

ORAL HISTORY

THE HONORABLE AARON E. GOODSTEIN

UNITED STATES DISTRICT MAGISTRATE JUDGE
FOR THE EASTERN DISTRICT OF WISCONSIN

JULY 26, 2011



Maria: It is July 26, 2011, and I am here with Aaron E. Goodstein, United States Magistrate Judge for the Eastern District of Wisconsin. I am one of Judge Goodstein's former law clerks, and we are here to prepare his oral history.

Judge, I am going to start with a discussion about your ancestors. I want to get a sense of where you came from and I want to start with the paternal side. We are going to talk about both. But start with your ancestors on the paternal side.

Judge: Well like everyone, we all come from somewhere. My Dad's mother and father both came from the Ukraine, from a small village near Kiev, as they are referred to in Yiddish – a little "Shtetl." Anybody that has seen *Fiddler on the Roof* would be acquainted with the term.

They both came to the United States. In speaking to my grandfather, he said he left when he was age nineteen when he was about to be drafted into the army, and he knew that was a sure way for a short life. He wanted to be a teacher, at least in Russia, but he left and he met my grandmother, who also came from a small village near there. They didn't know each other at that time, but they made their way to Sheboygan, Wisconsin. I think they each had relatives there and then they met each other. My father was born in the United States.

Maria: What was his name?

Judge: His name was Ben. His birth certificate actually says Benny, but Ben was the name he used.

Maria: I am curious. Ukraine to Sheboygan. What was the occupation of the relatives who were in Sheboygan?

Judge: As many of the people of that generation, they left Russia mainly for political reasons. For survival, they worked their way to the United States; they maybe had family that came there earlier and they were peddlers, things like that. And they also operated little grocery stores. I am not sure what my grandfather did. My first recollection was that my father started his own business and my grandfather was working there. So whatever he was doing beforehand apparently was not as good as working with my dad.

Maria: What did they do together?

Judge: My father became a watchmaker and he opened up his own store and eventually, not only would be repairing watches and clocks, but he sold watches, he sold jewelry. It was jewelry and fine gifts -- China, diamonds, sterling silver, and he ran the businesses for about fifty years. There were three of us in the family. My brother and sister and me. None of us really wanted to stay in Sheboygan after we went to college. We went elsewhere, so unfortunately there was no one that he could pass the business on to and he just closed it down. After he closed it, he did not fully retire, but would repair people's watches and clocks. It was sort of a dying business. Today, if your watch breaks, you just take it in, they put in a

whole new movement and give you a new watch. In those days, and maybe with some fine watches today, there were actually movements, gears and different parts that you could replace and repair.

Maria: Do you know how your father became a watchmaker as opposed to any other occupation?

Judge: No. He wanted to go to college, but he could not afford to. I am not sure how he got into that business.

Maria: He married your mother, who is also from Sheboygan?

Judge: My mother's side of the family also came from Eastern Europe, but they came from Poland. They settled in the Appleton-Kaukauna area. Why did they settle there? At least what she told me from her parents is that that area in Appleton was very similar to the geography of the small town in Poland that they left. I did not know my mother's parents. I was named after her father, Aaron, but both her mother and father passed away before I was born. Her grandfather, my great-grandfather, was a rabbi in Poland. They had other family and settled in the Appleton-Kaukauna area where my parents met. I guess they had mutual friends and they were fixed up and just started dating.

Maria: What was it that your mother did?

Judge: My mother also did not go to college. In fact, I was the first one in the family to attend college. But, she was the mother, the homemaker. When my dad started the store, she worked there so it really was a family run business.

Maria: Works out well for her.

Judge: Worked out well because she would wear the merchandise and people would say, "Oh that is a very nice necklace," and she would say, "Do you want to buy it?" And that is how you make a sale -- get a better appreciation for it. So they both worked at the store with my grandfather.

Maria: What was your mother's name?

Judge: Her name is Rachel. And, on both my mother and father's side, in those days they had big families. My father had six siblings, only one girl and the rest were boys. Today, I still have one aunt, the girl who was the youngest, and an uncle, who was the second youngest. The rest have died. On my mother's side, she also had six siblings. Sisters and brothers and none of them are living. Since I did not know her parents, I am not sure what they did, but I know her brothers were peddlers when they started a scrap metal business and became quite successful.

Maria: That is a big family. I imagine your family gatherings were an ordeal.

Judge: My mother's side, most of the family, at least when I was young, remained in the Appleton-Kaukauna-Marinette area in Wisconsin, some went as far south as Racine. But most of them stayed in Wisconsin. On my dad's side, they moved to New York, Colorado Springs, Florida, California, one went to Milwaukee. So I think the gatherings on my mother's side were a little bigger because we were still in Wisconsin.

