanted to serve on it, and I can see why, because those poor people would meet once a week and go through attorney advertisements and phone books, and this is not what you'd call an exciting thing to do, so finding warm bodies to do that was becoming difficult. When the committee first began, I remember Linda McDonald

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was executive of the Bar, and she was so thrilled because the \$50 per ad that you were supposed to send in to get it reviewed the State Bar was going to get, and wasn't that great and we're going to get all this money. Well the Advertising Committee went in the hole and then our office had to bail them out to the tune of about \$18,000 one year. So there was that. There were probably five lawsuits filed against our office during the period of time that the Legal Advertising Committee was in business. They were all about advertising. Nobody else sued us about anything, but people sued us about their ads, and the Legal Advertising Committee and the First Amendment, and we lost several of those and the Court had to pay that, and I think the Court finally decided we had this committee in place to guide people through the initial stages of appropriate advertising, and this wasn't meant to be something that would be going on forever and they have served their purpose, so we're going to shut down that committee now and you're on your own folks.

TR: In terms of them serving their purpose, do you believe that anything good came out of the Advertising Committee process?

VF: No personally. I shouldn't say anything good. Before we had the Legal Advertising Committee, people were sending me their ads and saying, what about this? Is this okay? And since we can't give advisory opinions it put us in a difficult position, so I guess we didn't get any more of those letters from people. I think it was an experiment that probably...they'd say the road to hell is paved with good intentions, and I think this was made with the best of intentions but didn't work out real good.

TR: With the Advertising Committee gone, with your office not being authorized to give opinions, what is the current standard regarding advertising?

VF: The current standard is you may not have an advertisement that is false or misleading. That's it.

TR: So basically it's a commercial free-speech issue. Tell the truth and you're okay.

VF: Or don't mislead people. As a practical matter I don't know if we would probably do anything about an ad unless we had some warm body, some person that said, I saw this ad and it said yada, dada, dah, and I believed it and this is what happened. I remember we did have an ad that came up – this is maybe 8 or 10 years ago – that didn't go through the Legal Advertising Committee, but we found it to be false and misleading, and it was just an attorney's ad, just this little tiny thing in the newspaper that said, Uncontested Divorces \$100, and that's all it said. Well come to find out this attorney never saw an uncontested divorce, so everybody that would go there expecting to pay \$100...and I think the public believes that an uncontested divorce means we both want out, and they don't realize that it means who gets the house, who gets the kids, who gets the dog, who gets the tassel, all that good stuff,

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so we had him change his ad, but other than that we never got any complaints from the public hardly at all about advertising.

TR: So what you're really talking about with that small ad is a typical bait and switch.

VF: Yeah, which is misleading.

TR: Right. Inherently misleading. When the advertising issue started to boil back in, let's say the late 80s, how did you look at that issue? How did you look at the attorneys that were doing full-page ads in the Yellow Pages, the attorneys that were doing direct mail solicitation? There were also some attorneys that were doing telephone solicitations. How did you look at that whole issue of that new kind of advertising?

VF: I personally was not offended, and I think part of the reason for that was that by some fluke of fate I ended up on an ABA commission called the Commission on Attorney Advertising, and I was on that commission for three years, and we did all kinds of studies and interviewed all kinds of people, looked at ads, and the committee's report when it came out came to the conclusion that attorney advertising is probably going to be helpful to most people, because most people don't have any idea where to go when they have a legal problem, and as long as the attorney advertisement is straightforward and not misleading, even if it's tacky, because there's some tacky people that need lawyers to, so that was kind of my feeling about the whole thing. I say I never got a complaint from a person. We did get complaints from time to time from people who got letters from people that were soliciting business for people involved in accidents, and I guess attorneys would go look at who'd been arrested for this, that and the other, and usually they were from parents whose kids had gone on a joyride and gotten in trouble and run over the neighbor's rose bush or gotten into some kind of a mess, and then they'd get three or four letters from attorneys saying, we can help you, and the complaint would be how will we teach this kid that there's consequences to their actions if these attorneys keep writing? But that was about the extent of that.

