

Patricia Bamattre-Manoukian: Hello and welcome to the Legacy Project, which is an oral history of California appellate court justices. I am Patricia Bamattre-Manoukian, and I am honored to be interviewing my dear friend and colleague, Justice Nathan Mihara. We have served together on the municipal court, the superior court, and the Court of Appeal, and we have been friends for many years.

So, Justice Mihara, let's begin by talking about your family — your parents, your siblings, your relatives, their life experiences, and occupations.

Justice Nathan Mihara: Okay, so that will take two hours. Justice Manoukian, it's so great that you are doing this interview because we are good friends and you know more about me than I do, so if I say something wrong or you need to correct me, feel free, okay?

Patricia Bamattre-Manoukian: Thank you.

Justice Nathan Mihara: As always. You were never reluctant to correct me in the Court of Appeal; I am sure you will feel free to do it now. Anyway, it's my pleasure to be here.

Family: yes, grandparents immigrated, both sides, mother's and father's parents immigrated from Japan around the turn of the century, the 1900s, through Hawaii and then San Francisco. My mom's family were vegetable farmers in Los Osos, near San Luis Obispo. My father's father had a barber shop in San Francisco on, I think it was Fillmore, and they were the first of the family to be here. My dad was born in San Francisco. My mom was one of eight children, seven girls and a boy living on a farm in San Luis. So yeah, that's their background.

They actually met in Manzanar, which was an internment camp for Japanese Americans after World War II broke out, over 100,000 Japanese U.S. citizens and also Japanese who were noncitizens of the United States, were incarcerated there and that was actually where my parents met.

I don't know if you are familiar with where Manzanar is. It's in the Owens Valley, do you know where that is, north of L.A., and they met there. So, in a way it was a blessing for me that they met, otherwise I probably wouldn't be here. Someone could be interviewing you, but I wouldn't be here.

So, they were married in Chicago at a Presbyterian church there, it was a small wedding. And then after the war was over — I should add that my father worked for U.S. Army Intelligence Service, MIS, and he was an interpreter

during the war, and he interpreted obviously Japanese to English and vice-versa. But he also taught Chinese, he learned that on his own, probably stemming from a lot of his Chinese friends in San Francisco when he was growing up.

And anyway, he was in the U.S. Army, but the Navy tapped him to be the official interpreter for the Japanese surrender in northern Japan. The famous one, as you know, was on the Battleship Missouri in Tokyo Bay. But my dad was actually one of the interpreters. I am sure there were many, in the Northern Surrender. And there are actually photographs of him. When I was a kid I thought, yeah sure, Dad, okay, you did that. But there are actually photographs of him interpreting for the United States forces with these Japanese military officers — it's the oddest thing. They are probably wondering, who is this guy? What is he? Who is he? Where is he from?

Anyway, one of the interesting things about my family, too — lately I have been interested in the family tree and history — and I remember my father telling me that his family is from Hiroshima, and he went back of course to find family records and there were none. They were all gone. They were destroyed. My mother is from Kyushu, and she has a better record of her family and so forth.

Anyway, so after the war was over and the U.S. forces were occupying Japan, General MacArthur's headquarters was in the Dai-Ichi Building called the Diet Building in downtown Tokyo. And my mother and my father — my father was stationed in Tokyo kind of undercover to figure out what was going on. They were concerned about communist influence and so forth. So, my dad was stationed in Tokyo kind of undercover, I think.

But my mom wanted to work and so she ended up working as a secretary for General MacArthur's staff, some of the lieutenants there on the second floor, third floor. And she would tell me these great stories about how the general would come to work draped in his long overcoat and his pipe and the entire staff would stand at attention, including secretarial staff. And the women would be wearing white gloves, standing at attention as the general would pass by. She said it was like looking at a Hollywood star kind of a thing. It was very interesting.

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I actually went back to the Diet Building several years ago when my wife and I were in Japan.

So anyway, long story short — long story longer, I am sorry. We are going to be here all day, right, David? Our cameraman there is just working very, very hard, thumbs-up. And Chris is over there taking notes, which I appreciate. So that's why I was born in Tokyo because that's where they were.

Patricia Bamattre-Manoukian: So, you were born on May 11, 1950?

Justice Nathan Mihara: Yes.

Patricia Bamattre-Manoukian: In Tokyo?

Justice Nathan Mihara: A closely guarded secret. You know, the interesting thing about that is my father was so paranoid because of the internment, U.S. citizens being incarcerated for the color of their skin, basically they are Japanese.

An interesting story my dad told me; it was interesting. He said that he got a job. He followed my mom to Chicago and her sister, who were working as — they were working in — I think they were working in a church actually, Christian church there. They got room and board and they were doing some things, they were helping out, and that's where my parents got married. But my dad got a job at a steel factory not too far away because they thought he was Chinese. And once they figured out he wasn't, they fired him. And so, I asked him, so what did you do, you lost your job, probably pretty good job? He goes, yeah, Uncle George, your Uncle George helped me to get a job where he was working, at a Baby Ruth factory. You know the candy bar? So, I thought to myself, ah, that's where I get my sweet tooth. I figured it out.

Patricia Bamattre-Manoukian: From Baby Ruth?

Justice Nathan Mihara: Yeah. To date one of my favorite candy bars honestly, yeah, truly, very sentimental.

But at any event, so I was born in Tokyo. We lived there for several years. And it's interesting because while I was there, my parents told me that I spoke really perfect Japanese for a little guy. And when I came back to the United States, my grandparents were astonished at my Japanese. And I have forgotten a lot, but to this day when I was back in Japan I could actually converse and say some things anyway, so that was good.

Patricia Bamattre-Manoukian: How old were you when you came back to the United States?

Justice Nathan Mihara: Probably three, three-and-a-half, something like that. My mom and I took a ship back and we landed in Seattle,

actually, and ironically that's where I went to college, the University of Washington. And it wasn't a coincidence that that happened, because my father told me about the university, because he was there obviously and he said, that's such a lovely campus. My father never went to college, so he was just talking about the campus, these beautiful neo-Gothic buildings. And he said, you should check that out. So, I did. He bought me a plane ticket and I went up there and fell in love with Seattle. And that's one of the reasons I went there. I think that was one of your questions, why did I end up in Washington?

So, my childhood, as you can imagine, being a child of a United States Army officer, we traveled a lot. So we were in Japan, then I think we were in the Presidio (00:08:36) just for a little bit in San Francisco. I remember being there, and then settled in Monterey. That's where dad was teaching at the Army Navy Language School.

When I was in superior court, I was invited by the Court Interpreters Association to come down and speak during the AT&T Golf Tournament that was going on there. They were having their own convention for interpreters that were working for AT&T. And they asked me to speak, and it was so nostalgic for me in a way, because here I was just a couple of blocks [from] where my dad was teaching Chinese and Japanese to all these military personnel and here I was lecturing to all these wonderful interpreters in Monterey there, and I thought, gosh, that was kind of chilling really, but a good thing, a good thing.

Yeah, I was there, we were there. Then we settled into Baltimore, Maryland — Fort Holabird is where the U.S. military intelligence headquarters happened to be, or training facility. And then also Chicago, that was Fifth Army Headquarters. We moved to Hawaii in 1959 — I was eight or nine years old. So, I spent some of my youth two blocks from Waikiki Beach for a little bit.

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And then we moved to the, it's called the Windward Side, Kailua, which is now a bustling, as I understand it, tourist attraction and so forth, and back in those days we lived in a tiny little cottage. There were dead frogs all over the place and there was a swamp in the backyard with cows roaming around free.

My elementary school was a Quonset hut basically, just on the outskirts of downtown. I used to walk to school, that kind of thing.

Interesting story there, years later I am talking with Howard Halm, who is now a retired superior court judge out of L.A., and Howard is Korean actually, and he actually lived in Hawaii. He is a little older than I am. So, we were talking about this elementary school teacher, Mrs. Fernandez. All the boys had a crush on her, she was just a lovely, lovely lady. And he said I had her. Howard, you had Mrs. Fernandez? He goes, yeah.

So, it's funny, at these judicial conferences and the Asian Pacific [American] Judges Association events, you meet people, and you start talking about your lives, and if you have lived for a while on this planet, you have these connections and it's just astonishing to me. Of course, we have this bond now that we both had a crush on the same teacher.

So, after that we moved back to Japan and Dad spent his final three years in the United States Army. He spent 22 years in the service, in Tokyo, and we actually went back to where I was born in a place called Washington Heights — it was military dependent housing. And Dad was doing his thing in the army intelligence. Mom at that point had three children, and you know what it's like to have three children. Of course, her children were not as really cool and well-behaved and marvelous as your children, so I really felt sorry for my mom. She had to chase us around.

Patricia Bamattre-Manoukian:

She was busy. Tell us about your siblings.

Justice Nathan Mihara:

Oh, okay. Well, my sister was born in Baltimore at Johns Hopkins, and she was delightful. She was pretty and she was funny. Yeah, I was so glad at age seven to get a sibling. It was really wonderful. But we were seven years apart, so it was like having two separate families in a way.

And then I remember going to college and coming back, we had this bond. And her name is Diane, and she was just marvelous really. And when kids are growing up, especially in junior high and high school, they tend to try to distance themselves from their parents, right? And so, I would come home, and I would ask Diane to sit with me to watch a TV program or a movie or something and my mother was astonished. She did what you said? I said, well, yeah, she is my sister, you know? I spend time with her. She couldn't believe it.

In any event, yeah, Diane unfortunately passed away when I was in superior court. I remember I was at superior court review, then a settlement calendar and HOJ. You remember that calendar, Hall of Justice?

Patricia Bamattre-Manoukian:

I do.

Justice Nathan Mihara:

And they pulled me out of family court to do that, I remember that. And I got the word that my sister was missing. She died in a tragic accident. And so, I miss her, but some fond memories.

Interestingly, this is fascinating, I didn't know much about what she was doing exactly. I knew she was helping my dad who was recovering from a stroke. She was single and living at home helping my folks, and a public defender came to me several months after she passed away and she said, you know, Judge, is your sister's name Diane? I said yes, how did you know? Well, we kind of knew her because she would come to homeless shelters, and she would bring stuffed animals for the little ones. I thought, my sister did that? I was wondering why she had so many stuffed animals around all the time. She was taking them to distribute, and little goodies and things like that to the homeless people in Palo Alto, I think, and Santa Clara Valley.

So, I learned something about my sister from a contact in the public defender's office. That's how weird this profession is, and life, right? So, I am grateful for that public defender for sharing that with me.

And then I have a brother and he was born in Hawaii, in Honolulu, Tripler Army Hospital, pink hospital on the hill. And Ted, he is very different than I. He is more entrepreneurial. In our family we have sort of the artistic side of the family, and we have the business side of the family. Well, Ted falls into the business side of the family in terms of his genes and makeup.