Maria: You said you have a brother and a sister?

Judge: Right. I am the oldest. My brother is three years younger, and my sister is six years younger. I suppose my parents, every three years, at least for a while said, okay, time to add to the family.

Maria: What is your brother's name?

Judge: My brother's name is Barry and my sister's name is Sandra. My brother now lives in and has lived in Milwaukee for a number of years, so we get together quite often. He has one son. My sister moved to LaCrosse and they have two daughters.

Maria: What does your brother do?

Judge: My brother has been in sales for most of his career.

Maria: But not watches and jewelry?

Judge: No. As you look back you say, because he was a salesman, he probably would have been the primary candidate to take over my dad's store and continue to run it. But that was not his interest. He graduated from college and went to Chicago. He was a chemistry major and he worked for a chemical company, then Gillette, but quickly went into sales, because he is a talker. You can't get a short answer from him, so sales suited him perfectly. He would be selling ads. He went into radio and he sold ads. He was in Minneapolis for awhile, came back to Milwaukee and then started his own business called Travel Host magazine. It is one of these magazines that you see in hotels that is basically filled with ads of restaurants and other establishments; places you should see while you are in town, so that is what he is doing. My sister became an x-ray tech and she worked for a hospital in LaCrosse until she retired. She and her husband now live and winter in Florida near Orlando. My brother's wife passed away about two years ago, but she worked for the Jewish Center and before that, United Way.

Maria: Let's rewind. Tell me a little bit about your childhood.

Judge: First of all, Sheboygan was a small-to-medium size city. The Kohler Company was near and was a big employer. When I was growing up there were maybe thirty thousand-to-forty thousand people who lived in Sheboygan. It was the small town atmosphere in those days and you did not lock your door. Nobody ever locked the door of their house. You could ride your bike all over town. You

did not have to have a lock on your bike, you just left it there and played baseball, whatever you did and got on your bike and came home. We lived in a duplex and my grandparents lived upstairs. I shared a bedroom with my brother. My sister, as the only girl, got her own bedroom. We had one bathroom. I am not sure how we juggled it, but we somehow managed to do it. I lived in the same house all through college. When I was away at college, my parents moved. But they told me where they went!

Maria: What were some of the things you liked to do in high school in terms of extra curricular activities or sports?

Judge: Our house was near a park with a baseball diamond and a summer playground with many recreational things to do. In the summer, we would always walk over and we could play tennis or do different activities. Baseball was my favorite sport and you could always get up a game with other guys, so we would play baseball every day and once it got a little more organized, we would hop on our bike and go cross town or wherever we would play. The other thing that I remember doing when I was young, and this was probably junior high school and on, is that I liked to read a lot. I would pick up and read anything. I always encouraged my kids to read. It does not matter what you read, just so you are reading. I remember reading even the most salacious book at the time which was *Peyton Place*. Oh, that was really racy because it had a few sex scenes in it and bad language. I even read books for next year's school assignments. I would just plop down and read in between playing baseball and my dad trying to get me to help him out at the store.

Maria: You mentioned Kohler Company. Did you ever work there?

Judge: Kohler Company was a big employer and in fact, in the mid-1950's there was a huge strike which was very bitter and it deeply affected the town. Because you had workers that went out on strike and other workers that stayed on the job in order to support their family, but sometimes those working and those on strike were in the same family. It created a real schism and animosity and it broke up families. It was a very prolonged strike with legal battles that lasted for a number of years. It affected my dad's business because the workers would get paid on Friday which was a big day when they would come in and do their shopping. If they were saving up their money to buy a ring or something like that - it would be Friday. But during the strike which lasted for years, people did not have as much money to spend. I know that veered away from your question, whether I worked at the Kohler Company. I never was employed by the Kohler Company, but I worked construction when I was in college. A friend of mine's father owned a small construction company and so I did the grunt labor. We put in sidewalks, curbs, gutters and things like that and we had a lot of work in the Village of Kohler as it expanded to accommodate its workers. The Kohler Company, which was founded a hundred years ago in the late 1800's, created a community for its workers. If you worked at the company, they provided a house for you. That changed over the years, but as more people moved into Kohler, sidewalks, curbs

and gutters were needed and the crew that I worked with put in a lot of those. I also worked with a jackhammer which would knock out concrete. The Kohler Company had these huge kilns or ovens, that every year had to be cleaned out. The brick had to be removed and be re-bricked and how do you remove the brick? Well, you had someone low-level on the working totem pole that was sent into the big oven with this jackhammer and knocked out the brick. And that was me. The lowest guy on the totem pole.

Maria: Did you start those in college?

Judge: Yes, and it paid for college. College was relatively inexpensive compared to what you have to pay today. But still, at that time, you had to get the money for college and that is how I earned my way through college, just working construction.