TR: Anything else regarding the advertising from the last 20 years or so that you'd like to share with us?

VF: Not really. It's not one of our main issues. It's not one of my main issues. I think our last advertising case has gone to rest finally. Now the ensuing litigation has not, but the case itself has.

TR: There has been a thought that was commonly accepted amongst some of the more senior members of the Bar that lawyers that advertised were not good lawyers.

VF: And I think that some of the senior members of the Bar still think that. I can't read their minds, but if they're old school, and I hate to say it. I guess I must be old enough to be old school myself. We had to take Ethics. That was the only course

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in law school when I went there that was required. Otherwise you'd take what you wanted, and I've always been of the opinion that required courses were required because otherwise nobody would take them, and they took attendance at that one too. Half the semester, maybe not half but a good month was taken up with how tacky it is to advertise, and how we are a profession and we don't need to do that sort of thing, so I think that people schooled in that train of thought probably still hold the belief.

TR: Has your office been involved in the programs that have been set up to help lawyers with disabilities, like drug, alcohol or emotional problems?

VF: One of our staff attorneys is on that particular committee. I can't think of the name of the committee, Bill Stratford's committee.

TR: I forget the name of the committee too, but it's designed to help lawyers with emotional, drug or alcohol kinds of problems.

VF: The committee helped to draft the rule that says that anything said to a lawyer in the course of [unintelligible]. Like if I come to you and say, my God I'm drunk all the time. What am I going to do? You can send me to them but you don't have to report me to the Disciplinary Board. There's a confidentiality thing there to make that more possible. We've worked in some cases where there's been an attorney with either an alcohol, drug or depression problem. Actually my hero these days is Briggs Cheney because cases are so wonderful when he's on the other side, and if there's a problem of that nature he generally is. His idea is like work with me, so we try to come out with a solution that's going to help the lawyer and prevent future problems.

TR: Okay, let's go off the record now and we'll change the tape.

VF: You mean there's more?

[END OF SIDE 1]

FERRARA – SIDE 2, TAPE 1

TR: We're back on the record with the second part of the interview with Ginny Ferrara. Today's date is August 30, 2007. Ginny, one of the things that I wanted to ask you about is what type of actions, what type of things that lawyers do warrant the different levels of discipline that the Disciplinary Board can recommend, from disbarment being the most serious down to letters of caution?.

VF: Letters of caution are not a form of discipline. They're a form of dismissal, so forget that, and each case is decided on its own facts, but as a general rule if we're talking about defalcation of trust account monies, if we're talking about conviction

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of a crime, then the sanction is going to be disbarment. If we're talking about someone who perhaps has neglected not one but a lot of cases, we call those affectionately our frequent flyers, or someone has drifted away from the dock. Sometimes a lawyer will never have heard of that person and then hear come all these complaints, like the lawyer's not calling me back, the lawyer missed my hearing, the lawyer did this, the lawyer did that and the lawyer's not answering to us and we have to file charges, and it looks like things are pretty much out of control in the practice, then that would be a suspension or it could be a suspension with probation depending on the cause of the problem, or it could be probation could include drug and alcohol treatment or counseling, or it could include a law office management kind of thing that some people can't seem to get everything put together right, but that's what would generally be suspension. Reprimands – I'm trying to think of the reprimands that have been given lately – would be rudeness. I'm not saying just any old rudeness, threatening another lawyer maybe or conflict of interest that gave rise to a real problem. It's really hard to say because categorically it's not like, okay, you do this and this is what's going to happen. The Court and the Board sort of look at things on a case-by-case basis.

TR: Would it be fair to say that you're really looking to fashion a remedy that's appropriate for the circumstances as well as the nature of the problem with the lawyer?

