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COLLOQUY

Commonwealth Court of Pennsylvania

Jessamine S. Jiuliante, Senior Judge

and

Daniel Schuckers, Prothonotary

September 14, 2005, 9:28 a.m.

Chambers of Senior Judge Jiuliante

Irvis Office Building

Harrisburg, Pennsylvania

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1 MR. SCHUCKERS: Today is September 14th, 2005, and  
2 this is Dan Schuckers, Prothonotary of the Commonwealth  
3 Court. And we're in the chambers of Judge Jess Jiuliante,  
4 whose chambers are on the fourth floor of the Irvis Office  
5 Building here in the Capitol Complex.

6 And today we're going to sit down with Judge  
7 Jiuliante and discuss some personal reflections of his  
8 concerning his life and his service on the Commonwealth  
9 Court. He has been on the Commonwealth Court since 1996, and  
10 he will be retiring from the Commonwealth Court on December  
11 31st of this year, 2005. He's been an outstanding member of  
12 the Commonwealth Court for the past nine years.

13 Judge Jiuliante, your biography indicates that you  
14 were born in Erie in 1925.

15 JUDGE JIULIANTE: That's correct.

16 MR. SCHUCKERS: Your family was originally from --  
17 your father was from Erie, but your grandfather was from  
18 Philadelphia. Is that correct?

19 JUDGE JIULIANTE: Correct.

20 MR. SCHUCKERS: Do you have any reflections on your  
21 life in Erie and your family background?

22 JUDGE JIULIANTE: Yes.

23 MR. SCHUCKERS: In Philadelphia and Erie?

24 JUDGE JIULIANTE: Yes.

25 MR. SCHUCKERS: And what would they be?

2

1 JUDGE JIULIANTE: Well, first of all, my  
2 grandfather came over in 1887 with his family, and they  
3 arrived in Philadelphia because there was no Ellis Island at  
4 that time. And he settled in Norristown for a very short  
5 period and moved up to Erie, I don't know, probably 1890s or  
6 something like that.

7 My father was born and raised in Erie,

8 Pennsylvania. He went to high school there. He was born and  
9 raised in Erie, Pennsylvania, and he went to high school and  
10 graduated at the age of 15.

11 MR. SCHUCKERS: Your father did?

12 JUDGE JIULIANTE: Yes, my father did and was the  
13 first Italian-American in Erie County. He went to the  
14 Wharton School of Finance and Commerce and graduated there at  
15 the age of 18 with a degree of bachelor's of science in  
16 economics. Now, that was...

17 MR. SCHUCKERS: Of course, that's in Philadelphia.

18 JUDGE JIULIANTE: In Philadelphia.

19 MR. SCHUCKERS: Did you have a lot of relatives in  
20 Philadelphia?

21 JUDGE JIULIANTE: Yes. And I don't know where they  
22 are today. But I have so many relatives in Norristown and  
23 Philadelphia, I've lost track of them.

24 Anyway, he graduated from the Wharton School at the  
25 age of 18 and went into the First World War. And when he

1 came out, he went to law school, University of Pennsylvania,

2 graduated in 1922 and married my mother, who was a school  
3 teacher in South Philadelphia. Afterwards, they moved up to  
4 Erie. My father practiced law there, and I was born in, of  
5 course, 1925.

6 MR. SCHUCKERS: And you were educated in Erie?

7 JUDGE JIULIANTE: Yes. And the background -- I  
8 happen to be fortunate. I graduated valedictorian, and I won  
9 a scholarship in 1943 to the University of Pennsylvania,  
10 which I never used because I went into the service.

11 MR. SCHUCKERS: So upon graduation -- it would have  
12 been in May or June of 1943?

13 JUDGE JIULIANTE: Correct.

14 MR. SCHUCKERS: -- you went immediately into the  
15 service?

16 JUDGE JIULIANTE: Right.

17 MR. SCHUCKERS: What branch did you go into?

18 JUDGE JIULIANTE: I went into the artillery, field  
19 artillery, 115 field artillery, field battalion. And we saw  
20 action in the battle of France and Germany.

21 Mr. SCHUCKERS: 1944 and 1945?

22 JUDGE JIULIANTE: That's correct. And the war  
23 ended. We were in Czechoslovakia. But I came home as

24 quickly as I could, and I had already had a leave of absence  
25 from the University of Pennsylvania because I got a half

4

1 semester in just prior to going to the Army. And I finished  
2 my education and graduated from Penn in 1949.