Maria: Where did you go to college?

Judge: I attended undergrad at the University of Wisconsin in Madison, and that is where I went to law school. So I spent a lot of time in Madison.

Maria: Did you eventually move to Madison at any point during college?

Judge: During college, I would just come back during the summer or vacation because I was working construction. In law school, I had jobs in Madison over the summer. I was doing research for a professor for two summers and then we got married after my second year. So, I was basically living in Madison while in law school.

Maria: When you were in college, what classes did you take?

Judge: Well, let me first go back to high school.

Maria: Did those classes influenced where you went?

Judge: Well that is right. When I was in high school I tried out for sports, but I was a little too short and I was a little too heavy. Actually, I was pretty good at baseball. Just as I was about to make the baseball team, the varsity, (in those times you had freshman, junior varsity, and varsity teams), in my junior year I was slated to be the starting second baseman on the varsity baseball team.

Maria: Not bad.

Judge: Not bad. Except they dropped the sport. It was a cost cutting measure. I do not think it was because they were trying to get rid of me, but the high school dropped the sport because during the summer there were organized baseball leagues. Since other high school sports participation was beyond my ability, I became more active in things like drama. I was in all the plays, forensics, and I was in the radio club. I was really active in speech and drama. In fact, there was a summer program at Northwestern University during the summer called the Cherub Program, which was for speech and drama. High school students came from all

over the country between their junior and senior year, and I attended this month-long session. That was a big influence. My thought was, I am going to go to college and I am going to go into speech and drama because that is what I really like. So, that returns us to college. I was going to be a speech major. Wisconsin was pretty big and you couldn't always get the classes you wanted. One of the prerequisites for going into speech was Speech 101, or whatever it was. Well I could not get into it. I could not get into it my first semester. I could not get into it my second semester because when I registered it was full. At that time, I had the opportunity to see some other people that were in the program and one fellow in particular had this very terrific radio voice and I said, oh, I'm not cut out for that -- that is not for me. So I changed my major to history, because I liked history in high school. I became a history major with an English literature minor. When it came to my junior year, I said, well, now I have to decide what I am going to do beyond college. I knew I did not want to do construction work.

Maria: One thing eliminated.

Judge: One thing eliminated. And, I did not know if I wanted to continue with the history, because I could end up being a history teacher. I liked my history teacher in high school but I was not sure if that is what I wanted to do. So what does someone do when they do not know what they want to do? If blood does not bother you, one can become a doctor, but I was not a science major. Medicine was not really for me and so it had to be law school. It worked out okay because that tied into my drama training and my love of performing. Isn't that what attorneys, particularly litigators, do? They perform! You are a performer in front of a jury. You are a performer in front of a judge. I was never afraid, you are always apprehensive, but once I got out, once the trial started, once the jury was there, it was....

Maria: You are on!

Judge: You are on! Just raise the curtain, just like in the plays.

Maria: Sounds like you decided in your junior or senior year that you were headed to law school?

Judge: Right. It was a little different because when I got into law school and all the freshmen met during orientation, it was still in those days where the professor (who was meant to frighten you) said, "Look to your left, look to your right, those people won't be here when you graduate." And they did cull out a number of people. It started switching. Before I graduated, the trend had started shifting to, if we do a much better job of taking people in, looking at their LSAT scores and all these other factors, why should we flunk them out? Some people just dropped out by attrition. One of my best friends who I went to high school with and who I roomed with during college dropped out before the first semester ended.

Maria: Who was that?

Judge: A fellow name Steve Hootkin, who started law school, because again, he didn't really know what he wanted to do. He really was very interested in the stock market, but figured, well, what do you do with the stock market? So he started law school, but he found out in a few weeks that it was not for him. Instead, he went to pursue his dream by going to New York, knocked on doors and today he is extremely, extremely successful.

Maria: Did you meet him at law school or, did you know him before that?

Judge: I knew him before. It is interesting, there were four of us who were best friends growing up. Our parents were friends and we were all born a week apart.

Maria: Well Done!

Judge: Yes, as if our parents got together and said, we have to start families. We were born a week apart and we stayed close. One of them is in New York, one is living in Israel, one passed away, and then there's me.

Maria: The fab four.

Judge: Right.

Maria: Did you know right away law school was a fit for you?

Judge: It was law school, a different way of thinking. But it seemed right. One of the skills I developed, even back in high school, was the ability to write, to express myself well in writing. And that happened even in college where we were all required to take freshmen English. If you wrote well, or if you got an A in freshman English, you would pass out of rudimentary English and you could move onto English literature. I did that my first semester, so I got into English lit early. I remember in college when we would take some exams we had to write essays and some of the other students would say, "Essays? Who can write an essay?" Well I loved writing essays. And that translates well in law school where you have to write. You have to write for exams and you have to be able to express yourself. I thought I was pretty good at it and so law school seemed to be a good fit.