VF: Right. Let's face it, some people are beyond help. I'm thinking of a disbarment here where the lawyer the first time around had trust account problems and was suspended and was supposed to keep really careful trust account records and boy, he was clever, because he got himself his trust account and the records were great, and then he had this other account that didn't have any record, so the next time he came through the system he got disbarred, and there are unfortunately a few people like that, but generally speaking, what we're wanting to do is take a lawyer and really turn them around a little bit so that this doesn't happen to people in the future, and most lawyers are appreciative of that. When necessary, even though we're not providing remedies to complainants, there can sometimes be a restitution ordered by the Court or the Board. We do plea bargaining. Actually it's not called plea bargaining. It's called Consent to Discipline, where a lawyer will consent to a certain sanction and agree to make restitution or agree to do this, that or the other to help the client out or redraw the will or whatever.

TR: Do you often find that lawyers are appreciative of the process that you put them through?

VF: Not always, but occasionally somebody is. I had this lady lawyer one time who said, boy, I wish I'd been on probation years ago. I just loved it. Things were so much better after I got on probation. It's more rare that that occurs, although lawyers have said, or their lawyers have said, that they were treated fairly, even if

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they didn't like the outcome sometimes. Like, well I really kind of deserved that. I'll try to do better in the future.

TR: You had mentioned that a lawyer being convicted of a crime could face disbarment. By a crime do you mean a felony or any crime?

VF: I mean a felony or a crime involving dishonesty. The Court has said that lawyers on probation for a criminal offense should not be practicing law as a matter of just policy. They have to my knowledge on two occasions made an exception, and that would be when the lawyer was given a conditional discharge as a sentence and probation. Do you know about that sentence? We didn't have that when you and I were in the DA's Office. What it is, is the person enters a plea of guilty or *nolo*, and the Court will say, all right, I'm going to impose a conditional discharge, which means if you will serve on probation for a year, then this will all go away. It can be counted in habitual proceedings but not for any reason. It is not counted as a conviction, and in two... [TR interrupts].

TR: Like the pre-prosecution program we used to have or something like it?

VF: No, it's different than that. It's not pre-prosecution. It's something the Court can impose as a sentence, and we recently had a case where I felt so sorry for that attorney. He bopped his girlfriend in the nose I guess. She had been beating up on him for years and he finally had it. He said, yeah I did it, but he got a conditional discharge. It was like she almost deserved it. I hate to say that. People of my gender will probably be kicking down the door, but in this particular case we all felt so sorry for this guy because he was a good kid and he'd never done anything bad in his life probably from this one time. I don't even know why his lawyer let him plead guilty. I think he had a self defense defense, but anyway, he got a conditional discharge so he didn't get disbarred. He only got put on probation.

TR: So if somebody had, let's say an aggravated DWI where there was an accident with some injuries, that could be a felony charge, and if he pled or got convicted of that and wasn't given a conditional discharge, that lawyer would lose his license under what you stated.

VF: Probably so. Thank God we haven't had one of those.

TR: Would that be a disbarment or would it be a suspension with conditions like you described before?

VF: That would be up to the Court. There's so little difference, and I think this shocks people, between disbarment and suspension, and as a practical matter there's two real differences. 1) The name, the stigma of the word disbarment of course. The other difference between that and disbarment is you have to petition the Court for permission to apply for readmission. With suspension you just apply for

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readmission, and I think the lay public believes that when someone gets disbarred that's it forever, and I think there's only two states in the nation that have permanent disbarment. Ours is it used to be three years and now it's five. I've had people that got five-year suspensions, so it's not a whole lot of difference.

TR: So when you're suspended during that suspension period, be it 30 days or five years, you can't practice law. However, once that suspension period is over, there are certain other requirements that would be placed upon you as you come back into the practice.

VF: Correct. You have to go through a reinstatement hearing and show that you're once again fit to practice law, and the Court can choose to reinstate you on a probationary basis or just reinstate you.

TR: When those type of things happen, does a court typically reinstate on a probationary basis?

VF: Usually.

TR: In terms of complaints, you had mentioned that you were getting more complaints from judges. Is this something that is a relatively new phenomenon?

VF: The Board is working through this right. We've sort of had a crisis of [unintelligible]. We didn't used to ever hear from judges. Technically, if a judge is in a case where an attorney is convicted of a crime, under our rules they're supposed to report to us, but they frequently have not done so in the past, and I think that's not because they're trying to thumb their nose at the Board. It's just that they've got other things to think about and don't remember pretty much. We used to get complaints just from judges who were distressed at attorneys being rude in their court, things that could have been handled by a contempt citation that they would send over to us instead. The Board and the judges have been meeting a lot lately to kind of define where your job starts and where mine ends kind of thing.