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I remember when he was 10, he would be out there buying an old bike, fixing it up and selling it for a profit, and going and buying a new stereo set for himself. I mean he was like that, you know? It didn't surprise me after he graduated from UCLA. By the way, Justice Manoukian is a UCLA Bruins, everybody — I just want you to know that. Nick, you probably know that because of all the paraphernalia in her office, right? If you can't figure out that she is a Bruin by going into her office, then you are either blind or you just don't care.

But anyway, after graduating from UCLA, he was thinking about law. I told him I would support him, but he said, you know, I am going to do something else, and he went into software sales. And, oh my gosh, he is a star. He really is. He is so good at it, and he is in such demand.

For some reason — he is 60 years old, he is 10 years younger than I am, but everybody thinks he is 35. So, he gets away with it. He goes, Nate, this is amazing. He says, I am still working in sales, and I am 60 and nobody at 60 is in sales and software, nobody, he says. I am like a grandfather to these kids. But he is wonderful. He lives in Half Moon Bay with his wife. I am privileged to have a niece, Annika, who just started at Pepperdine University. I think you know where that is.

Patricia Bamattre-Manoukian:

I do.

Justice Nathan Mihara:

In Malibu, right? And she is just wonderful. I love Annika. Ted's a golfer. So, you can guess where she got her name — Annika Sörenstam, the professional golfer. See, now, there you go, David understands these things. I mean if you are not a golfer, you know, I remember. Your husband is not a golfer, right — Pete, Superior Court Judge Pete Manoukian?

Patricia Bamattre-Manoukian:

He is not.

Justice Nathan Mihara:

He is not a golfer? I remember I went to my first golf tournament, and I had had six lessons playing golf with Stanford and I remember — I think either I was talking to Pete, or you were telling me this that he wanted to go to this golf tournament. I said Pete, you don't play golf. He says, well, can I go for the food? And I just thought that was great because I thought — I was thinking the same thing. I play golf, but not well, so maybe I will just go for the food. Let's just have some prime rib and yuck it up with the other judges.

Patricia Bamattre-Manoukian:

So how did you and when did you move back to California?

Justice Nathan Mihara:

Oh, okay. So, Dad retired in 1964 and we just missed the Summer Olympics in Tokyo, believe it or not. And so, we moved back to California, Dad was trying to find a job. It was tough, you know, being a retired military because he didn't go to college. He had some college credits, I think, from Glendale and University of Maryland and that sort of thing, but he didn't have a degree, and so he was kind of wondering what he should do with himself.

He finally found work in Los Angeles and my mother refused to move to L.A. So, my dad actually commuted to San Luis Obispo, where my mom's parents were, from L.A. He was staying with my cousin Jerry in Glendale or Pasadena or somewhere. And he was working for TWA, the airlines. So that's what we did for that first year. And that's where I spent my first year in high school, San Luis

Obispo. Great experience! I was living on a farm. It was country life. Great high school. Great teachers.

Patricia Bamattre-Manoukian:

And then did you have some jobs down there during your first year of high school?

Justice Nathan Mihara:

Oh yeah. That's where I actually worked and got paid for it. My uncle, I think just to keep me out of trouble, had me weeding with a hoe in these acres and acres of vegetable fields. They had romaine, lettuce, iceberg lettuce, which actually, iceberg lettuce was introduced in that area by my grandfather, who was a farmer, and very well-known community leader. And so, I did that.

I mowed lawns. I loaded up big trucks full of celery and romaine and lettuce to be shipped off to L.A. for the wholesale food markets down there. Later on, I stuck with that type of industry when I was in high school. I worked for my Uncle Shemi and did floral supplies and wholesale shipping. So, I drove trucks for them to the San Francisco market. I didn't sort the flowers, but I packed them for shipment and did odd jobs, that sort of thing, some carpentry work. So, I was kind of a jack-of-all-trades.

Patricia Bamattre-Manoukian:

So, when did you move to the Bay Area?

Justice Nathan Mihara:

Well, after high school my dad — my dad was a really bright, sharp, amazing man. He was told by my Uncle Shemi, who was living in Atherton at the time with his family, that there was an opening for a stockbroker position for Jay Barth and Company (00:19:54) in Menlo Park and they would take you and train you.

00:19:58

So, my dad was hired. He was trained to be a stockbroker by this company. He took the brokerage exam, and not surprising to me, although that was kind of a little startling, I guess, he scored the highest score ever in the history of the company on that exam and he was successful at it, until of course the recession hit and that sort of thing and all the wheels came off for all those brokerage companies, my dad included. My mom went to work at Stanford Research Institute as a secretary.

But I remember those years were really hard. And that's around the time I was in high school. Went to Mountain View High School and yeah, it was interesting. I was sharing this the other day, I normally don't mention this, but I was asked to give a commencement speech at University of Santa Clara Law School for their specialty clinic graduates, Social Justice Center graduates, and I was explaining to the person who asked me, I said, you

know, I haven't spoken at a commencement since I was valedictorian at my high school class back in 1968, so that brought back some memories.

I played football, varsity football. I was called the tennis-shoe tackle because my family was so poor, they didn't think — my dad didn't think he could afford the cleats. So, we had this deal, if I made the team, he would get me cleats. So, I made the team and I got cleats. But I was in tennis shoes during tryouts and practices and the coaches were looking at me like, what's wrong with this kid? He is big. He is mean. He is ugly. He is kind of slow, lumbering, but we like him, so I made the cut. So, I was known henceforth as the tennis-shoe tackle among the high school. I played against your husband.

Patricia Bamattre-Manoukian:

You did.

Justice Nathan Mihara:

He mentions it all the time.

Patricia Bamattre-Manoukian:

He talks about it all the time. And I think you won. You beat Los Altos.

Justice Nathan Mihara:

Yeah, we won that game. Yeah, we beat Los Altos. It was just one of those quirky things, you know?

Patricia Bamattre-Manoukian:

So interesting that your paths crossed when you were in high school together.

Justice Nathan Mihara:

In high school, it's so weird, yeah.

Patricia Bamattre-Manoukian:

So, did you develop an interest in attending college up in Washington at that time, or how did you end up going to the University of Washington?

Justice Nathan Mihara:

Well, I think when I was looking at colleges, you know, I was looking at Cal. I don't know if I was looking at Southern Cal at that point, but I was looking at the Cal schools and I was looking at Oregon and Washington. The reason why I was looking at Oregon and Washington is because I just wanted to get away from home and spread my wings a little bit. I love my parents, I love my family, but I thought it would be good for me to kind of jump out of the nest. But I wanted to stay on the West Coast so that's why I was looking at those schools.

And my dad, as I said it earlier, told me about the university, so yeah, I fell in love with the campus and the people were great. Ran into this oceanography graduate student gave me this kitchen tour of the place and so that's why I went.

The other reason I went there is because it was a conservative campus. They had an ROTC program. I was on the ROTC scholarship that was awarded to me my senior year in high school. And so, I was going to spend — they were going to pay for my college education and then I would give them four years of service as an officer and so that was my game plan, and it was the United States Army.

And that's the other reason, because I thought if I go to Berkeley — this is the 60's, right — I am not sure I would survive, was my theory, Free Speech Movement. I mean, I was sympathetic on anti-Vietnam protest and so forth, but I thought to myself, well, you know, I could end up going to Vietnam or something like that, but that would be another layer of pressure I think other than just the academics, so that's why I went to Washington.

Patricia Bamattre-Manoukian:

And what did you major in?

Justice Nathan Mihara:

I majored in economics.

Patricia Bamattre-Manoukian:

Why economics?

Justice Nathan Mihara:

Because my plan was to get an MBA, graduate school of business there in Seattle, and I thought it was a good hub for East-West trade and I had family in Japan. I call them family, but they are just super close friends of my family's and they are all in business and I thought, okay, this would be great to be able to work with them and get involved in that direction. That was my thinking.

Patricia Bamattre-Manoukian:

So, your plan was to get an MBA, serve four years in the army and then become a businessman?

Justice Nathan Mihara:

Right, exactly, go into business.

Patricia Bamattre-Manoukian:

And what did you actually do?

Justice Nathan Mihara:

Ultimately, well, yeah, I went into veterinary medicine for a while and that was awful — no, I am just teasing, that's not true. Chris is going, don't say that. It's okay, Chris, that was a joke, and this is not going to be edited so I realize that. Oh man, I am so sorry. Are the two hours up yet? Are we done yet? Do we have to keep going? [Laughs]

00:25:04

Patricia Bamattre-Manoukian:

We have a long way to go.

Justice Nathan Mihara:

Oh man. The question was what ultimately happened. Well, I was accepted to business school. I was ready to

go. Let me back up for a minute. What happened with the military issue — not issue, but my future there was cut short because I was in a head-on collision in college, and I was thrown from the car and ended up in a ditch. It was like a bad movie, where the car — massive accident and people are thrown into ditches and there are farmhouses in the distance and people come running out to help you. Well, it kind of happened to me.

There were six of us in the car, we all managed to get to this farmhouse and the wonderful family at the north of Seattle farmland up there, they helped us, and I spent some time in the infirmary at the university and they checked me out, felt I was okay. But I started feeling very sick after that and it was concerning to me, and I went to army doctors in Fort Lewis, and they said, you know, we are going to give you an honorable medical discharge, and so that ended my military career.

Fortunately, they didn't make me pay back the money they spent on my tuition and lab fees and that sort of thing, which I was grateful for, and Captain Sousa (ph) (00:26:37) at the time was one of my heroes and one of my mentors in college, told me, he said, you know, we are not going to do that. At that point I was number two in my class, my ROTC class, so they knew I wasn't a malingerer or something like that, I was serious about what I was doing, so that was a real blessing. I am thankful to the army for doing that for me.

So that ended my military career and so I was concentrating on business school and then my friend, Irene Fujitomi, who is a dear friend, who is one of those Phi Beta Kappa, PhD, brilliant-type people said, you know, you should go to law school. I said Irene, you are nuts. What do I know about law, and the lawyers that I probably will meet, I won't like. I am not sure I said that. But that was my feeling. My experience in law up to that point was, what, Perry Mason. This great program, I don't know if you remember that, called The Defenders, with E. G. Marshall, right, Robert Reed. I will never forget that series. I was just captivated by it. But it didn't excite me about the law. It was just interesting to me and exposed me to that.

The other thing that was helpful to me in terms of making this decision about applying to law school was that my first year in Washington, my first Thanksgiving, my mom wanted me to come home and I said, well, a friend of mine invited me to his house in southern Washington for Thanksgiving and so I am going to do that and save you folks the money on airfare. Well, Mom was not happy about that, as you can imagine.

But my friend's father was a lawyer. He was a litigator, a P.I. lawyer down in Vancouver, Washington. And the day after Thanksgiving he asked Alan, his son, and I, do you want to see a deposition? I said, What's that? He goes, you will find out.

And so, we watched this deposition; it was an auto accident. And interestingly enough, the husband is deposed first and says, well, you know when I was driving, this happened, this happened, this happened. Then his wife is being deposed and she says, well, you know when I was driving down the road here. So, I'm thinking who was driving? That was really interesting to me, but again, it didn't pique my interest in law. I still had no desire to go to law school. I just thought it was interesting.