Maria: What kinds of law school classes did you like the best?

Judge: Well I can tell you ones I liked the least!

Maria: Let's start with those then.

Judge: Seared in my memory, my worst class, my worst grade in fact, was in tax. Of course we all rationalize why we got such a poor grade. I did pass, barely. I can rationalize by saying the professor was not really a professor, but rather he was a tax lawyer who only tried to teach us what the tax code said, but in most of the other classes you were supposed to think and analyze what's the reason for the

law? The theory was you can always look up the law but you have to know the underlying policy. It should make you a better lawyer. Well this professor, when we would ask him, for example, why do they give this tax exemption or that—he would say, “That is what the law says.” I knew I was not going to do well from the start and then it came time for our final exam. Most of the exams were two or three hours or something like that. But this one, I went through it, and I said, this does not seem so difficult; but then almost near the end he got up and said, “Some of you are asking for more time, so you can have as much time as you want. You can stay here for seven hours, if you want.” And when I heard that, I said, I must be missing something. This is a much deeper exam than meets the eye. So I started over, which was my fatal mistake and ended up just barely passing. Had I turned in the first one, it probably would have been alright. So that was my worst course. I suppose the grade reflects that I did not like it.

Most of the other courses I liked were often because of the professors. There were some very exciting professors. Willard Hurst was nationally known in legal history, and it was a pleasure to be in his class. One professor, Joel Handler, I ended up working with in the summers helping him on a Law Review Article. He was nice enough to put my name on the article, but I only did a lot of the basic research that was on the welfare system. I got to know him well, and I took a couple classes from him and a few others. I enjoyed law school. Even looking back I did not enjoy the studying and hard work, but I really did enjoy the atmosphere and the other students and the friends that I made, many of whom I am friends with today. You bond and you maintain those friendships and even with the professors. When I became involved with the Law School Alumni Association, you would see the professors, but now you call them on a first-name basis instead of “professor.” And some of them are still around. Not too many any more, but a few.

Maria: What about litigation courses, did you take trial advocacy?

Judge: You know, they did have moot court which was the trial advocacy course. But that was an artificial kind of experience and they did not have a lot of hands-on courses as they do today. They were just starting to work with agencies like Legal Aid, so that you could do something like that. Now, it’s terrific – during the summer you can work in prosecutor’s office, you can work in a legal defense office, we did not have that. I think that is how law school has improved so much. Today, you can really have hands-on experience. You could work when I was in law school with a firm. Firms did have some people working there but I got my research job, which kept me in Madison. The professor and I usually met over at the Rathskeller or on the Union terrace during the summer. Madison in the summer is the best place in the world to be. We talked. I did become involved with Legal Aid society. A recent law school grad and I took a pro bono case. It was a case involving a person whose insurance benefits were denied. He was not allowed his benefits because the company said he did not disclose his condition on the insurance policy. I still remember that because his condition had

an unusual medical term. He himself did not know what the medical term was, but he used his own words.

Maria: A descriptive.

Judge: “Allergic to paint” was what he stated on the application. So he basically put the company on notice, and that is what led to the medical expenses that the company refused to pay. So we took the case, went to trial, and won.

Maria: That must have felt good.

Judge: That was good. It was my first litigation experience, and we won the case.

Maria: I bet that was a confirmation that you were on the right path.

Judge: Right.

Maria: When you worked with the law review article, it was on the welfare system. Was that the topic the professor had, or did you suggest it?

Judge: It was the professor’s topic. Looking at what used to be referred to as the welfare system and the impact the legislature had in developing the laws -- actually, programs that assist people, but all different types of assistance -- what impact the legislature may have had as opposed to other agencies. That is what I did during the summer. He would direct what research he wanted me to do and, even though it seemed to be pretty boring, looking at legislature history, we had many conferences to discuss the work and those were not boring.

The other thing that I remember from law school that had a negative impact on me was the work I did on the Law Review. Not the Law Review itself, but the checking of footnotes. As first-year students on the Law Review, our assignment was to check the accuracy of foot notes in the submitted articles. The most boring work in the world! I know it is important, but it made me really so dislike footnotes that I still today will not use footnotes in any decisions that I write.

Maria: I had known that about you, but I did not know the origins.

Judge: My dislike of footnotes was reinforced during my clerkship with Judge Myron Gordon who also did not like footnotes and went so far as to write a Law Review article about why you should not use footnotes.

Maria: What sold you on litigation? You said you had the trial, was that it, or how did you decide what direction you were going to go after law school?