TR: What type of actions do you think that a judge would see or could see that would require them to report the attorney to the D Board?

VF: You mean apart from a criminal conviction?

TR: Yes.

VF: I would say that filing of a false pleading that the judge knew was a false pleading or it came to light, perjury of course, being excessively rude or berating a witness unnecessarily, that kind of stuff, contacting the judge *ex parte* maybe.

TR: In New Mexico?

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VF: Well yeah.

TR: Would it be fair to assume that if a judge sees that there might be some misappropriation or mishandling of money during a civil or criminal proceeding that the judge would be obligated to report the attorney to the D Board?

VF: We would hope so, yes.

TR: Now there is a requirement that as an attorney that if you see a violation of the professional conduct rules you're obligated to report that is there not?

VF: There is a rule to that effect, and I wish I had my rules with me so I could read it chapter and verse, because it doesn't say any time you think something smells like there's something rotten in Denmark you have to write to the D Board. It's when you have information that an attorney has done something that reflects adversely on his or her fitness. It pains me to say this, but I think some attorneys will glom onto that rule just because they're pissed off at opposing counsel, and that's not what it means. It means you really have to know something. I'll get pious letters sometimes, like: It's my responsibility to inform you that, and it pains me greatly, and you're like, oh, come on. [Laughter]. But yes, there is a reporting requirement, and there have been cases, not in New Mexico but in other jurisdictions, where attorneys have been actually disciplined for not reporting misconduct with fellow attorneys, notably in Illinois. I know there's a case there where that happened. We've never had occasion to do that.

TR: With such a large percentage of women going to law school these days and becoming lawyers, are there a number of complaints from the women attorneys as to how they have been treated by the male attorneys in the profession?

VF: I've only gotten one actually, and this woman attorney was upset because the male attorney complimented her on her attire. I was thinking, what's wrong with that? No, we don't get very many, and I for one am opposed to a suggestion...there's a Rules of Professional Conduct Committee that suggested to the Court a number of revisions to our rules, and they have suggested that our Court adopt the rule. I think it's Rule 3.0 nationally that forbids attorneys from having sex with clients unless they had an ongoing relationship prior to the attorney-client relationship, and I'm thinking, oh my God. Do not take us there. Please do not take us there.

TR: Why not?

VF: Can you imagine the mess that would be? For example, I think the notion behind such a rule would be to protect vulnerable women from the advances of men when the vulnerable woman is in an emotionally fragile state. We can deal with that under the present rules. We can deal with it under conflict rules, but how about where you have a high-powered lawyer in a silk-stocking firm that works 80 hours

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a week and only deals with corporate clients and never has any social life unless it's with a client? Maybe they fall in love. Or how about the other party says, I think that my soon-to-be ex-spouse and her lawyer are getting it on. Then what do we do? They have to come in and confess? It would be a mess; just don't want to go there, don't want to go there. You got more than you asked for there didn't you?

TR: [Laughter]. That kind of is a good segue way into this question. How do you balance the rights of the attorneys that are being complained about with whatever rights the complaining clients may have?

VF: The rights of the complaining clients are to have their complaint investigated, and that's really what their right is. They also have a right if it's dismissed to have a review. They have a right to a process. There's a process and they have a right to have us follow it, and attorneys have the same right to have us follow the Rules Governing Discipline and not be judgmental, give them a chance to explain themselves. If we don't understand what they explanation is we can ask for more explanation. They have a write hopefully that we don't write the judgment. They have a right to a hearing. They have a right to appeal.

TR: In your years of practice, how have you seen the practice or the legal community in New Mexico change during the course of your career?