But when Irene talked to me at the university, she said, you know, you have all the tools. You have the gifts and the skill set and so forth. And I was a little irritated with that because my plans were set and I thought, okay, I don't want to talk to you about this anymore. I will just apply. So, I did. That's why I applied to law school.

And she said, you know, Hastings is a great place, and so I applied to Hastings, I applied to Boalt, I applied to Santa Clara. Apparently, I was too late. My application was too late for Boalt, but then Santa Clara put me on a waitlist, interestingly enough, and I got into Hastings.

So, the joke I tell my students is that there is probably some guy named Nathan Mihara from Jacksonville, Florida, who had straight A's in college, is brilliant, and had wonderful LSATs and he can't figure out why the heck did I not get into Hastings? Well, I am just making that up just for fun. That usually gets a big charge out of my students. But in any event, it was a good experience.

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I can't say I loved it. It was hard. And the reason why it was hard for me, I think, is because — I did well, my first semester, I remember that, and I was telling my friends, I said, you know, I need to work. You know, my dad's barely making anything. My mom's working as a secretary, putting food on the table for the three of us, I was living at home. I was like, you know — you know, I just have to get a job. And so, through a variety of connections, I got a job at a bankruptcy law firm, Dinkelspiel & Dinkelspiel, which is now defunct, but downtown Financial District and I work for them for that, it's my second semester in law school and for the summer

and made some good money. I didn't realize that lawyers could make that kind of money. And here I am a law clerk, and I get a Christmas bonus. I mean, how did that happen? And that sort of thing.

It opened my eyes a little bit to the financial rewards, but to be honest with you, when I left that firm, I finished up my term there, I didn't want to go that route, partly because I wasn't sure I'd fit into the lifestyle. You know, these folks would go out to the Leopard Bar and Lounge on Battery, wherever it was, on Pine Street, and have drinks and play liar's dice and eat hors d'oeuvres and I'd be sitting there with my 7-Up. You know, I'm thinking, well, I just want to go home, but it was very nice. They treated me really well. I'm so thankful I got a taste of what senior partners in law firms do and their lifestyles. One of them owned a mansion up on Pacific Heights, and I got to hobnob with them and see what it's like to sit at a table with servants running around. It was just a different lifestyle, and it's not that I objected to it, I mean, I was happy that there are people who can do that and enjoy it, but it wasn't for me.

So, after I graduated from law school, I thought to myself, well, I'm not sure what I want to do, but what happened was my next summer, my two-law year I worked for the Attorney General's office in San Francisco and this is in the days where there is no internet, right? Everything was on corkboards in the hallway with thumbtacks, you know. One of us says, hey, look at that. I said, oh, okay. And I did well in criminal law, and I thought, well, it is a criminal division. So, I applied, and I got the job, there were about a dozen of us from throughout the Bay Area, Berkeley, Stanford, wherever and we're all writing appellate briefs, interestingly enough, you know.

Patricia Bamattre-Manoukian

That was between your second and third year of law school?

Justice Nathan Mihara:

And I liked it. I liked the work. I liked the people a lot. And so, I applied after graduation, just before graduation, but I didn't get the job. And I thought, okay, that's alright, you know, I'll find something and then after I passed the bar, I remember coming out of church and this friend of mine says, hey, Nate, are you a lawyer yet? I said, yeah. Where are you working? I said, well, I'm not really working as a lawyer at this point. He goes, well, are you looking? I said, Well, kind of. I was kind of nonchalant about it, I don't know. I was just trying to find my way, I think. And he says, well talk to John Miller— also known as Larry Miller in Menlo Park — he converted a house with his friend Bob Day into a law office and maybe he could help you.

So, I talked to him, he was so excited to meet me. He is a wonderful man, and he says, well, I got a vacant office right next door to me, basically a converted bedroom. He said, all you need to do is hook up your phone. And for — I can't remember, \$250 a month or something — you'll get a receptionist, use of the library, you know, all that, copy machine. I said, I'm in, and so that's what I did. I worked as a private attorney doing civil cases.

Patricia Bamattre-Manoukian

What kinds of cases did you work on?

Justice Nathan Mihara:

Anything that came in the door. I did wills, I represented people who are in contract disputes. You know, I did one divorce. There was one couple — one guy that came in and wanted a divorce, and after he told me the story, I said, you don't want a divorce. He goes, I don't? I said, I don't think so, the way you're talking about your wife, been married a year and you want to pull the plug. And I said, does your wife have a lawyer? No. I said, okay, so did she know about this? Yeah. Will she talk to me? Yeah. I said, well, bring her in. So, they came in and I met with them for a long time. Week after week. It was Tuesday afternoons or something, and I'm not a counselor or anything, I just wanted to know where their heads were. So, after a while, I said, so you guys have a decision to make. If you want a divorce, I'll do the divorce if you want, that's cool.

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I'm happy about that too. So, with my baloney sandwich and my diet Coke here on the porch, then you come out and you tell me what you want to do. Well, they came out and they are lovey-dovey, hand in hand, and they're so excited. And I said, okay, I know where this is going, and they thanked me, and they left. And that was — see that kind of thing is really rewarding. There's nothing like private practice, that personal contact, being able to help people, helping a single mom with credit problems, you know. Yeah, I tell my students, I said, you know, everybody is worrying about getting in big law, working for firms, that sort of thing. It's tough to be on your own in a lot of ways, but I've got to tell you there's nothing more rewarding than that.

Patricia Bamattre-Manoukian

So you did that for how long, private practice?

Justice Nathan Mihara:

About six, seven months or something like that.

Patricia Bamattre-Manoukian

And then?

Justice Nathan Mihara:

Well, what happened was — I would have done that forever, you know. But what happened was I was in my office, and I got a phone call from the Chief Assistant Attorney General in San Francisco, Criminal Division, Ed O'Brien, and Ed says, Nate, we hear you're doing great in Menlo Park. I said, whoa, okay, I am not sure where that came from. I felt I was doing fine. But he said, you know, we're really still interested in you to work here. Sorry it didn't work out before, but can you come up and interview with us? And I was just really taken aback. I thought, oh, man, I'm just getting used to this, it was fun and making some money and at least paying my bills.

And so, I went up and interviewed with them and I thought, well, okay, maybe I'll try this for a year. And I talked to Larry about it in Menlo and he said, look, we'll hold the office open for you for a year, and you want to come back it's always there for you. So that was a nice little safety net.

So, the long story short, I started working at the AG's office and what was it, '77, '78. I was there for almost nine years as a Deputy AG and had a great career there, have no regrets.

Patricia Bamattre-Manoukian

You enjoyed the work at the Attorney General's office?

Justice Nathan Mihara:

Oh yeah, I loved it. Writing briefs and arguing in the Courts of Appeal. In 1978, 1979, right around then, my boss came in and said, what are you working on? I said, oh, I just got this decision back from the Court of Appeal on ineffective assistance of counsel — the name of the case is People v. Joseph Glenn Pope. Fairly routine case. Ineffective assistance of counsel was the Sixth Amendment claim raised on appeal. And I responded as I normally would, you know, as a Deputy AG, and we won the case. But the Supreme Court granted review. And so, I was talking to my boss about it, and I said, why would they grant review in this sort of common, relatively simple incompetence case? And he smiled at me — Eric Collins was his name. He was one of my mentors at the office. And he said, Nate — he's British — he says, oh, Nate, he says, don't you see, it's as clear as day. I said, What? They're going to change the law. They're going to change the standard of review for these cases. I said, In this case? He goes, yup, your case is it. So, I expected his next words to be, so and so, who is a deputy four, level four, is going to be handling this case, you'll carry the briefcase. This is a Supreme Court case. But he didn't. And so, I said, well, who's working on this now? He says, you are. I'm working on this? I'd only been there, what, two-and-a-half, three years. He goes, I'm confident you can handle it. I said, oh, my goodness gracious.

So that was my first Supreme Court argument. People v. Joseph Glenn Pope. Yeah, and they did change the standard. And that was probably, if not the most, one of the most significant cases I handled in that office and the conviction was affirmed and the standard of review was going to be where the standard for Sixth Amendment review would be reasonably competent attorney as a diligent and zealous advocate. That's exactly what we wanted. We wanted to establish a proper, reasonable standard.

The second element, of course, again speaking as an appellate justice, not from an appellate point of view, was that we want to make sure the Supreme Court adopted a prejudice standard. Even if you cross that threshold, was it prejudicial? Was there a denial for a trial? Okay, that was the element we were looking for. We didn't want them to make it a per se reversal situation and then they didn't. So, yeah, we prevailed on that case and then I handled — the argument was going to be there's not enough here to reverse so we're going to ask you to affirm this and to the extent that there are questions, we're going to recommend that the defense in this case file a petition for writ of habeas corpus and then we had what's called a Pope hearing in Sonoma County Superior.

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And I handled that hearing before Judge Rex Sater, who was on special assignment from Solano County, and prevailed on the habeas matter as well. So, fond memories, fond memories of that case.

Patricia Bamattre-Manoukian:

A very significant case.

Justice Nathan Mihara:

Yes, it was at the time. So 1979, that was a watershed case in that area, yeah.

Patricia Bamattre-Manoukian:

So, as an Attorney General did you also have the opportunity to try cases?

Justice Nathan Mihara:

Yes, I did, later in my career I did. It's interesting, I can't recall ever expressing an interest in that, but since I was in Santa Clara there were a lot of cases arising out of the mental health institution, Agnews State Hospital in Santa Clara County, of inmates, not inmates, residents who wanted to — who were there involuntarily — who wanted to be released, claiming that they were no longer a danger to themselves or to others, and so I was called upon to go down and contest those, and so they were civil in nature, they were civil commitment proceedings, not criminal. So, I ended up in superior court in Santa Clara County probably every month in what they call the DD

calendar (00:41:20), developmentally disabled calendar. I got to know a lot of the judges there and I had no idea that I was going to be impactful, if you will, in my judicial career, but yeah, so I had a lot of experience going in to court that way.

But I did try some other cases as well, deputy DAs who have kids, or DAs, for that matter, who have children who get in trouble — they can't prosecute their own children, so the AG would step in and I would, generally speaking, be asked to handle those. In Monterey County, the public defender becomes the DA. In Mendocino, we had to step in and try those cases.

Same thing happened in San Mateo when Jim Fox, who was a private defender, criminal defense attorney, became the DA, lots of conflicts, so I tried cases there too. So that's where I cut my teeth, if you will, in the trial courts.

Patricia Bamattre-Manoukian:

So, in the Attorney General's office you developed appellate experience and trial experience, and how did you get interested in applying for the bench?

Justice Nathan Mihara:

That's an interesting story too, much like my path to becoming a lawyer. You remember Wendy Clark Duffy, our beloved colleague from Monterey Superior, who later became a valued member of our bench. She had the same path and same attitude or perspective. She said, you know, Nate, I think of myself as the accidental jurist, no plans of becoming a judge. I didn't either, and there are people I'm sure who dream about becoming judges. I hear that from students, I'm thinking — and they looked at me, like, didn't you? No. I never dreamed of becoming a judge, for goodness sakes, who would do that? I thought, I don't have any power, I have no political connection, I don't have any money, you know. I am a DAG 3, you know, for goodness sakes, seriously.