3 MR. SCHUCKERS: So you graduated from Penn  
4 undergraduate in Philadelphia in 1949?

5 JUDGE JIULIANTE: Correct.

6 MR. SCHUCKERS: And --

7 JUDGE JIULIANTE: Then I went to law school.

8 MR. SCHUCKERS: Did you immediately go to law  
9 school then at the University of Pennsylvania?

10 JUDGE JIULIANTE: Yes, that's correct. I graduated  
11 in 1952 and, of course, then became a lawyer. And I went  
12 into practice with my father.

13 MR. SCHUCKERS: In Erie?

14 JUDGE JIULIANTE: In Erie. And he was a general  
15 practice lawyer and a great trial lawyer, according to all of  
16 his colleagues at that time. I practiced law with him.

17 MR. SCHUCKERS: If you don't mind, Judge, if I can

18 interrupt you for a minute. Were there many Italian-American  
19 lawyers in Erie County at that time in 1950s?

20 JUDGE JIULIANTE: No. My father was the first.

21 MR. SCHUCKERS: Your father was the first?

22 JUDGE JIULIANTE: Yeah. And I have the newspaper  
23 clippings to prove it. And they had a big dinner for him and  
24 everything. I still have the paper; back in 1922. And he  
25 was the first born of Italian descent from Erie to ever

5

1 graduate college and also the first to become a lawyer. And  
2 he held various offices. Well, he was assistant city  
3 solicitor, DA and all that sort of stuff.

4 Then I practiced law with him. Well, I got married  
5 in my last year of law school with a girl from Philadelphia.  
6 I didn't say, of course -- or I forgot to say that my  
7 mother's cousin, my mother's first cousin or my first cousin  
8 -- I can't remember that -- was Senator Tony DiSilvestro from  
9 the first district of Pennsylvania, which was South  
10 Philadelphia, became not only a State Senator but he became

11 Senator pro tem.

12 MR. SCHUCKERS: That would have been 1930s and  
13 '40s?

14 JUDGE JIULIANTE: Yes, sir.

15 MR. SCHUCKERS: So he was a State Senator from  
16 South Philadelphia?

17 JUDGE JIULIANTE: Yes, sir.

18 MR. SCHUCKERS: And also president pro tem of the  
19 Pennsylvania Senate?

20 JUDGE JIULIANTE: Senate, right. His wife was a  
21 very well-known pharmacist, because both of them had  
22 pharmacies in Philadelphia at 15th and Dickinson in the heart  
23 of the Italian district. And she became a trustee of the  
24 Philadelphia School of Pharmacy, was well-known, appointed by  
25 the Governor and all that sort of stuff.

6

1 My mother also, before she married my father in  
2 1922, was a school teacher in South Philadelphia at Eleventh  
3 and Tasker.

4 MR. SCHUCKERS: In your home as you were growing

5 up, I take it there was a great emphasis on education.

6 JUDGE JIULIANTE: Definitely.

7 MR. SCHUCKERS: Was education perceived in your  
8 family as the way to get ahead?

9 JUDGE JIULIANTE: Yes. My two sisters -- my one  
10 sister, my youngest sister, became the first female  
11 pharmacist in Erie. And my other sister went to Ohio State.

12 My one sister went to University of Pittsburgh and  
13 became a pharmacist. My other sister went to Ohio State and  
14 got a degree in business administration. How many women  
15 would get that at that time? This was all in the early '40s.  
16 So they were educated. My father believed in giving every  
17 one of his kids an education because that was very important.

18 Most of the families that came from Europe --  
19 education was the first thing, people that are well-known for  
20 that better than anything -- this is off the record; you  
21 might want to strike it -- is Jewish people.

22 MR. SCHUCKERS: Your parents obviously believed in  
23 educating both the boys and the girls.

24 JUDGE JIULIANTE: Yes.

25 MR. SCHUCKERS: My experience is that, from my

1 reading of history, so often in the 1920's, '30s, '40s, '50s,  
2 the boys would be educated first and the girls second. In  
3 your family, no difference was made?

4 JUDGE JIULIANTE: That's correct. That's correct.  
5 I was very fortunate and had the GI Bill. I never did use my  
6 scholarship to the University of Pennsylvania. I could have,  
7 but I didn't. I didn't know that at the time, so I gave it  
8 back. But my father took care and saw that my sisters got  
9 educated. And they actually graduated college before I did.

10 Oh, and we were all musically inclined. We had a  
11 trio. I played piano. My one sister played the violin, and  
12 the other one played the cello.