VF: I think it's a little more formal than it used to be. Back when I first started practicing law it just seems that it was more collegial back then, that it's more dog eat dog now in some ways, and I blame that on the public for not getting in enough accidents, because there's not enough work to go around. [Laughter]. I'm being silly. But there is a lot of tension in the Bar that I don't think used to be there, and perhaps it is that competition is more fierce. That's the only reason I can think of.

TR: One of the things that Justice Francini said during his interview was that he sees that type of change coming from the increase in the number of lawyers, and that lawyers for the most part don't really know one another the way lawyers did back when the community was smaller.

VF: I could agree with that.

TR: And what Gene said was that back then, if a lawyer was stepping out of line, either with their clients or with the other lawyers in the community, somebody, usually one of the senior lawyers, would sit down and talk to them.

VF: As a matter of fact, I think the Disciplinary Board only started to be in existence in 1973, and before that happened, problems with lawyers were handled by the local bars. I don't believe they very often could get another lawyer disbarred, but they could certainly take a lawyer under their wings, and I think that's the way things were handled, by and large.

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TR: Any other changes that you've seen in your 26 years with the D Board?

VF: I think that's the most notable one.

TR: What do you think the D Board's most significant contribution has been to the legal community?

VF: I think they made quite a few contributions over the years. One of the responsibilities of the D Board is to make suggestions for amendments to the rules. Sometimes this is kind of a band-aid approach after a problem pops up. We think, oh man, we should have a rule that deals with that. We were talking, for instance, about Letters of Caution, and it used to be that the least that could happen was an informal admonition, and my predecessor, the Chief Counsel, would sometimes offer people an informal admonition when he didn't have enough evidence really to proceed with charges if the person said take your informal admonition and fly a kite with it, so he sort of invented this Letter of Caution, and the Board said no, we're not going to do that. You have to follow these rules, but if you think that this person could use a little guidance, then we'll suggest to the Court, and the Court agreed that we have these Letters of Caution. The Board has also suggested revisions, for example, to the rules governing how to maintain your trust account records, because all the rules said originally was don't mix your money up, and now there's one of the Rules Governing Discipline that outlines step by step what records would be considered adequate in case somebody wanted guidance along those lines, and I think the Board has made quite a few suggestions that have probably been helpful to the practicing attorneys. The Board now has two members that are non-lawyers, and that's given the lawyer members insights into how the public is looking at stuff, and I think that's been good.

TR: Any other aspects of your life or your career you'd like to share with us?

VF: No. [Laughter]. I think we've had quite enough. I just wanted to get through this interview without sounding like Miss Teenage South Carolina.

TR: [Laughter]. From my perspective you have not sounded like Miss Teenage South Carolina or North Carolina, or Miss Maine for that matter. I'd like to close with one question. Any words of wisdom to the younger lawyers coming out of law school, passing the Bar, going to work either as a sole practitioner or working for a small or big firm in terms of your guidance based upon what you've seen in your years of practice?

VF: If you're in private practice, hire an accountant to show you how to keep your books. That would be #1 up there and communicate with your clients. I think the AMA did a study one time. They showed that doctors who get sued for malpractice as a rule do not screw up any more frequently or any worse than doctors that do not

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get sued. The difference between the ones that get sued and the ones that don't get sued is that the ones that get sued more have attitude problems, are arrogant, don't listen to their patients, and the ones that don't get sued have a kindly bedside manner and the client really cares for them and thinks that the lawyer cares for them. So I would say get an accountant and communicate.

TR: Along the lines of what you just said, do you think if a lawyer believes that he or she has made a mistake that the best first step would be to sit down with the client and discuss it?

VF: Absolutely.

TR: Have you seen in your practice that if a lawyer doesn't do that, that it tends to lead to disciplinary complaints?

VF: Yes I have on several occasions.

TR: Okay, anything else you'd like to add, or are you ready to get this over with?

VF: I'm ready to go.

TR: Well I thank you very, very much, and I really appreciate you taking the time and being willing to put yourself on the spot and for being forthcoming.

VF: I'll probably look at this and shoot myself. [Laughter]. No, I won't do that.

TR: Well thank you Ginny. We're going to go off the tape.

VF: Okay.

TR: All right.

[END OF TAPE]