And one day one of my dearest friends, John Sugiyama, who is a colleague at the AG's office, invited me for lunch. We were having lunch together and he says, you know, you really ought to apply for the bench. I said, are you nuts? He goes, no. Our boss, former AG George Deukmejian, had just become Governor, he was making appointments and he's looking for qualified people and he said, you'd be great. I said — and this is a true story, I basically said to him, that's very nice of you, would you pass the soy sauce? That was my level of interest — I could care less, you know, and I had no idea what the process was like either, but he would keep bugging me about it, just like Irene in Seattle. I said, okay, okay, tell me, what's the process, explain the process to me.

Our dear friend Frank Elia had just been appointed municipal court, Santa Clara County. He says, give Frank a call. I said, no, I don't know — okay, I will. So, I give Justice Elia a call and he's mad, he goes, Nate Mihara — because Frank and I were neighbors at the AG's office. You know, his office was just fully well-appointed, you know — beautiful carpeting and prints on the wall. I had a couple Kmart prints, you know, that I found for 10 bucks, on my wall. I had a plastic, yellow flowered candy dish, I mean that kind of thing. I had a shag green carpet that was probably 80 years old. I mean I didn't care about, you know, I mean, I just loved — but Frank as a neighbor was wonderful, having someone who actually knew how to be a good host, you know.

00:45:00

Anyway, I called him, and he says, doggone it, Mihara, it's about time. I said, what? He said, it's about time you applied — all of us were wondering when you were going to apply. Again, it was such a surprise to me, all this was a surprise to me, and so he filled me in on, on how to go about getting the application. He said, don't be like so many others getting all these endorsements from politicians, your local congress people, people in the state Senate, Assembly, don't do that. He says, find people, judges, lawyers who you know, who know your work, who know you personally, who will write letters for you, and get five.

I was so relieved to hear that, I said, okay, I could do that. And so, the process was actually kind of enjoyable because even though it was daunting — this application was so long and involved and it was tedious — I knew a lot of appellate justices because I would take the SP, Southern Pacific train in the morning to commute to San Francisco from Sunnyvale. I was married at the time, and I still am married. And they would ask, so how's your wife? How's your kid? I go, oh they're doing great. And so, we had this personal relationship as well as professional — I mean, they knew me personally and they knew my work. And then so I called them, and they were just so thrilled to write for me, and I remember in my interview — my judicial nominees evaluation committee interview, I mean interview — the interviewers said to me, you know, I just have to tell you I've never seen letters like this from justices, you know, they know you so well. I said, well, they do. But again, that was just the hand of God, just a blessing from heaven, that I get to know all these wonderful jurists who supported me in my application — so that was a blessing.

Patricia Bamattre-Manoukian: They knew your work because as an Attorney General you appeared in front of them in the appellate court and they knew you personally because they rode the train with you to work.

Justice Nathan Mihara: Right.

Patricia Bamattre-Manoukian: So, God's plan for you.

Justice Nathan Mihara: I think so, yeah. I was very young. I was just taken aback by that whole process. I really was, Patty. It was a blessing.

Patricia Bamattre-Manoukian: And your former boss, the Honorable George Deukmejian, one of the most wonderful men I think that we will ever know in our lifetime —

Justice Nathan Mihara: Absolutely, what a great Governor, great person.

Patricia Bamattre-Manoukian: — had been elected Governor, so you submitted your application, you went through the process, and you were appointed to the Santa Clara County Municipal Court in 1985. Tell us a little about what you did in municipal court — your assignments and your experiences.

Justice Nathan Mihara: Sure, well, my assignments. The first assignment I received was called an arraignment and pretrial calendar and, in those days, my gosh, we had so many cases, Patty. I think there were five of us, or maybe four or five departments that handled arraignments in the mornings and pretrials in the afternoon and then law and motion on Fridays. We had upwards of anywhere from 100 to 120 arraignments — well, you know that you and I served together in the muni court — in the mornings and we had to get done before noon. I mean you're talking like guns blazing and praying to God that everyone understands what the heck you're saying, but it was really difficult, physically as well as mentally tiring.

And then in the afternoon we'd do, what, maybe 30 to 35 pretrials, you've got a courtroom filled with people, of course the DA is there, public defenders, private counsel, sometimes their clients are there ready to take a plea. It was a madhouse, and then of course you have law and motion you have to prep for, so Thursday nights you spend all night prepping for law and motion. I had that assignment for a full year. It was a wonderful assignment; I really did enjoy it quite a bit.

You know, I was really worried that I didn't have enough trial experience, that I didn't have enough litigation experience to handle this. I thought, well, maybe if I was a public defender, a DA, I'd be better suited for this, but

actually I think Irene was right, I think I did have the skill set. You know, I look back and I laugh because one of the things that I was telling my wife, she says, how are you going to handle all those cases? I said, well, I was a cook — that's how I earned money for law school, I was a chef, a sous chef in Seattle — and we had to handle a lot — high volume, worked very, very fast, had to think on your feet, I said, it's — you know, it's similar, not exactly identical but similar in terms of the stress level. And in terms of making rulings and understanding what I was doing in law and motion, that was a natural for me because here I read countless pages of transcripts of judges doing the same thing, and being an appellate specialist, you know, I knew the law pretty well, especially criminal, and so I could go through the process of mentally analyzing a case there in front of me and being able to articulate in a very logical and reasonable manner what my decisions would be in a cascading kind of way.

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What I mean by that is that I'll say, well, if this is true and I find it to be true, this is my particular ruling. Even assuming that's not the case, this is still my ruling, because — and without going into details, that kind of thinking comes with appellate practice with practicing at that level. And so, it's very comfortable for me.

I remember LaDoris Cordell, who was our PJ at the time, came to me and said, you know, I just have to ask you something — this is about three months into my job. She said, People say that it's like you've been on the bench for years. Where does that come from? and I explained to her why that was. And it never dawned on me that would be my experience, to be honest with you. Then you were already there, and I think one of your questions was going to be, did you have any mentors? and I thought, Did I have a mentor? and it was you. Yeah, so you were there and you're saying, well, been there, done that. I said, okay, help me out here.

Patricia Bamattre-Manoukian:

I think we've certainly mentored each other through the years.

Justice Nathan Mihara:

I think that's it.

Patricia Bamattre-Manoukian:

Through the years, back and forth.

Justice Nathan Mihara:

That's accurate.

Patricia Bamattre-Manoukian:

And so, at some point you decided to apply for superior court, this is before consolidation of the courts.

- Justice Nathan Mihara: Right.
- Patricia Bamattre-Manoukian: And so, you had to go through another application process, another evaluation process. And you were appointed by the Honorable Governor George Deukmejian to superior court in 1988.
- Justice Nathan Mihara: Right.
- Patricia Bamattre-Manoukian: So, what did you do in superior court?
- Justice Nathan Mihara: Superior court, see, I didn't want to go superior court.
- Patricia Bamattre-Manoukian: Because?
- Justice Nathan Mihara: This is a recurring theme of mine, I know, but I was happy in muni court. I remember when I was interviewed, Renee Rubin, who's the attorney who interviewed me, my first Jenny [JNE] Commission interview. She said, If you just wait another year, you'll have 10 years, you can apply to superior court run with the big dogs. I said, I don't want to. She says, well, why not? I said, think about this, Renee. Where are you going to have the most impact on the most number of people in your community? Is it superior court or is it muni court? It's a no-brainer, you know, it's a no-brainer. And she said, wow, I've never heard that. I said, well so, that's why I enjoyed muni court so much. I wouldn't say fun, but it was enjoyable, and I felt I was making an impact.
- So, I didn't want to go. So, I had to be convinced. Jim Chang, Rocky Mo (ph), all those friends of ours said, come on, there are openings, let's apply, so that's why I applied. In terms of my assignments, I actually took Justice Premo's seat, and he had a law and motion and short cause calendar. So, I was doing jury trials, maybe a court trial or two, law and motion for sure. So, my first assignment was civil. And shortly after that, I went to family court, as I recall, yeah, '88, '89 or something like that.
- Patricia Bamattre-Manoukian: Where we worked together again.
- Justice Nathan Mihara: We worked together. And so, we were reunited, and you had the audacity to go to the Court of Appeal. Where's my buddy? Where's my mentor? She's going to the Court of Appeal. I'm on my own. You can't kick me out of the nest yet, Patty.
- Patricia Bamattre-Manoukian: Well, you weren't on your own for very long because then you applied to the appellate court.
- Justice Nathan Mihara: I did.

Patricia Bamattre-Manoukian:

And what motivated you to apply to the — you wanted to be with me again, right?

Justice Nathan Mihara:

I didn't want to go to the appellate court. I just wanted you reviewing my decisions, terribly of course, but I didn't really care to go, and it never occurred to me to go to the Court of Appeal. But Nat Agliano, who's the presiding judge at the time — was he going to retire or thinking about retiring? He was encouraging me to apply, so that's why I did. And I think the thing that stuck with me is that there were six seats at the Court of Appeal. He was telling me; these vacancies don't come along very often. And when they do and you have that opportunity and you're qualified, as well qualified as you are, you should seize that opportunity, because it may not come around again, and that was my thinking. I thought, okay, maybe this is a career move that has to be made just because of the timing of it, if it's something I want to do.

The thing that was holding me back was that, is this going to be similar to what I was doing in the AG's office? Because I'm going to miss the dynamic of the trial court certainly and the hustle and bustle. But I thought, no. I enjoyed that work of course and I missed it to a certain degree, so I thought, no, I'm going to do this, so that's why I applied.

Patricia Bamattre-Manoukian:

So, you applied and then you were nominated by the Honorable Governor Wilson to serve on the Court of Appeal. And you went through another vetting and evaluation process. How was that experience?

00:55:16

Justice Nathan Mihara:

I'm trying to remember that experience. I think I had two evaluators, for the Court of Appeal. One was Ann Ravel, who was then [Santa Clara] county counsel I think, and I can't remember who the other person was at the moment, but it was at the county counsel's offices. And at that point — and I have to say it for all my — I wasn't going to be hurt if I didn't get it. And so, I had this, not an I-don't-care attitude, but nothing's-going-to-bother-me-about-this attitude toward it. I do remember in my first interview with Jenny [JNE] and for muni court, I was surprised because Renee Rubin said, well, we're going to talk about the negatives now, and then in the next breath, well, we're done. I said, What? She goes, what do you mean? Well, what are the negatives? I gladly responded. She goes, there weren't any, okay?

So, once you've had some judicial experience under your belt — so in this interview after muni court and superior

court experience, I remember the question was, well, in terms of the negatives, we have one person who's saying you're pro-defense, criminal defense, but we have this other person saying you're pro-prosecution. I thought, okay, how am I going to answer that. And then they both started laughing and said, well, that's good balance, right? And I thought, yes. I'll never forget that. That's what I remember about the interview. Otherwise, it was sort of unmemorable, I guess.