13 MR. SCHUCKERS: Did you go on tour?

14 JUDGE JIULIANTE: Almost. People came to the  
15 house, and we had to play for them. That's just a thing that  
16 can be struck, but I remember it. Go ahead now.

17 MR. SCHUCKERS: You graduated from Penn in 1952?

18 JUDGE JIULIANTE: Yes, sir.

19 MR. SCHUCKERS: And then returned to Erie?

20 JUDGE JIULIANTE: Yes, sir.

21 MR. SCHUCKERS: And practiced law with your father  
22 there?

23 JUDGE JIULIANTE: Yes, sir.

24 MR. SCHUCKERS: And how long did you practice with  
25 him?

8

1 JUDGE JIULIANTE: Well, he died in 1968. And I  
2 took over the law firm, and I had a law firm, my law firm. I  
3 mean, I had seven or eight lawyers with me. And then when I  
4 became a judge, it broke up; everybody went their separate  
5 ways.

6 MR. SCHUCKERS: When you were in practice with your  
7 father, was there any specialty that you had -- defense work,  
8 plaintiff's work?

9 JUDGE JIULIANTE: No. This is interesting.

10 When I practiced with my father, I was in his  
11 shadow. I did title searches and things of that sort. When  
12 people would come in the office, they came to see him. They  
13 didn't want to see the kid, me, and I could understand that.

14           When he died in '68, that's the first time I ever  
15 made any money because now they came to see me. And I'll  
16 never forget the people would come in, some of my dad's old  
17 clients, brought a will or something. \$35 for the will in  
18 those days. And I said, "We've got to get \$50." They said,  
19 what? Your father only charged us \$35. You know, the  
20 old-timers.

21           And during the depression, I can remember going to  
22 the farms, and we'd get paid -- my dad would get paid in  
23 produce, chickens, whatever it was during the '30s.

24           MR. SCHUCKERS: But your practice was a general  
25 practice?

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1           JUDGE JIULIANTE: Yes, it was general practice.  
2 And then when he died, I did quite a bit of criminal work.  
3 And I was an assistant public defender, first assistant  
4 public defender in Erie when they formed it.

5           MR. SCHUCKERS: Did you enjoy that?

6           JUDGE JIULIANTE: Well, it was a salary, and you  
7 had benefits. It was not the first public defender system in

8 Pennsylvania because that was done in Philadelphia, and the  
9 head man there was a man named Vince Ziccardi.

10 And I'll never forget when there was a battle going  
11 on about the public defender's office and Philadelphia was  
12 very far behind in all their cases. And it hit the Parade  
13 Magazine. And I can tell you that, but that's another story.

14 MR. SCHUCKERS: So you were doing criminal defense  
15 work?

16 JUDGE JIULIANTE: Yes. And then I started to get  
17 into family law, divorce work. My father had probably the  
18 largest divorce practice in Erie, and I did a lot of that.  
19 And it was very instrumental. I had people in my office  
20 involved in passing the Divorce Code in 1980. One of the  
21 people that was with me in my office gave advice to the State  
22 Senate on the new Divorce Code.

23 MR. SCHUCKERS: You practiced in state and federal  
24 court?

25 JUDGE JIULIANTE: I had a limited practice in

1 federal court. This is off the record. That was a funny  
2 one. I don't want to go into that because there was a  
3 gentleman who was a judge at that time -- I can't remember  
4 his name. He was Scotch. And I, if I practiced, if I'd go  
5 into federal court and he was sitting on the bench, which he  
6 was, he bent over backwards to help me, and it was  
7 embarrassing. Yeah. Yet I'm telling you. If I could  
8 remember his name.

9 MR. SCHUCKERS: Did you do much administrative law  
10 practice with the agencies?

11 JUDGE JIULIANTE: No. I did some workers' comp.  
12 What else did we do at that time?

13 MR. SCHUCKERS: Unemployment compensation?

14 JUDGE JIULIANTE: Yes. I did a couple of cases  
15 like that, few cases. But most -- no, it was regular,  
16 regular civil cases, automobile accident cases. No, I didn't  
17 do very much administrative law cases. We didn't have that  
18 many administrative law cases in Erie, PA, at that time.

19 MR. SCHUCKERS: You mentioned after your father  
20 passed away that the firm expanded?

21 JUDGE JIULIANTE: Yeah. I brought people in with  
22 me. I guess we had -- oh, I can't remember -- maybe seven or  
23 eight, six or seven. We built a new building, two stories.