Judge: I went to law school without a directed goal, such as those who say I am going to be a labor lawyer, or I am going to be a tax lawyer. I did not have a mindset. The litigation fit in with my acting experience and being impressed with books that I read such as, *To Kill a Mockingbird*, which talks about what a trial lawyer does,

or *Anatomy of Murder*, which was about a murder trial and the job the lawyer did, and there was a 1960's TV show called *The Defenders*, starring E.G. Marshall. It was cutting edge TV drama at the time which tackled subjects such as abortion, a word which at the time could not even be mentioned or the show lost sponsors because of it. It was things like that which convinced me that I really liked litigation. I also enjoyed other aspects of law school such as research and writing, but I tended towards litigation. When I got my clerkship, it was in a federal trial court. In those days I saw some very good lawyers in the U.S. Attorney's office and in private practice. I said, this is what I would like to do.

Maria: You mentioned Judge Gordon. Did you apply for clerkships just in Wisconsin or were you open to moving around? And, how did you connect with Judge Gordon?

Judge: I got married between my second and third year in law school, which had an impact on where I applied.

Maria: How did you meet your wife, Karen?

Judge: You know Karen, who is really my better half. We met in Madison. She was in college, and I was in law school. It was a blind date. We were fixed up by a mutual friend. When I went to the residence hall to pick her up, you had to ring in. Those were the days they did not have men and women living in the same residence halls. So I rang her buzzer and, as she told me later, she sent her roommate down to "check out" or screen this guy who was waiting for her. Our date was on the weekend so we were just going to go out for coffee or a beer; it was a pre-date. Well, she did come down and, like they say, the rest is history. Not really because we dated for some time. She was in her senior year, and I was in my first year of law school. Well what kind of dates can you have in your first year of law school? You are studying all the time; at least I was. So we had study dates. I do not know why she stayed with me because study dates would start at my apartment at seven o'clock, and we would sit down, open our books and study. Two hours later we'd take a break and talk. She got the best grades she ever did that year, though.

Maria: What was she studying?

Judge: She was in speech therapy. Since she did not have her education credits, the job opportunities in speech were limited to clinical. It was difficult to get a job. We were married. We got an apartment. We had to support ourselves. Actually she supported us by getting a job at a bank.

Maria: When did you get married?

Judge: We were married August 7, 1966.

Maria: Still in law school at this time?

Judge: Still in law school. In fact, 2012 will be our 46th anniversary, so it has worked out. We got married in Wausau where she was born and her parents lived. In fact, it's interesting, we refer to Madison as the "marriage mill," because her parents met in Madison at school, her sister met her husband in Madison, and of course I met Karen in Madison. The apartment we rented was in a new development and for me, having lived sometimes in basement apartments near the furnace room, this was really luxury, but how were we going to pay for it? Karen got a job in a bank on campus which did not pay a lot, so we would eat at these restaurants where Friday night it was a fish fry all you could eat, Wednesday night was all you could eat chicken; that is what we would do. Now, I think we sort of got side-tracked, because you asked, was I married before I applied to Judge Gordon, was I interested in staying in Wisconsin, or was I going to go elsewhere?

Maria: Right.

Judge: I know that a lot of people in my class interviewed with law firms in California and elsewhere, but I thought since my parents were in Sheboygan, her parents were in Wausau, she had a sister who was living in Highland Park, Illinois, that we really should stay in the Midwest.

Maria: You had roots here.

Judge: Yes. We wanted to be close to family.

Maria: Okay.

Judge: I did apply to a few law firms in Chicago but then I got the clerkship. One of the firms was going to make me an offer, but then said "let's talk about it after your clerkship." When I applied to Judge Gordon he was on the Wisconsin Supreme Court. During my last year in law school, in spring, he was appointed to the federal bench in Milwaukee. He called me and said, "Aaron, I got the federal appointment, I understand that you wanted to stay in Madison." (And we really did, because we liked Madison.) "I'll let you out if you want, or you can come with me to Milwaukee." So that is how we got to Milwaukee, because I was not going to turn down a federal clerkship. We picked up and moved to Milwaukee.

Maria: How long did you clerk for Judge Gordon?

Judge: One year, because it was a one-year commitment with the Wisconsin Supreme Court and he said, I'll just hold you to one year. District judges are allowed two law clerks. Since I was only there for one year, he hired a second clerk for a 2-year term and when I left, he was able to continue a rotation system with a senior and junior clerk.

Maria: Tell me about working for Judge Gordon.