Patricia Bamattre-Manoukian:

So, we at the Court of Appeal, serving with Justice Agliano as our PJ, were very excited when you arrived because you had tremendous appellate experience. You had trial experiences as an AG, actual in-court, boots-on-the ground experience.

Justice Nathan Mihara:

Yeah.

Patricia Bamattre-Manoukian:

You had experience in superior court trying jury trials, civil and criminal. You could handle huge calendars efficiently and quickly. And we were excited to have somebody with your background, your intelligence, your professionalism, and your dedication join us. So, you were confirmed in 1993 and joined our court.

Justice Nathan Mihara:

That's right.

Patricia Bamattre-Manoukian:

And what observations did you make? How did it go? How did you enjoy your experience?

Justice Nathan Mihara:

Okay, that's a great question. Well, I didn't start off very well because I hosted a reception for the court staff, you remember that? In this building. And there was some chocolate fondue or something and I spilled it all over Karine Pochops' (ph) dress, I think, who was our courtroom assistant clerk at the time. I thought, this is not a good way to start my career here. So, I got off on kind of a rocky start. Well, actually, she's delightful and she forgave me instantly. But seriously though, I remember, and I'm reminded of this by Elizabeth Lowenstein, who's retired — she was Justice Elias', one of his lead attorneys, I think. She wrote in my retirement book, she said she remembers when I was appointed, it was really quiet in my chambers, but it didn't last long.

There came a time when you could hear a lot of animated talking and laughter coming from my chambers and I kind of remember that. I remember coming into the job thinking, okay — and I talk to my staff, I hired great lawyers, Ellen Zeff and Martha McGinnis, my senior research attorneys. And I remember telling them, I said, Here's my philosophy, all right? And this is something that has remained true for my 27 years at the court. I said,

First and foremost, for the vast majority of cases, these are not going to go to the Supreme Court of California. There's no other relief in sight. This is it, okay? There's no review after this. So, folks, we've got to get it right. That's the pressure, is that we've got to get it right, okay? Number two, in terms of my responsibility to the staff, and I tell lawyers this as well as a lot of judges too, is that you've got to put your people in the best situation where they can do their very best work.

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Whether it's ergonomic chairs or, you know, some flex time maybe, if they've got some family situation, whatever it is, give them some training or just talk to them and be available to talk with them about whatever comes up. You've got to put them in the best position to bring their A-game and that's what I promise you. So, and I'll never tell you to do something without a reason. There's always going to be a new reason. And I think the secret to my level of enjoyment here and satisfaction has to do with my staff. I had a great staff, had a great JA [judicial assistant], Mary Gule, who retired after seven years, I think, 14 years, I can't remember. And then Karen Bynum, of course, had worked for me after Mary retired.

When you have a staff that's just really superb and detail-oriented and no stone left unturned and are willing to bend and to adjust and to be flexible and be open-minded, boy, you know, I died and went to heaven. Lord, take me home. Nothing's getting any better than this. I said the same thing when I ate a crab cake in South Carolina. Yeah, I almost fell out of my chair. I was talking to Kurt Browning, who was the AG from Nebraska. I said, have you ever tasted a crab cake like this? He goes, no. And he said the same thing. He said, Lord, take me home, this is it, I've reached the pinnacle. That's a true story, by the way. I'm sorry. Go ahead. We're supposed to do something serious here.

Patricia Bamattre-Manoukian:

So, you served on the Court of Appeal for over 27 years. You authored over 250 published opinions, and you reviewed thousands of civil and criminal appeals and writs.

Justice Nathan Mihara:

True.

Patricia Bamattre-Manoukian:

There's so many significant cases that you authored. I mean, one that I always look to for guidance when I'm doing dependency work is *in re: Bailey*, which is at 189 Cal.App.4th 1308, discussing the hybrid standard of review when you're applying the beneficial parent-child

relationship exception. That one case has been cited in over 900 cases, in at least 14 published opinions, and was recently cited by the California Supreme Court in May of this year. So that's just one of the amazingly helpful contributions to the development of the law that you made. Are there other cases that come to mind that are significant or that are near and dear to your heart that you'd like to share with us?

Justice Nathan Mihara: Well, they're all my children. They're a product of a lot of work. That Bailey J. case, I think it was.

Patricia Bamattre-Manoukian: Yes.

Justice Nathan Mihara: It was 19, when was it? 2010?

Patricia Bamattre-Manoukian: 2010.

Justice Nathan Mihara: 2010?

Patricia Bamattre-Manoukian: Yes.

Justice Nathan Mihara: Wow, it's a long time ago. It's a really good example, if I'm recalling this case correctly, of there being a disagreement in the appellate courts about what standard of review to apply. Should we apply deferential substantial evidence review, or is this going to be abuse of discretion, I believe, was the split. And we concluded that analytically, they both apply. This has to do with adoption, is the preferred approach in these dependency cases, and that there are exceptions to that, and there's a mother or a parental exception, there's a sibling exception.

Patricia Bamattre-Manoukian: There are.

Justice Nathan Mihara: And I think that I'm kind of glad you brought that case up, because it's not something that most people will be familiar with unless you're working in juvenile dependency law, right? But it's a really good example of Courts of Appeal reasonably disagreeing about what standard of review to apply, room for discussion on both sides, and I think that's helpful for jurors to keep in mind at the Court of Appeal level, even at the superior court, trial level, that, you know, when you're dealing with the law, okay, there's going to be disagreement as to what the standard is or what substantive law might be applicable, how you interpret a statute. And both takes can be grounded on rationale, good rationale, and the trick is, which one should it be? And that's where Courts of Appeal come in, where the Supreme Court comes in.

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That Bailey J. case is actually a good example of looking carefully at what the trial court's responsibility is. Then once you figure out what the responsibility is, then you can decide what standard should apply in terms of reviewing at the Court of Appeal level, right? A judge's ultimate decision, either to grant the exception or not to grant the exception. Adoption should be adoption, or no adoption because we have these special relationships, right? And so, when you — at our level, then — and you were always so wonderful, can I just say this? So wonderful about bringing my feet back down on the ground, saying, okay, this is lovely. How can we help the trial court figure out what they're supposed to do?

Early on, I remember we had these discussions, and even later on in my career, we'd have these, it wouldn't be bad. Is this going to be helpful? Is this clear enough so that if we're in the trial court we'd say, either, this is so clear, I understand exactly what I'm supposed to do, okay? Or, what in the world are they talking about? I have no idea how to handle this. So, yeah, that's a really good example of looking at the analytics from the standpoint of what would be helpful to the trial court. In that case when you're figuring out, first of all, whether there was a relationship, a significant relationship — that's a factual finding. You look at what's going on, right, with the parent-child or the sibling situation and then, beyond that, once you've figured that out, then there's the broader question. So, is that enough? Is it a compelling reason not to uphold the adoption rule or order of the court? And that's a discretionary call. So, as you — I think I'm getting this right, what happened was, we said both apply depending on where you're analyzing this, you first analyze for substantial evidence, and you analyze it for discretion, abuse of discretion. And, yeah, I had no idea that case was out there in terms of its impact on the judicial system.

Patricia Bamattre-Manoukian:

Such an important case in dependency law and provides clear guidelines to the trial court and provides clear guidelines to the appellate courts in terms of our review. It's one of the cases that will live on and be part of your legacy.

Justice Nathan Mihara:

Oh, my goodness. My legacy. Oh, wait, that's what we're doing, right?

Patricia Bamattre-Manoukian:

That's right. We're doing the legacy interview.

Justice Nathan Mihara:

David, don't laugh. It's not funny. This is serious business.  
[Laughs]

- Patricia Bamattre-Manoukian: In addition to —
- Justice Nathan Mihara: David, by the way, is our cameraman. You can't see him, but he's such a nice fellow. He's got this really lovely mask. I mean, it looks like a United Nations flag display or something. I don't know what that is, colorful and lovely, and his partner over there, Chris — I mean, he's a jewel. We love you, Chris. Wake up, Chris, wake up. Are you awake? Nick, would you make sure that he stays? Nick is our bailiff, our wonderful CHP fellow. Now, he's appropriately wearing a black mask, right? Because he has to look serious and mean and, you know. Okay, I think he's in control.
- Patricia Bamattre-Manoukian: So, in addition —
- Justice Nathan Mihara: I'm sorry, this is not going to be edited, do we care? No. *[Laughs]*
- Patricia Bamattre-Manoukian: So, let's just jump back to the Court of Appeal here in addition to —
- Justice Nathan Mihara: Okay, if you insist —
- Patricia Bamattre-Manoukian: The cases that you worked on; you also were very involved in judicial administration.
- Justice Nathan Mihara: That's true.
- Patricia Bamattre-Manoukian: Served on many, many committees. You did lots and lots of work to improve the judicial system and to help litigants. Can you talk a little bit about your involvement on judicial committees and bar committees?
- Justice Nathan Mihara: Yeah, I don't know how that started exactly. I think once you're on the bench at the Court of Appeal level, Judicial Council and those committees are always looking for people who are going to bring some expertise and some skill sets to the table to help them, whatever it is, and there are dozens and dozens of committees. Of course, there's court interpreters, right? Budget committees, rules committees, and so forth, small claims, civil committees, criminal. And so, early on, I was serving on the appellate courts committee for Judicial Council, and I think Gary Strankman — was he the one who was chairing that from the first? And I think that our charge was to investigate how we can make our appellate system more efficient, right, especially in times of tight budgets, and it all has to do with budget, right?

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And so, I was asked to serve with — I can't remember who the other appellate justice was. We went to Fresno, we went to L.A., so in the Fifth District, and then we went down to the Second Appellate District, which was daunting. That district is huge, as you know, eight divisions, tons of jurists, and everyone's got an opinion about something. But we did it and we came up with a report.

The other committee I served on for some time, probably 11 years I want to say, or something like that, was what's called AIDOAC, the Appellant Indigent Defense Oversight Advisory Committee. And the last three or four years or so, I was the chair of that committee and, basically, that committee was charged with the responsibility of auditing claims made by attorneys representing indigent defendants on appeal, and making sure that those claims were appropriate, accurate, and so forth. And so that was a tough committee to be on because every quarter we would get 12 to 14 appellate cases with full records, in terms of briefing, at least. Of course, there were claim forms and we had to do a lot of checking to make sure everything was appropriate. And then we'd have to write up a report. We'd have two-day meetings in San Francisco once a quarter.

But I have to tell you something about this committee, it was filled with really engaged and highly competent, experienced jurists. And we had appellate project directors there who would manage and oversee and train appellate lawyers in their work, so they can fulfill the requirements of the Sixth Amendment, represented right to counsel. And we of course had eight JCC staff there, Judicial Council staff, which were wonderful. So, it was a real pleasure being on that committee, and as chair, I began to realize how important that committee was, even more so. Yeah, so, I did that.