24 And I'll never forget this -- beautiful three-story building.

25 A couple -- we had to sell it because the City of Erie

11

1 screwed us because of the LERTA; we didn't get what we were

2 promised, taxes.

3 MR. SCHUCKERS: You then were appointed by Governor

4 Thornburgh to the bench?

5 JUDGE JIULIANTE: That's correct.

6 MR. SCHUCKERS: Can you give us a little background

7 on that?

8 JUDGE JIULIANTE: Well, I decided to run -- yeah,

9 I'll give you background on that. I decided to run in 19 --

10 the end of 1980. And another fellow decided to run against

11 me, and he was a Republican. I was a Democrat. His name was

12 Richard Nygaard, who happens now to be with the Third

13 Circuit.

14 MR. SCHUCKERS: Third Circuit.

15 JUDGE JIULIANTE: So we filed on both tickets. He

16 took a poll, and I had him four to one. And he pulled out

17 before the primary. I went down to Harrisburg.

18 Roger Fisher, another attorney, and I -- he was

19 chairman of the party -- we had his name removed from the

20 ballot. My name was on there, and I had both nominations.

21 So that's why Governor Thornburgh appointed me before I could

22 be sworn in with my ten-year term. He had no choice.

23 MR. SCHUCKERS: You were automatically going to

24 win. There was no way that you'd lose, so Governor

25 Thornburgh appointed you in 1981?

12

1 JUDGE JIULIANTE: Yeah, he did, early in '81. I

2 assumed the bench in November 1981, but he appointed me long

3 before that. I didn't want to get sworn in. I had a big law

4 practice I had to get rid of, take care of, so I held off

5 until the President Judge of our county said you've got to

6 get on there, we need you.

7 MR. SCHUCKERS: Was it difficult to phase out your

8 law practice and hand it over to the younger lawyers?

9 JUDGE JIULIANTE: It wasn't difficult, but I had a

10 lot of pending cases that I had to finish. And they kept on

11 going. The law firm split up. Some went someplace; some  
12 went someplace else. So what I did -- we had just been in  
13 that new building that we built, you know. So everybody left  
14 there, and we got rid of it.

15 MR. SCHUCKERS: And then you served -- the  
16 President Judge insisted that you come onto the bench because  
17 they needed you?

18 JUDGE JIULIANTE: I'll never forget the time they  
19 appointed me. I get sworn in by the President Judge. The  
20 minute I'm sworn in, in comes a jury; I had a criminal case.  
21 I said, I don't know what the hell to do. I'm sitting as a  
22 judge. I knew what to do as a lawyer, but I didn't know what  
23 to do as a judge. But I fortunately had an assistant  
24 district attorney, here's what we're going to do. I had my  
25 first case the same day I was sworn in within an hour.

13

1 MR. SCHUCKERS: So you served on the bench there  
2 from 1981 until 1995?

3 JUDGE JIULIANTE: The end of '95.

4 MR. SCHUCKERS: End of '95.

5 JUDGE JIULIANTE: Compulsory retirement.

6 MR. SCHUCKERS: And you had both criminal and civil  
7 cases?

8 JUDGE JIULIANTE: Oh, I handled everything. We did  
9 not have -- we weren't split up. We had no different courts;  
10 all the same.

11 MR. SCHUCKERS: So you were appointed by the  
12 Governor, but he appointed you early because you were  
13 automatically going to get the election because there was no  
14 opposition?

15 JUDGE JIULIANTE: Yeah.

16 MR. SCHUCKERS: Then you had to run for retention  
17 ten years later. It would be 1991. You had no problem  
18 there, I take it?

19 JUDGE JIULIANTE: No.

20 MR. SCHUCKERS: But by that time, you were  
21 President Judge in Erie County?

22 JUDGE JIULIANTE: Yeah, I was.

23 MR. SCHUCKERS: And what were your responsibilities  
24 as President Judge?

25 JUDGE JIULIANTE: Well, before I became -- I can't

1 remember. I was also, I was chairman of the judicial review  
2 board, and I was the last chairman before they changed all  
3 the rules and set it up differently. And I was chairman four  
4 out of -- three out of the four years. I succeeded Edmund  
5 Spaeth. And you're only appointed for four years. And I was  
6 there, and I'd come down to Harrisburg every month.

7       And I was involved in the Rolf Larsen case, who at  
8 that time was a Supreme Court justice. And I served with  
9 guys like Frank Montemuro, Bruce Kaufmann, who used to be on  
10 the Supreme Court, and people like that. We were all  
11 together. I came down all the time for that; chairman three  
12 out of the four years.