Judge: First of all, we had temporary quarters because he had just come to Milwaukee and was set up in some type of make-shift quarters. He had to share a courtroom with Senior Judge Kenneth Grube. Any time he had a trial, we marched down to Judge Grube's courtroom. In our location, the Judge himself had nice chambers befitting a judge, but the two law clerks were sandwiched into a small room with our desks facing each other. You used typewriters, not computers, so when we were working on our drafts of decisions we were pounding away on the typewriters -- very noisy -- but it was very exciting learning about federal law. We had our mix of criminal cases and a variety of civil cases. I remember a lot of patent cases, I think we put out lots of work. I remember working on a great number of decisions. Judge Gordon's method was to discuss the case initially, and then he wanted his clerk to draft a decision; actually come to a decision, which was different from law school where you prepared memos listing the points on both sides. Judge Gordon wanted us to reach a conclusion and that is what I have my law clerks do. I learned that from Judge Gordon. Maybe most judges do that because it is part of the learning experience.

Maria: There is the value of struggling through it.

Judge: Yes, there is. Often when you start thinking about the decision, maybe you have sympathy for the plaintiff, but then as you work through, you can't justify deciding for the plaintiff because the law won't let you. It is a great learning experience. The other thing I learned from him was his high standard of professionalism. He held lawyers to a certain standard, saying if the lawyers come into court, they have to be fully prepared; when I ask them a question, they should be able to answer the question. He also believed lawyers should be on time. There is nothing wrong with that, but he maybe took that to an extreme.

Maria: What do you mean by that?

Judge: Here's an example. We had a jury trial. The two lawyers were out in the hall, it was during the middle of the trial and during the noon hour and they started talking settlement. One of the lawyers came to me a few minutes before the trial was to resume. He said, would you tell the judge we are pretty close to settling this case, but we want to continue talking. I said, I will relay it to the judge, but we are supposed to start at 1:30. So I told it to the judge. 1:30 comes, he says, "Bring the jury in." The bailiff brings the jury in. Neither lawyer is there because they are trying to settle the case. They walk in maybe five minutes late, see the jury, and their faces just dropped. We are all just sitting there. Nobody is saying a word, waiting for the lawyers to show up. And I do not know if they had settled the case at the time or not, but they certainly settled it after that because they both knew that they had lost the jury. Judge Gordon would sometimes hold people in contempt for being late, so lawyers knew that they had to be on time. As I said, he maybe took it to an extreme and as years went on, even though he moderated his conduct, the legend grew as to his punctuality. But you know, why not? If you've got a 1:30 hearing, you should be there at 1:30. It is part of being prepared. You should be ready to go, and I still follow that. Of course, I think I

am a little more tolerant and if a lawyer calls me up and says he or she is in state court and will be there fifteen minutes late for some hearing, thank you very much-- at least you called and you told me. I know you can't be in two places at one time.

Maria: What about the judge personally?

Judge: Personally, even though he had this exacting exterior in court, he had a great sense of humor and was a very warm person. He really took an interest in you. He was a good friend. And he was really bright; he knew the law and was a quick study. In court, when lawyers would start repeating their argument he'd say, "Counsel, move on, I understand the point you are making." He got it. When it was near the end of my clerkship, and I was looking at different firms, he actually put me in touch with the lawyer with whom I associated.

I was interviewing at big firms, medium sized firms, but I was not sure. Judge Gordon put me in touch with Ben Chernov, with whom he had practiced law before he went on the court, because he thought that we would hit it off, and he was right. The judge continued to take an interest in me when I was practicing law and especially when I got appointed to the bench.

When I was practicing law, he would give me some appointments. Or I had other cases in front of him, but I'll tell you, he did not show any preferential treatment, that is for sure. Sometimes I think he leaned over backwards, at least that is the sense that I got.

Maria: You mentioned Ben Chernov. Tell me a little bit about him.

Judge: Ben Chernov had been in practice with Myron Gordon. Also in the firm was Ben's father-in-law, Robert Hess, who had passed away before I arrived. Judge Gordon got elected to the state court bench. He was one of the youngest -- I think at age 39 -- when he ran for the state court bench and was elected. He left the practice and Ben was practicing with another individual, Henry Hillard. I interviewed with Ben. It was just a general practice, and what I liked, because I had interviewed with all the big firms (Foley & Lardner and Michael Best and the bigger firms) and some mid-sized firms, was the idea that here you would be doing everything immediately, because it was just Ben and his partner. So we hit it off. He was like Judge Gordon in that he really took an interest in me and my life. So I started out. Good thing that Karen was working because he paid me a modest salary, and said, "Well, then any cases that you bring in, initially, you can keep what you earn." I did not have clients, I did not know anybody. How was I going to bring in cases? Well, you know, you get some, and things worked out. I was his employee and then we became partners. We had other people in the office that were sharing office space. Jim Shapiro -- Bankruptcy Judge Shapiro, was sharing office space at the time. Then he left to associate with a different firm and then got his appointment to the bench. Ben always would say that he was with Myron Gordon who became a judge; he was with Jim Shapiro who

became a judge; he was with me. As I was leaving the firm, Dee McGarity, now a bankruptcy judge, was also in the firm.