Patricia Bamattre-Manoukian:

I know you served on the appellate court, so the task force on appellate court process, the Appellate Court Advisory Committee, the Legislative Subcommittee and then of course the Appellate Indigent Defense Oversight Advisory Committee, which required hours and hours and hours of work and tremendous leadership by you and was appreciated by everyone statewide because that's such an important assignment. You also were a member and past president of the California Asian Pacific American Judges Association, the California Judges Association, the Santa Clara County Bar Association's Minority Access Committee, the Appellate Courts Committee, where we co-chaired many, many programs for the county, and the Law Related Education Committee. You also served as president of the Sentencing Alternatives Program of San

Jose and dedicated many, many hours to judicial and legal committees while you were working on your thousands of civil and criminal appeals and writs. So for 27 years you dedicated yourself to the work of the Court of Appeal, as well as dedicated yourself to improving our justice system. What observations do you have? What thoughts do you have? And then what motivated you to think about retiring? Like, you had a wonderful career, we have tremendous colleagues we were working with. You and I were working together, and then all of a sudden you made the decision to retire. So, what observations do you have about that whole period? And then, what made you decide it was time to retire?

Justice Nathan Mihara:

Goodness, gracious. The first question had to do with my observations about my committee work and that sort of thing.

Patricia Bamattre-Manoukian:

And your work on the court.

Justice Nathan Mihara:

And my work on the court as well. I really enjoyed my committee work, obviously, and I certainly enjoyed working here, oh my goodness, this is a dream job. This is a dream job, especially as an associate justice. I remember when Chris Cottle, our dear friend who's now retired, became administrative presiding justice of our court. He got a call from the administrative presiding justice in San Diego at that time, Dan Kremer, who I knew, a former AG. And Dan calls Chris and he says, Congratulations on being appointed to the administrative presiding justice position, and Chris says, well, thank you, Dan. You now have the second-best job on the Court of Appeal. And I thought to myself, that is so true, I had the best job at the Court of Appeal being an associate justice. I got to work with wonderful people, I got to take on challenging cases, interesting issues, I got to write and I love writing, and I love reading cases and so forth.

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So, it kind of came full circle in this particular job. And everyone here from the justices, support staff, the clerical's office, clerk's office, or even our IT people, just delightful to work with and that makes the difference, people you work with. If the people aren't what you would hope and it's a different world, but our people here have been fantastic — 27 years is a long time.

You asked, so what made me retire or what was my thinking? It was a long process. In fact, probably 10 years ago, I was going to retirement judges conference meetings just to hear what they're talking about. And all of my colleagues say, you're not thinking of retiring, are

you? I said, well, no, I'm just exploring. But some of the more memorable things — input that I got from people in terms of when to retire and when that should happen, my friend down in the Second Appellate District, Steve Suzukawa, who retired at age 60, and I thought, wow, that's early. He had his 20 years in, and he said, I'm hanging it up. I called him. I said, what's going on with you? You're so young. You're retiring at age 60, what? I said, don't you like the work? He said, I love the work. Or your staff, are they giving you problems? Your lawyers? He said, no, they're terrific, they're smart, they write well, they're beautiful people. JA and your judicial assistants? No, no, no, terrific, terrific, all the way down the line. Your colleagues? Okay, it must be your colleagues? No, they're fantastic too, wonderful people. Is it health? No. Well, so, why are you retiring? Silence. And he says to me, Nate, he says, look, you can have all these wonderful things going on at the Court of Appeal and I love my job, I love the people I work with. But the final analysis, Nate — I said, yeah?— it's still work. I said okay. He just got tired of working and he wanted to do some other things too, but that made me laugh. I thought, okay, that's one perspective.

The second perspective, and this is actually more helpful than anything, is that — I can't remember if I was talking to somebody, if this is anecdotal, or if I was actually talking to someone — an appellate justice was telling me this. He said that his father was a judge and when he was getting close to what he considered retirement age, he asked his dad, So Dad, what goes into this calculus in terms of retirement? How do you figure that out? And he said, Son, this is my advice. You'll just know. I thought, What? That's it? You'll just know? But you know something, he was right. You just sort of know, in your gut, it's time to say, We're shutting the door on this chapter and moving onto something else.

So, I think that was most helpful to me and, sure, I had my list, pros and cons, and that sort of thing. But part of it, too, in terms of the hard facts is that I wanted to enjoy my retirement with my wife and still be healthy enough to do that. I wanted to do some more teaching at Santa Clara University Law School. I was actually invited to teach at [UC] Davis as well. So, I had those opportunities and I thought I would have more time, obviously, for my students, because you know I mentor a lot of students.

Patricia Bamattre-Manoukian:

Well, that was going to be my next question.

Justice Nathan Mihara:

Yeah.

Patricia Bamattre-Manoukian: And so, finish your answer, but I want to ask you about your many, many, many years of mentoring so many law students and young lawyers. So, you wanted more time to spend with your students?

Justice Nathan Mihara: Yes, I did. I spent a fair amount of time with them anyway, because I had this judicial extern program that I started. I can't remember, 2010 I want to say, '11, something like that. And in the past, I had a smattering of students working for me, but there was no program. So, I developed this program and it kind of grew. At first, it was a joint program with superior court. They would have them for six weeks, then I would have them for six weeks and then we would flip. But I actually started this program where I would give them appellate cases that were in the process of it being completed or just beginning to be worked on.

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And the reason why I did that is because my lawyers would be familiar with the record and the briefing and I would, too, and so it wasn't reinventing the wheel. I never gave them anything new. My staff questioned that. They said, are you sure they're going to want to do that? I said, they're going to eat it up. It's going to be easier on us. And so, I actually shared that with the Chief [Justice] and she got really excited about it and all the justices of the Third Appellate District in Sacramento. But in any event, when this thing started, it was a joint program and then we added the Supreme Court. [Supreme Court Justice] Ming Chin was working with me, and he would take one of my students.

So that's how it morphed and then at some point, I can't remember when it was, maybe four or five years ago, I decided, well, this is a little like herding cats. You know, there's too many moving parts with all these other justices involved, judges, and so I broke out on my own and of course we have a joint program. I had about a dozen students every summer and I would take a couple, maybe two, three during the academic year. But on my own program I would take anywhere from four to seven students, as you know, and they would work for me and write up opinions and attend oral arguments and they're all so delightful. And then they would do evaluations for me, sometimes they would just write me thank-you notes. It was just gratifying to see them grow, from that first day they darkened the door here to the time they leave, they're different, their perspective is different, their attitude toward the law is different, a little excitement is heightened. They're more anxious to get back into it at law school. So yeah, it's very rewarding. And then part of

the mentorship also has to do with my faith, and I guess we can talk about that at some point. But I do speak a lot to students on campuses, either making presentations on law or appellate practice, doing moot courts, that sort of thing. Or I'm talking with these other students about their faith and how that impacts law school and beyond.

Patricia Bamattre-Manoukian:

So, I know that throughout your entire judicial career you have mentored law students and young lawyers. You have always had flocks of law students following you down the hallways and sitting in oral argument. You set up programs where we would meet with the students in the courtroom after oral argument and discuss best practices and brief writing and oral argument. You have impacted the lives of so many of our lawyers. I know you've performed their wedding ceremonies. I know you've encouraged them in their careers, and I know you want to stay active in teaching and mentoring. I also know that faith is very important to you. So, can you talk a little bit about the importance of your faith and the intersection of your faith and the law and its impact on your judicial career?

Justice Nathan Mihara:

Sure, that's easy, yeah, I'm a Protestant Christian. I've been since I was 10, kind of floundering around, trying to find my way as most young people are and do, and still am to a degree, so you never really arrive. But my faith is important to me because it kind of grounds me, and in law school that was important because that's such a challenging experience.

I remember when I became a judge, it was even more terrifying because — of course I'd never been a judge before and so it was a totally a new arena for me. I remember Marilyn Morgan, who was the president of the county bar association at the time, just a lovely person and so supportive and kind and smart and later became a bankruptcy referee, as I recall, in Santa Clara county. She came up to me at my investiture when I was being sworn in and she shared something with me that's very interesting, — because I don't really talk about my faith that much, honestly, to people, unless they ask — I'm not someone out there who's going to stand up on the soapbox and that's just not my personality, my temperament, I don't do that. But Marilyn came up to me and it was very interesting, she said, you know, judge, I know you're a man of faith. I'd only been on the bench some months and I said, okay, all right. And then she said, there's a judge — I'm trying to remember his name now, who was in our superior court who's now retired — and he had this bible verse on his desk and it's from the Book of Micah, chapter 6, verse 8.

01:25:01

And the verse reads — and I'd never heard this before — she said the verse reads, O man, you know what God expects of you, to do justice, love mercy, and walk humbly with God — and that just knocked my socks off. I thought, Wow, wow. And I thought, that's so amazing that she would share that with me, and I expressed my appreciation for that. But it started me off on the right track, because that was going to be something I would aspire to throughout my entire judicial career from Day 1 then, you see — from the day I was sworn into the municipal court at an investiture, of course, which is a couple of years [*sic*] after my actual swearing in. But from that point on, that would be my goal, to do justice and love mercy and walk humbly with God.

So, my faith has had an impact on my work because it's impacted me here [*points to chest*], and the outflow, of course, is in my work, you know? The good example of that, it's something we talked about. Remember you and I and Justice Corrigan of the Supreme Court attended the faith conference, the interfaith conference in Sacramento sponsored by the Sacramento Bar Association and the superior court there, and I remember it was held at a Muslim house of worship. It was just so delightful, and to meet all these people from the other faiths with the same goal, to do justice and love mercy and walk humbly. I remember it well and how enjoyable it was to be on a panel with you and Carol and so forth. But it made me realize that it does have an impact on us, you know, faith — or what we believe, is another way of putting it, I guess.

For me, that being really clear, in that one juvenile case we had — remember *in re G.Y.* [234 Cal.App.4th 1196], I think it was called, about this kid who, when he was a teenager, he held a gun to someone at their home. I think he felt that they owed him some money or something and he was convicted, he was put on probation, served out his probationary period, went to work for his parents at a printing shop or something. Then he goes to the United States Army and really distinguishes himself, a couple tours of duty in the Middle East, you know? He's highly decorated. He comes out of that a changed person, completely, right? He comes back and he does two things. One, he gets his felony reduced to a misdemeanor.

The second thing that happened is that he petitions the court to seal his records, his juvenile records, right? And the superior court judge, rightfully and correctly, says, I can't do that, you're convicted of possessing a firearm, using a firearm. He says, you know, the law doesn't allow

for that. And here's a person who's completely changed his life since he was under 18, and the law is forbidding the trial court, the discretionary authority to, in an appropriate case, to grant relief. So, it came up to us on appeal — it was my case, you're on it, and I remember we were racking our brains, weren't we? Is there some way we can see the legislation maybe creating an opening here? And the language of the statute was ironclad, there was just no way around it. I thought, no, we got to follow the law. So that's what we did. We followed the law, and we affirmed the trial court's decision not to grant relief, but in the first paragraph of my opinion, as I recall, I said, This is wrong, we invite the Legislature to correct this. And you wrote an amazing concurring opinion, as I recall, supporting that, the decision of course, but also supporting the notion or the thought that we got to have the Legislature take a look at this.