13       MR. SCHUCKERS: As President Judge, you had  
14 administrative duties?

15       JUDGE JIULIANTE: Yes.

16       MR. SCHUCKERS: How many judges did you supervise  
17 in Erie County?

18       JUDGE JIULIANTE: I'm trying to remember. We have  
19 nine now. I think it was six at that time.

20 MR. SCHUCKERS: Did you enjoy being President  
21 Judge?

22 JUDGE JIULIANTE: Well -- yes. Because we did a  
23 lot of things. We met quite often, and every judge was  
24 handed a specific assignment, not necessarily trials or  
25 anything like that, but maybe if we wanted to change the

15

1 rules.

2 And we had a marvelous group of judges in there at  
3 that time. They were not only well qualified, but things ran  
4 smoothly. Supreme Court admitted that. That's why we got  
5 this citation from the Supreme Court because of how well we  
6 worked.

7 MR. SCHUCKERS: And did you have one law clerk or  
8 two law clerks as President Judge?

9 JUDGE JIULIANTE: No, everybody had one law clerk.  
10 That's all anybody had in the whole state, still only have  
11 one law clerk.

12 MR. SCHUCKERS: And this would be recent law school  
13 graduates?

14 JUDGE JIULIANTE: Yes.

15 MR. SCHUCKERS: And they would stay with you

16 usually one or two years; would that be common?

17 JUDGE JIULIANTE: Yes. Now, my present law clerk

18 has been with me, of course, 15 years. She was with me four

19 years -- maybe four or five years.

20 A lot of the judges at that time just let them stay

21 two years at the most, and they get somebody else. I often

22 felt if I found a good one and that person turned out to be a

23 good law clerk, why change, because they're a big help and,

24 you know, especially with court of common pleas.

25 MR. SCHUCKERS: When you were President Judge of

16

1 Erie County, what was your relationship with the county

2 commissioners?

3 JUDGE JIULIANTE: I'm trying to think when we went

4 to home rule charter. My relationship with the county

5 commissioners prior to becoming a judge was very close. I

6 had a good relationship with the county commissioners. But

7 when I was President Judge, we were home rule chartered there  
8 I think somewhere in the 1980s.

9 We were home rule chartered, and I had county  
10 counsel, of course. I had an excellent relationship with  
11 them because I went in and got whatever budget money I  
12 needed. And the county commissioners were friends, and I  
13 never had any problem with them getting what we needed for  
14 funding or anything like that. It was excellent.

15 MR. SCHUCKERS: In terms of any important cases  
16 that you had, do you recall any important cases you had as  
17 judge or as President Judge in Erie County?

18 JUDGE JIULIANTE: I had important cases. I had one  
19 case, a murder trial, homicide case, and I gave the  
20 definition of torture, which never happened in Pennsylvania  
21 before as far as -- there was never any definition of torture  
22 in Pennsylvania.

23 And that was -- I was the first judge to do that  
24 because this person was found guilty by the jury of killing  
25 somebody and torturing him while he was doing it. And that

1 stood for quite awhile. I think it still stands as the  
2 definition of torture.

3 MR. SCHUCKERS: And was the death penalty then  
4 involved in that case?

5 JUDGE JIULIANTE: Yes, sir.

6 MR. SCHUCKERS: And an immediate appeal was taken  
7 to the Supreme Court?

8 JUDGE JIULIANTE: Yeah. And that lasted 12 years.

9 MR. SCHUCKERS: And I take it you were affirmed  
10 then?

11 JUDGE JIULIANTE: I wasn't -- I was not -- I was  
12 affirmed, but they didn't want this kid to get the death  
13 penalty because they felt the jury didn't have any, didn't  
14 have any right to give the death penalty even under the  
15 definition of torture.

16 MR. SCHUCKERS: You turned 70 in 1995, and under  
17 the Pennsylvania Constitution, there's a mandatory retirement  
18 for judges once they turn 70. You then became a senior  
19 judge?

20 JUDGE JIULIANTE: I became a senior judge, and, of  
21 course, I was appointed as a senior judge. And I -- for that  
22 year, for the year of 1996, I travelled all over western

23 Pennsylvania.

24 MR. SCHUCKERS: As a senior judge?

25 JUDGE JIULIANTE: As a senior judge in the court of

18

1 common pleas. The first three months as a senior judge, I  
2 was assigned to Pittsburgh. And I went down every Sunday and  
3 came back every Friday afternoon, late Friday afternoon.