Maria: Madison makes marriages, Ben Chernov . . .

Judge: Makes judges. That is correct.

Maria: What kind of work did you do?

Judge: Oh, in those days we did a little of everything. I know things now tend to be more specialized, but we did whatever came in the door. It was Ben and I and then we joined our practices with Phil Croen who had a small practice, and he represented a number of businesses, and then Ben's son, Richard, came with the firm. Phil had a son that came in, Fred. In fact, the firm was Chernov, Croen and Goodstein. I referred to it as Nepotism, Nepotism and Goodstein. They were all good lawyers so I say that, obviously, jokingly. At any time, we had six to eight people. Certain specialties developed. Ben Chernov started doing more probate work, trusts and estates, but he was a very good litigator. Phil Croen represented more corporations. Ben also represented, at that time, hospital-based pathologists, radiologists; and they were just developing service corporations. I got involved in that corporate work and setting up some pension plans and profit-sharing plans. I did not like the probate work because that involved estate taxes, and this brought me back to my adversity with taxes. But Ben said, "You have to do it; you have to do one of these probates. You have to do one of these so that if you are planning somebody's estate, (which I was doing) you know what happens at the other end, so you have to do these things." I suppose I ended up doing more of the litigation, which I like. We did not have lots of litigation, but there were personal injury cases. There were marital disputes. There were contract disputes. We represented some of these smaller corporations.

Maria: When Ben joined with Phil Croen, did you work mostly with Ben or Phil?

Judge: Actually, I worked with both of them. Phil represented a number of corporations. One I recall was in the plumbing and heating business. Zion was the name. They would have contract disputes so Phil would call me in and say, "Okay, I would like you to work on this matter." So, I would. That is how it worked; or Ben might have had some litigation. He'd call me in and he'd say, "Let's work together on this litigation." It was just doing a little of everything. I enjoyed working with people starting out in their own businesses, organizing their corporations and getting them started. I think it was enjoyable resolving disputes for people, and many of them appreciated it. Some did not and some would always argue about bills and so what else has changed?

My father-in-law was a lawyer. He practiced in Wausau. He had his own practice, and he always wanted me to come up and be in Wausau with him, but I did not want to do that. Although I did work on some cases with him. He had a case and he had to take it to the Wisconsin Supreme Court so he wanted me to do

it. I wrote the brief and went to the Supreme Court and argued that case for him. Then I had a couple of other cases before the Supreme Court, and some in the Seventh Circuit, and those were criminal appointments that I took. It was a pretty varied practice.

Maria: What was Karen doing at this time? Was she still working in banking?

Judge: When she started, she was working in banking for a few years, but then we decided to start a family, and she wanted to be a full-time mother so that is what she did. But then she was getting anxious to do something, in addition, to challenge her. She did some work – the Milwaukee Bar Association had a program where they provided lawyers for, maybe, speaking to different groups, and she was involved in that, making telephone calls and organizing that – a speaker's bureau. She was always a good cook and she got into cooking. That is when Cuisinarts were becoming popular, and she started working for Cuisinart demonstrating, but this was all part time. She would be demonstrating at Cuisinart cooking classes – going to different places, and people would come and sign up a one shot deal (her class), and she would buy all the food, show them how to make this dish using Cuisinart, or how to make this dessert using Cuisinart, then she would bring home the samples. It was terrific! Then she decided it was time to go back to work full time and she got into sales. She worked for years for Nestlé as a sales rep. Oh, we had lots of candy bars at our house. Our friends always wanted to go movies with us because we were the ones that brought the candy bars.

Maria: Right.

Judge: She kept samples in a big closet at home. She would be the liaison between Nestlé and the distributor. Then she was laid off from Nestlé and went to a smaller food broker doing similar kinds of things but expanding the number of products, she called on people, traveling throughout the state, usually day trips. Maybe three or four years ago, that company, with the way business climate was, finally had to lay her off. She has been retired since then.

Maria: Did you live downtown when you were working at the Chernov firm?

Judge: No, when we moved to Milwaukee, we found an apartment on the west side of town, and we stayed there for a few years. Then we had our son, and that was two bedrooms, so we started looking for a home on the east side, and we found a home in Fox Point. When our daughter was born, we were still in the home in Fox Point. We were there for fourteen or fifteen years and then we moved to our present home and have been there for over twenty-six years.

Maria: At some point, you decide to leave the Chernov firm and become a judge. Could you tell me about that transition?