And then, I can't remember how long it was after that that you were at a trustees meeting, St. Francis High School, I think you were on the board there. A woman came up. She said, I'm the mother of this fellow that had appealed this case and I just want you to know the Legislature has just passed and the Governor has signed into law an amendment to allow for the sealing of the records in extraordinary cases. Wasn't that a great moment? And we shared that at that faith conference, so I remember.

Patricia Bamattre-Manoukian:

We did. We did.

Justice Nathan Mihara:

People were applauding and cheering, but you know? Where does that come from? Because you and I know, at the Court of Appeal level, we could have just said, Yeah, this is a slam-dunk affirm, you know — we're done. [Now,] where should we have lunch? We didn't do that. We labored over that because this was an unfair result. We followed the law, which we have to do. We have to follow the rule of law, right?

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We did that. But it didn't prevent us from inviting the Legislature to take a second look. And that's where faith comes in, my faith, your faith, the notion that we can do better. You know, we can think outside the box. You know, we can do things that impact people outside the context of our core expected roles as judicial officers, right?

I just gave two keynote speeches, one for the UC Davis Asian Pacific [American] Law Students Association and a second one for Santa Clara encouraging them to do the

same thing, think outside the box. Don't just think of your role as a lawyer as doing XYZ in terms of following the rule of law, which you must have in applying it, but think of ways you can do more, do more.

Patricia Bamattre-Manoukian:

So, Nate let's talk a little bit about your family, your wife, how you met her, your son Jonathan, and his beautiful family. Can you share with us a little bit about them?

Justice Nathan Mihara:

Sure. I'd be glad to. I met my wife through mutual friends and through church. And I remember I was at a potluck, and she was there. I thought she was the sister of the hostess, and that was wrong. So, I thought she was from Chicago, and she wasn't. She was local, which I was happy to hear about. But she did ask — she's so funny, my wife is so honest, she says, so, — because we go to the same church — she said, So, you're in law school? I said, uh-huh. She said, So, okay, can you be a lawyer and a Christian at the same time? And I said, okay, well, I'm going to go get an hors d'oeuvre. [Laughs] (01:31:43) And so that was kind of the end of that conversation. But fortunately, she put up with my bad sense of humor and we started dating and went with that. So, we got married in 1979 when I was at the AG's office and all my friends are there from work and that was delightful. So, we've been married 42 years in July, it will be 42 years, and then we had a son, Jonathan, who's now 37. He's married, got married a couple years ago. And Kristen, who's delightful. Interestingly Kristen is from Benicia and she's a next-door neighbor — her family is next-door neighbors to Jim Lambden from the First District. So, Jim calls me from time to time. He says, I think we're neighbors-in-law. So, I said, Okay, whatever, Joe. Kristen has a delightful family, and we're all close. She has a younger sister. So, she and Jonathan have been married a couple of years, and they're expecting their first child in five days.

Patricia Bamattre-Manoukian:

Congratulations.

Justice Nathan Mihara:

Thank you. So, day after tomorrow, my wife and I are throwing the sleeping bags in the car and heading to L.A. Yeah. We'll be anxiously awaiting the birth of our little grandson.

Patricia Bamattre-Manoukian:

It's a very exciting time for your family.

Justice Nathan Mihara:

Yeah. Yeah, we're thrilled, we're really thrilled. So, that's — and then, as I said, my brother is in Half Moon Bay and happily married. His wife's name is Susan. My wife's name is Suzanne and it's kind of odd, a coincidence, and their daughter Annika, as I was mentioning, is at Pepperdine, and she's really a peach, just terrific. So, I have great

family, a lot of relatives, of course, as you do, throughout the Bay Area and Southern California. So, we all try to keep in touch.

Patricia Bamattre-Manoukian:

I know your family is very important to you, and I know your faith is very important to you, too. So, congratulations on the arrival of your new grandson this week, we'll be very excited for you and the family.

Justice Nathan Mihara:

Thank you.

Patricia Bamattre-Manoukian:

And looking forward to many, many wonderful years with your family.

Justice Nathan Mihara:

Yeah. Thank you.

Patricia Bamattre-Manoukian:

So, let's move on to talk about what makes a great lawyer and what makes a great judge. I mean, you were a lawyer, you were a judge, you were a justice. You had many, many hundreds, if not thousands, of lawyers appearing in front of you. You worked with colleagues in the municipal, superior courts, and then, of course, we worked together in panels of three in the appellate court. So, what are the great qualities of an outstanding lawyer? What do you look for in a lawyer, first of all?

Justice Nathan Mihara:

Sure. I can give you the short answer. The long answer, of course, is you're looking for people who are diligent, who really care about the law, who walk with integrity, who are thorough, who represent themselves well. One of the largest complaints I remember reading about lawyers — this is years ago, in the State Bar journal, they did a survey of clients and asked, What's the most difficult thing about your relationship with lawyers? And the number one complaint is lack of communication.

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My lawyer doesn't return my calls, doesn't explain things to me very clearly. I think what makes a solid lawyer are those traits and that manner of dealing with your clients. Of course, knowledge of the law is really paramount. You have to know what the law is, but communication, I think, is really important also.

In terms of my singular answer, I remember giving a presentation at Berkeley Law, now, then called Boalt. I was coming out of Bancroft Avenue going to my car, and this student comes running up to me and says, Justice Mihara, I'm so sorry I missed your lecture. I'm so sorry, I had a conflict with the class and I'm sorry I couldn't make it. And I said, Well, that's okay. That's all right. And she said, you know, I'm graduating in a couple of months.

Do you think you could give me a piece of advice? Maybe just one thing. It's probably hard just to say one thing. But if you just give me one piece of advice to kind of launch me into my legal career? She said, That's probably impossible, right? I said, That's not. She says, not? No, it's easy. Well, what is it? Well, tell the truth. She said, What? I said, Tell the truth.

I said, Look, let me explain it. I said, Whatever you take away with you from law school here and in your life, I said, there's one thing you need to really firmly grasp and engage with, with all your heart, with all your mind, all your strength and mind, is the truth — to be committed to the truth, to tell the truth, speak the truth, listen for the truth, encourage others to speak the truth, okay? Whatever it takes, it doesn't matter if it's a legal truth, factual truth, historical truth, scientific truth. It doesn't matter, ethical truth, that's got to be your commitment. She said, wow, no one has ever said that to me before. Well, now you heard it. Blessings. Have a great day.

Patricia Bamattre-Manoukian:

So that was your advice to lawyers. And now let's talk about judges and justices.

Justice Nathan Mihara:

Sure.

Patricia Bamattre-Manoukian:

What makes an outstanding judge or justice?

Justice Nathan Mihara:

You know, that's also easily answered. I'll give you the short version because I think we all know what really good judges are, right? They listen carefully to the evidence, they're patient, they have great temperament, they know the law inside-out and backwards, and they engage appropriately, right? They don't abuse their authority. So, yeah, they can control proceedings and they're always educating themselves and training, rethinking things, they have to make themselves better.

I was in Los Angeles, I think it was a CJA [California Judges Association] event, where they had a special session, it was a three-day session by invitation, and I applied and got in. It was about a dozen of us, and the title of this program was called Excellence in Judging. How do you become an excellent judge? Not just a good judge or a very good judge? What are the goals? What are the things that we can do to become excellent at what we do? Which is always my goal, I just want to get better and better and I think a lot of us do, of course. But we met for three days, we read treatises (01:38:50), we read articles, we talked, we looked at case studies. At the end of the day, the last day, on butcher paper the leaders and organizers wrote out all of our suggestions and ideas that we accumulated over the week in terms of what makes

an excellent judge, right? And the question that was posed to us was, Look, what is the one thing that all of these elements have in common? Look around the room — and we did, and then it hit us like a landslide — it was, what is it? All of these elements are relational. They are all relational.

I thought, Wow, that's the common denominator, relationships, okay? So, if you want to become an excellent judge, you focus on the task and the duties, of course, that you're expected to do. But over and above that, you do the things that — what? That enhance relationships, right? You make those connections with people to help them become better at what they do or maybe how they're feeling about things or their perspective on things to improve that.

01:40:00

That kicks it up a notch as — was it Emeril Lagasse? Bam! We're going to kick it up a notch. That's what you do as a jurist. You're not just content with the eight to five and going through the routine. You're always looking for ways of helping people improve themselves, and yourself, of course, relationally. Yeah.

Patricia Bamattre-Manoukian:

And so, is that the advice that you would give to judges and justices?

Justice Nathan Mihara:

Yes. Yes, I would. I would try to think relationally. And the same advice I gave to the lawyers as well is that, make sure you're committed to the truth. Don't fudge. Don't stray into that gray area and say, Oh, it's okay. Even in terms of your work ethic. The thing that really gets me is when someone says, Well, that's good enough, that's good enough. I got that actually from my — my second or third year on the job here, I had invited some students that were talking about various cases we're working on. And I said, what are we looking for is a question, we're looking to get it right, we're looking to get a good solid opinion. I don't know, there are times when maybe there are things that you can't accomplish maybe because of time or whatever and other things.

And Martha, my lead attorney, says, excuse me, judge. Can I just say something? Something you told us actually a while ago? I said, What? She says, We're trying to be perfect. I thought, My goodness gracious, of course. And she's right, I mean, that's what I would preach. I would say, Look, we've got to get it right and what does that mean? It means we've got to try our best to be perfect, right? Because in giving these keynote speeches where I'm talking about the truth, the question is, So, Mihara, where did you get this stuff? Say, about the truth. Where

does that come from? And when I tell the students — and I've told lawyers of this and my fellow judges as well — well, it comes from our preamble of our United States Constitution. We all know it. We the People of the United States, in order to — what? Form a more perfect union. You're going to do that without the truth? I don't think so.

The very next thing that we should be committed to is the next goal that's stated of the Sixth is — what? Establish justice. Can you do that without the truth? No. A snowball would have a better chance of surviving in the Sahara than establishing justice. And the clincher — and this is what I hope I leave my students with, especially in the young lawyers I talk to — is that the goal of all this is to — what? It's the very last line. It actually, it preamble's one sentence in 55 words. But the last goal, the objective, the motivator is — what? To secure the blessings of liberty to ourselves and our posterity. Without the truth, it's not happening.

You know, we live in a very divided country now and it's split in so many directions. But to secure the blessings of liberty and all, as envisioned by our founding fathers, the way that happens is, it starts with the truth. That's where it starts, you see. Because a lot of people confuse that and say, well, you know — and this is what I would say to the judges, you know, because in our judicial questionnaires that we have to fill out for applications for judgeships, it says, what is your reputation for honesty and integrity? Those two concepts are conflated so much, and it bothers me, because they're different.