4 And I took the place of a judge who was in the  
5 civil division who was -- I'll never forget his name, a  
6 fellow by the name of McFalls. And he was --

7 MR. SCHUCKERS: Drinking problem?

8 JUDGE JIULIANTE: Yeah, drinking problem. And the  
9 Supreme Court says this is it; you've been in too much  
10 trouble so you're going to have to take a leave of absence  
11 and some judge will take your place.

12 They sent me down there for that, and I did nothing  
13 but three months of civil trials, not knowing anything about  
14 them until the time the jury was sitting in the jury box.

15 And we cleaned up a lot of work. I'll never forget that.

16 MR. SCHUCKERS: But you travelled throughout

17 western Pennsylvania, not only Allegheny County but other  
18 counties?

19 JUDGE JIULIANTE: Other counties after that. I  
20 think I hit 10 or 11 counties. Washington, PA. They charged  
21 me -- I was the devil in the red robes.

22 I cleaned up the -- in Washington County, I cleaned  
23 up the backlog of their criminal cases. The DA down there  
24 wasn't doing his job. The newspaper wanted to kill him for  
25 crying out loud. So they sent me down there, and I got rid

19

1 of a lot of criminal cases, sentenced them.

2 And they called me, the newspaper called me -- this  
3 is a sideline; called me the devil with the red robes because  
4 I always wore a red robe. I was the only one in the state to  
5 wear a red robe. But I did get permission to wear that red  
6 robe by the Supreme Court when I was sworn in as a judge.

7 MR. SCHUCKERS: I understand the red robe goes back  
8 in English history four, five, six hundred years?

9 JUDGE JIULIANTE: Death of Queen Anne. All the

10 British wore the red robe. The queen died, and nobody went  
11 back to the red robe. I think it's time they buried her; my  
12 God. I did it. I don't know why I did. I'm a maverick, I  
13 guess.

14 MR. SCHUCKERS: Did you enjoy being a visiting  
15 senior judge, going around to other counties?

16 JUDGE JIULIANTE: Well, certain counties I did.  
17 Washington County I enjoyed it because not only was I allowed  
18 to but when they called me the judge, the devil, what did I  
19 say, the devil in the red robe, people would come in the  
20 courthouse to look at the devil in the red robe. That was  
21 me. I didn't know what they were doing there. That was  
22 funny.

23 Anyway, I don't think I have the paper on that.  
24 Then I went to -- after that I went to -- I mean, after the  
25 three months with Pittsburgh, I went to different counties, a

20

1 lot of them.

2 MR. SCHUCKERS: And then in late 1996, I guess it  
3 was, you were appointed to the Commonwealth Court as a senior

4 judge?

5 JUDGE JIULIANTE: Yes.

6 MR. SCHUCKERS: Do you remember how that occurred?

7 JUDGE JIULIANTE: I was a good friend of Justice

8 Flaherty and Judge Zappala whose father, by the way, was

9 counsel with me when I was practicing law in Erie, counsel

10 with my firm when I was practicing law in Erie. The old

11 gentleman was very well-known in Pittsburgh. He was the only

12 guy who would stand up to Dave Lawrence, who was the Governor

13 at the time, and told him where to go.

14 They just said there was an opening and I was going

15 to be appointed. They told me this a year before, but I'm

16 supposed to not say anything, keep my mouth shut because so

17 many people wanted to get on that. The reason being, they

18 felt sorry for me because I hadn't been on the bench as a

19 common pleas judge long enough to get any kind of a good

20 pension.

21 MR. SCHUCKERS: You had been there 14 years?

22 JUDGE JIULIANTE: That's not -- you know, today --

23 don't forget, when I went on there, it was only \$55,000 a

24 year. Now they're getting triple that.

25 MR. SCHUCKERS: So you were appointed to

1 Commonwealth Court in 1996?

2 JUDGE JIULIANTE: Yeah, to take over in 1997,  
3 January of 1997.

4 MR. SCHUCKERS: Did you have -- had you had any  
5 experience with Commonwealth Court before that?

6 JUDGE JIULIANTE: None. Maybe once I might have  
7 been there.

8 MR. SCHUCKERS: Did you know many of the judges of  
9 the Commonwealth Court before that?

10 JUDGE JIULIANTE: I think Bernie McGinley was on  
11 there. He called me before he ran for office and said, Jess,  
12 are you going to run? He was from Pittsburgh, Allegheny  
13 County. I said I don't want to run for Commonwealth Court.  
14 He said okay, I'm going to run, or else he wouldn't have run.

15 No, I didn't have that much of an interest because  
16 you have to understand this, the work that is done in the  
17 Commonwealth Court is not usually what a trial judge does in  
18 common pleas court. Our work usually goes to the Superior  
19 Court. And the reason for the Commonwealth Court being

20 started was to take care of all of the administrative law  
21 stuff because the common pleas court could not handle it. Am  
22 I right?

23 MR. SCHUCKERS: That's correct.

24 JUDGE JIULIANTE: Okay. So I didn't have, me or  
25 any other judge that comes directly from the common pleas

22

1 court going to Commonwealth Court has no experience in  
2 administrative law cases, workers' comp, unemployment comp,  
3 compensation cases and very little administrative law because  
4 they've got all of those hearing boards. And the final one,  
5 from there, they go to the Commonwealth Court; the prison  
6 litigation cases, anything like that, any prisoner that's got  
7 a state sentence.

8 MR. SCHUCKERS: So your practice, in your practice  
9 from 1952 to 1981, you had very little experience in  
10 administrative law?

11 JUDGE JIULIANTE: That's correct.

12 MR. SCHUCKERS: And then as a common pleas court

13 judge from 1981 to 1996, you had very little experience with  
14 administrative law?

15 JUDGE JIULIANTE: Yeah.

16 MR. SCHUCKERS: Some of our jurisdiction does  
17 involve administrative agencies. How have you enjoyed those  
18 cases?

19 JUDGE JIULIANTE: It was like a learning process  
20 all over again. I think a person that comes directly from  
21 court of common pleas after retiring, after mandatory  
22 retirement goes into Commonwealth Court not having very,  
23 having very little to do with workers' comp even. I think  
24 that they have -- it's a learning thing all over again,  
25 learning process all over again. It was with me.

23

1 Now, I did have workers' comp cases; I settled a  
2 lot of them. I did have those, but that was about it. They  
3 didn't have stuff about environmental hearing board or  
4 anything like that. That DEP and stuff, that was all recent.

5 MR. SCHUCKERS: That came in the 1970s.

6 JUDGE JIULIANTE: Sure. So we didn't have that.

7 That's why the Commonwealth Court was formed because the  
8 common pleas court couldn't handle all the stuff that they  
9 had jurisdiction in. They were swamped.

10 MR. SCHUCKERS: That's right. In the last nine  
11 years, have you -- you've obviously had a learning experience  
12 with administrative law. Any particular cases that jump out  
13 at you that were interesting?

14 JUDGE JIULIANTE: There was a few. One of them was  
15 the wild salmon case; that's the Eagle case. Then there was  
16 one in Philadelphia; then there was one with the kid. I have  
17 three of these cases here.

18 MR. SCHUCKERS: What I'll do is I'll mention those  
19 in the citation to -- the citations to those.

20 In your experience with the Commonwealth Court,  
21 you've had to interact with the judges of the Commonwealth  
22 Court, and I think you've served under Judge Colins and Judge  
23 Doyle as President Judge.

24 JUDGE JIULIANTE: Yes, sir.

25 MR. SCHUCKERS: How have you been able to interact

1 with the other judges of the Commonwealth Court?

2 JUDGE JIULIANTE: Oh, very well. No problem at  
3 all, no problem.

4 MR. SCHUCKERS: Have you felt that the senior  
5 judges have been handled very well by the President Judges in  
6 terms of administrative duties --

7 JUDGE JIULIANTE: No question about it. We had an  
8 advantage over most of the people that are judges on the  
9 Commonwealth Court in that we had trial court experience.

10 And these people that came directly from elected,  
11 as elected officials, whether it be local or whether it be --  
12 as long as they were attorneys, I mean; assistant city  
13 solicitors or whether they be state representatives or  
14 anything of that sort, had never had much courtroom  
15 experience or very little.

16 It stands us in good stead; best example of that is  
17 Judge Robin --

18 MR. SCHUCKERS: Simpson.

19 JUDGE JIULIANTE: -- Simpson. This guy is good.  
20 He knows it. We get along very well, he and I. But a lot of  
21 them didn't have that experience. I can name them, but I'm  
22 not going to. And it's good to have a few judges on that

23 court that have had experience in the common pleas court.

24 MR. SCHUCKERS: Looking back on your nine years

25 with the Commonwealth Court, is there anything that you would

25

1 change in terms of how things are handled, any type of cases

2 that you didn't care for and you'd like to transfer to

3 another court in terms of our jurisdiction?