Honesty is telling the truth, okay? And it's critically important. Integrity, and if you want to be able to talk about excellence in terms of the judiciary, integrity is another ballgame. Truth and honesty are subsumed in that, but integrity is something far more important. Why is that? Because that has to do with the whole person. It's not, Are you honest? It's, are you honest and are you reliable? Are you trustworthy? If you can look at yourself in the mirror and say, okay, the day I had today, I was trustworthy — then you're talking about your A-game.

Patricia Bamattre-Manoukian:

So, that's your advice to lawyers and judges?

Justice Nathan Mihara:

Right.

Patricia Bamattre-Manoukian:

And so, in the 35 years of judicial experience that you've had, you've always helped people become better, you've always helped them try to improve. And I know during your retirement years that you'll continue your teaching and mentoring. Can you share with us what else you're doing during retirement?

01:45:06

Justice Nathan Mihara:

Sure. Well yes, in addition to the teaching and mentoring, I've joined ADR Services, Alternative Dispute Resolution Services, and they're privately held and operated. And Lucie Barron is the president, and her daughter Joanna is VP, and I went with them for two main reasons. One is that I wanted to keep involved with the law in some fashion, but I didn't want to become a pro tem, doing what I did before, sitting on the bench, wearing a robe, making calls, although it's very important to me and it's been great. I feel like I could have a bigger impact on the legal community doing this other kind of work, which is, if you will, being a judicial peacemaker, okay?

When students and even lawyers or lay people ask me, So, what is the law all about anyway? Why do we have all these laws and what's the big deal? I said, well, my concept of the law is very simple and maybe too simple, but it's basically to create order out of conflict. That's what we're trying to accomplish. And that's been my goal all along, okay? Whether it's discussion at the Court of Appeal level, trying to resolve a case, or trying to settle a family law dispute in the superior court, trying to help a young couple who've broken off their engagement, helping them divide up their property — Well no, those are my CDs and that's my ironing board — whatever it is, to help create order out of chaos, to resolve conflict. I mean that's what we do, and what a better way to do that than as a mediator, an arbitrator, as a neutral, judicial neutral.

So, it was to kind of stay involved at that level, and at a legal level as well. So, it might involve some research to understand what the law is and so forth. The other aspect of it is that I didn't want to do it full time and this particular group, this company, says, Judge, your time is your own, an hour a week, two hours a week, 40 hours a week, it's up to you, and I really appreciated that. They gave me a lot of flexibility, because I know in my heart I want to be with students, young lawyers, teaching, whatever, visiting colleges and law schools.

Patricia Bamattre-Manoukian:

You want to continue your work with your students and continue your work as a mentor, but you also want to continue to be a judicial peacemaker?

Justice Nathan Mihara:

Exactly right.

Patricia Bamattre-Manoukian:

And so, I have a few closing questions for you.

Justice Nathan Mihara:

Sure.

Patricia Bamattre-Manoukian: The first one is, how would you describe your contributions to society, legal history, and the development of the law?

Justice Nathan Mihara: I read that question and I thought, Oh my goodness gracious. David is behind the camera going, we don't have enough time — and Chris is saying, I really want to go to lunch, please. [Laughs]

Patricia Bamattre-Manoukian: We're almost there.

Justice Nathan Mihara: We love you, Chris, okay? Can I just say that? We love you. And Nick, too. He's treating you, by the way. Go on, Nick. Chris, you're treating him. I'm sorry that I — what was the question again?

Patricia Bamattre-Manoukian: How would you describe your contributions to society, legal history, and the development of the law?

Justice Nathan Mihara: Describe my contributions. Well, I thought a lot about that. I think I just want to leave that up to other people to figure that out. Like you brought up the Bailey J. case — my goodness, I haven't thought about that in 10 years.

Patricia Bamattre-Manoukian: I think of you every time I read that case, every dependency case where there's the exception.

Justice Nathan Mihara: I'm so touched by that, really. I really am. But that's what I'm getting at. I think in terms of my legacy, in terms of the law and the imprint I've made on the law, the legal landscape and history and so forth, that will be manifest by the people who read my work, reuse the work, the opinions that I've written, or refer to it in a scholarly fashion or academic, if not in a court of law. That's where the legacy will be.

I can't see all of that happening, and so it's hard for me to kind of gauge that. All I can tell you is that when I hear from people, oh my gosh, that was a great opinion, I really enjoyed that opinion and I've been using it — that's the feedback that I get, but it's not true in every case. So, I think I'm going to leave my legacy reputation up to those who are impacted by it.

01:50:04

Patricia Bamattre-Manoukian: So, what contributions and achievements are you most proud of?

Justice Nathan Mihara: That's also a really great question. I don't, I'm not fond of the word pride, this isn't part of my lexicon, I don't — I use it a lot with my son — I'm so proud of you for doing

that. Okay, and he understands where that's coming from because it's personal, he understands my heart on that — or family, when I'm talking about my family. But the things that I am proud of in terms of what I've done, accomplished — that's just not part of my DNA. I don't think in those terms. What I will say is, I'm satisfied, and I'm gratified by the work that we've produced. Proud of it? That's kind of a pretty high level. I have to say that, yeah, I guess I could say, I'm proud of my work. And the reason why I say that is because I don't think, I can't think of a case where I slacked off, where I didn't give it my best.

It may not be another person's point of view or perspective the best work, and that's okay. I mean, but on the other hand, I want that person and others to know that whatever I produced out there in terms of written opinions or oral decisions, that I gave it my best shot. I gave it my A-game. It's like my son walking off the field at Bellarmine, in his last football game, Dad, I gave it my all, I left myself out there, there's nothing left. That's how I feel about these cases, okay? And so, when you say most proud of? Here's what I want to say about that four-letter word — I'm not most proud of anything that I've done. What I am, what I can say is that — and this is what I tell my lawyers or even my externs that work on cases for me in the past — I said, I want you to bring your A-game, okay? And I don't want you to ever have this feeling that this case is more important than this case, right? I want you to bring your best to the table regardless of whether you're dealing with a huge corporation or the little guy in the street, it doesn't matter to me. Like in muni court, it didn't matter to me if it was a small claims case versus what I was doing in superior court, you know, these multimillion-dollar cases involving corporate transactions and that sort of thing or personal injury cases.

Again, it wasn't part of my mindset — I was concerned about the law, the application of the law, application of law to the facts, achieving, I'll just say just result, and to say, Is it a fair result? Well, fairness depends on the eye of the beholder, right? So, in my view, was it the right result, you know, based on proper legal analysis, right? Reason, the voice of reason. That's what you try to achieve and to look at the kinds of work that comes into us as something being of higher importance than something else is — again it's something I really fought against. The exception to that, of course, would be something that we're mandated to do, for example, juvenile cases take high priority, CEQA or California Environmental Quality Act cases take a high priority, right? Criminal cases take high priority, civil cases,

similar, but that's in terms of when we deal with it, not how we deal with it, but when we deal with it, okay? So yeah, that's kind of a long — I thought I was going to give a short answer, that wasn't so. I'm sorry but that's my take on it.

Patricia Bamattre-Manoukian:

So, my final question is, I would like to invite you to make any closing comments or share any thoughts with us that you would like to share.

Justice Nathan Mihara:

Right. The dreaded final comment question. The dreaded, most egregious question for the end. I'm teasing you, of course. See, I can do that because we've known each other for, gosh —

Patricia Bamattre-Manoukian:

Many years, many years.

Justice Nathan Mihara:

Way too long, way too long. Okay, this is what I would say about that. I feel this tremendous sense of gratitude for my judicial career. Of course, the family, first and foremost, to God first and foremost for giving me these opportunities that I never sought out. I never wanted to do this, you know, it was kind of — I wouldn't say forced upon me exactly, because I did sign up, but I'm very grateful for the opportunity to create a better world, yeah.

01:55:04

Grateful to God, family, and my colleagues, like you. Goodness gracious, you kept me afloat for so many years. You know, just, oh, I'm just so discouraged about this. Oh, come on. You know what was the favorite expression to my staff? Have a doughnut. Suddenly my day would become better, brighter, happier — glazed of course. But the whole idea that you can come into a work situation and make somebody's life better — this is an interesting thing.

I had a friend who considered me a — we went to law school together. His son became a lawyer, went to UCLA, and David called me and said, Judge, would you talk to me? I got some issues at work — and he's working for a big firm in Palo Alto, civil law. I said, Sure, David. So, we had coffee. He says, I don't know, I just don't seem to be on track and I'm having a difficult time. It's my second year as an associate. And he's telling me of the problems he was having with support staff and so I shared something with him. I said, Look, this is what I tell my staff. When I get a new staff member, central staff or whatever, this is what I tell him, I said, you got your responsibilities, okay? Reading the briefs, writing, drafting opinions, you know? Doing research, reading the records. Here's my responsibility to you, okay? And this is very serious. I said, the first thing — and I've

mentioned this before — but first thing I think you should know is that my goal is to put you in the best position to bring your A-game, okay? Whatever that takes, so you need to talk to me, okay? We need to talk to each other to make that happen. That's number one.

Number two, and this is equally important to me, is that I have a responsibility, me personally, as your supervisor, as your leader, to be thankful, to thank you for the job that you're doing, okay? That's on me, okay? And if I fail to do that, that's on me, okay? But I just want you to know that's my goal. I'm not going to be perfect at it, but I'm trying to really, really hard to make that happen, all right? Okay?

So, in terms of my thoughts about the court, my relationships with people here, it's that I hope I accomplish that and you're talking about making people's lives better. I think there's a lot of ways of doing that, right? You help them do a great job, of course, but you also try to just make their day happier, you know? Just giving them some jellybeans or a doughnut, whatever it takes, you know? A limerick, you know? Or helping with something more substantive. That's all part of the process here, but that was what was really enjoyable here is that — you know I came away every day thinking, wow, I'm so glad I was here. I'm so glad I'm here. I've great friends who invite me to your birthday party celebrations, you know? I got my retirement book. It has Ray Younger, one of our staff attorneys, it has that great photo of me apparently holding one of your UCLA bears and it looks like I'm asleep, but I think he just caught me at that awkward moment. He said, Justice Manoukian's chamber got awfully hot, and Justice Mihara loves pastries and he probably just had a little too much to eat. I was kind of cringing about that, but that's okay — Patty's a friend. But I missed your birthday parties that you'd have with the staff, and I miss your staff dearly.

Patricia Bamattre-Manoukian:

We'll keep inviting you.

Justice Nathan Mihara:

Oh, would you?

Patricia Bamattre-Manoukian:

We'll keep inviting you.

Justice Nathan Mihara:

When this COVID thing is off, boy, I'm putting more parking money in the meter, by the way, next time, because I can't miss out on these desserts.

Patricia Bamattre-Manoukian:

Well, Justice Mihara, thank you so much for sharing your personal and professional journey with us today.

Justice Nathan Mihara:

Yeah.

Patricia Bamattre-Manoukian: I wish you great happiness and good health in retirement. I wish you wonderful moments with your family and blessings always. It has been a great blessing to be your friend and colleague. I miss you and I'm grateful for you. Thank you.

Justice Nathan Mihara: Thank you, Patty.

01:59:32