4 JUDGE JIULIANTE: No, nothing like that. I

5 wouldn't have anything to do with that. But there are things

6 I'd like to change with the conduct of our court when there's

7 argument court.

8 I am a firm believer in any appellate court that

9 you should let the attorneys try their cases and not

10 interfere with what they want to say and not say well, what

11 if this happened, what if that happened. Go according to the

12 facts that are presented to you and then see how they comply

13 with the law or they don't, that's what we should do.

14 I don't like this jousting back and forth, well,

15 what about that case that happened over there? Take the

16 facts as they're presented in the appeal before you, in the  
17 case that's on appeal before you, determine what the law is  
18 and everything of that sort, let the attorneys make their own  
19 mistakes or let the attorneys -- but it's up to the Court to  
20 listen to this and not go in and say well, why didn't you do  
21 this case or how about if this would have happened or  
22 something.

23 MR. SCHUCKERS: Are there any procedures that you  
24 would change? For instance, we've had controversies  
25 concerning the number of unreported decisions we have. I

26

1 think the ratio is about three to one unreported to reported.

2 Would you report more or less?

3 JUDGE JIULIANTE: I don't have any feelings one way  
4 or the other on that.

5 MR. SCHUCKERS: How about number of cases argued?  
6 When the Commonwealth Court was originally started, all cases  
7 were argued, even cases involving pro ses. But now with  
8 about 1800 cases a year, only about a quarter of them are  
9 argued.

10 JUDGE JIULIANTE: That's correct.

11 MR. SCHUCKERS: Do you feel that we should argue

12 more or less cases?

13 JUDGE JIULIANTE: Less.

14 MR. SCHUCKERS: Less cases?

15 JUDGE JIULIANTE: Yes, because everything that's

16 brought before the Court in oral argument is already in the

17 briefs with a few exceptions.

18 MR. SCHUCKERS: Right.

19 JUDGE JIULIANTE: You know, maybe something was

20 left out or they wanted to emphasize something, fine.

21 I am absolutely, without a doubt, in conclusion,

22 awed by the fact that our court, even though it's an

23 intermediate, appellate court, is the first one controlled by

24 women and the only one in the United States right now

25 controlled by women: Five women judges and four men judges.

27

1 And that's because in the election of 2001, two

2 women were elected and one man was elected. And as a result,

3 we now have five female judges and four male judges. You're  
4 going to see more of that.

5 MR. SCHUCKERS: You've seen a real change in the  
6 law in that respect, in the profession?

7 JUDGE JIULIANTE: In the profession.

8 MR. SCHUCKERS: That began to really change in the  
9 1970s and 80s.

10 JUDGE JIULIANTE: There are more women in medical  
11 school right now and more actually in law school now.

12 MR. SCHUCKERS: What effect do you think that will  
13 have on the profession, the legal profession itself?

14 JUDGE JIULIANTE: I can't tell you that. I don't  
15 know what the effect would be. I will say this, though; it  
16 means that there's a trend. And the trend is -- and I've  
17 said it for years, that the trend is women are going to  
18 control this world.

19 MR. SCHUCKERS: Well, Judge...

20 JUDGE JIULIANTE: You're afraid to say anything,  
21 but I'm not. And they're going to rule the world; they will.  
22 Look at the numbers that are in office right now. You know,  
23 how many United States Senators -- it was unheard of ago 50  
24 years ago that were women. There are about 15 or 18 now.  
25 How many Congresswomen? How many in the state legislature,

1 state legislatures? What does that mean? What does that  
2 tell you? What do you think, Dan?

3 MR. SCHUCKERS: Oh, I see the trend. I see the  
4 trend, too.

5 Judge Jiuliante, thank you very, very much. It's  
6 been a great pleasure sitting here talking to you about your  
7 career.

8 I should mention particularly in light of your last  
9 remarks that yesterday, we had a picnic at the Commonwealth  
10 Court and we honored Judge Jiuliante and President Judge  
11 Colins read a proclamation from the Governor.

12 But more importantly, the judge's senator from the  
13 49th district up in Erie, Jane Earll, came. And, of course,  
14 she made a very nice presentation on behalf of the  
15 Pennsylvania Senate. As I recall, she's a three-time  
16 Senator, and she also was the Republican Lieutenant Governor  
17 candidate two or three years ago. We all had a great time  
18 there honoring Judge Jiuliante, and we thank him for his

19 service in the last nine years on the Commonwealth Court.

20 Thank you, Judge.

21 JUDGE JIULIANTE: Okay.

22 (Whereupon, this colloquy ended at 10:08 a.m.)

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