Judge: I was always interested in being a judge. When I was in law school, I was appointed to serve as a judge on the student court. Student court was the body

that would hear student grievances. It was probably like a misdemeanor court because we did handle parking tickets on university property. I am not sure what our jurisdiction was, but we heard cases, and we made decisions, and I thought that was great. Then, of course, clerking for Judge Gordon and seeing what it was like, being a judge. There were some openings on the state court bench for which I applied. I had gotten involved in the bar associations, involved in the Young Lawyers Association of the State Bar, Young Lawyers Association of the Milwaukee Bar, was president of both those groups, was on the state board of governors. I was on the Milwaukee Bar Association board and the Young Lawyers Division of the American Bar Association. I was involved.

Maria: Vey active!

Judge: Yes, active, and I think that is good for all lawyers. It is networking, you meet people, you are doing interesting work. And I think because of that involvement in knowing lots of lawyers, when there were some openings on the state court bench, I put my name in. At that time, it was acting-Governor Schreiber who was going to make the appointments, so I applied. There were four positions and six people made the final cut. I did not end up in one of the four positions. It was disappointing, but as my mother used to always say, "Things always work out for the best." In other words, you put a positive spin on things. It was a learning process, and it was only a short time, thereafter, that I got this call from Judge Gordon who said, "Aaron, I know that you are obviously interested in being a judge. We have this opening here in federal court." I said, "You do?" He said, "Yes, we have this position, United States Magistrate. The current holder, John McBride, is retiring. So we are looking for somebody." I said, "Well, what does the magistrate do? My understanding is that he just sets bail and issues search warrants." He said, "Well, that is what he used to do, but the law has changed."

Maria: When was this?

Judge: 1979. The magistrate system started in '68, and John McBride had been named a part-time magistrate judge – at that time, they were called magistrates – a part-time magistrate. Then he became full-time, but he was ready to retire, which created this opening. In 1979, Congress increased the jurisdiction of magistrates in civil cases; magistrates could conduct all proceedings with the consent of the parties. When Judge Gordon called me up, he said, "We are taking applications, and we are interested. We really want to develop this position. We want the magistrate to be able to do whatever he or she can do under the law." At the time, McBride was near the end of his career and just really did the initial criminal work. And that was all he was interested in doing.

Maria: Okay.

Judge: I applied. Not too many people knew about the position. There were maybe four, five of us that probably were interviewed. That was all.

Maria: When you say “We are taking applications.” This is Judge Gordon and the other judges who took the applications?

Judge: The other judges were Chief Judge John Reynolds and Bob Warren. It was the three judges, and they were taking applications, and it was not a very formal process. They did not have a formal application. You sent your resume with a cover letter. I was interviewed and I know that now-Judge Stadtmueller was one of the candidates. He was not selected but he ended up all right. He went to the U.S. Attorney’s office, became a district judge, became the chief judge. Another candidate was Patricia McMahon who subsequently became a judge in the state system. Things work out for the best. My mother would be proud of all of them. And it worked out the best for me because while I was disappointed having not gotten the state court position, as I look back, I am certainly glad I did not get that state court position because this is a much, much better position.

But it still was not something where I said, “Well, I’ll just snap my fingers, yes, I obviously want to do that.” I remember Karen and I had a long talk and I said, “I have applied. I might have a very good chance. Should I take it?” And we made a list of the pros and cons. As I always tell my law clerks today when they are considering positions, you just make a list of pros and cons and go over the list. One of the, I think, “negatives” was that my practice was just starting to develop. It took a while, but I was getting clients, and the firm was building up.

Maria: How long had you been at the Chernov firm?

Judge: About eleven years. You know, at that time, the magistrate position did not pay a lot of money. I knew that shortly I would be making lots more money if I stayed in private practice. So that was, I think, monetarily, a negative. The positive side was the challenge of being a judge, being able to resolve people’s disputes. One of the things that I did not like, as an attorney, was you’d be representing a client, and you might have a very interesting matter, you really wanted to get into it. You wanted to take it all the way. But then all of a sudden, you start talking settlement, a good settlement came along; and you can’t say, “Well, ...”

Maria: “I was into this.”

Judge: Yeah, right, you can’t say to the client, “Turn down the settlement because I really want to try this case. I really want to take it all the way up to the Supreme Court.” But as a judge, even though cases settle, you get to resolve things. And also, I did like helping people resolve disputes. I get to do that as a judge. Then there was the prestige of being a judge, even though people did not know what a magistrate was. They did offer the position to me and I accepted. The pros outweighed the cons. But I had some disappointed clients. One of the clients who I had helped start in business, (and she was still in business selling little giftware), gave me a paperweight, and I still have that paperweight which is engraved and says, “We gave you up for the good of our country.” And that is very touching. So that is what I miss. What I did not miss was one of the cons on

the side of continuing practice. While I enjoyed working with clients, I did not enjoying billing clients, collecting bills – all the economics of practice, which have just gotten worse. I know it was necessary, but I certainly did not enjoy that. I got the call from Chief Judge Reynolds who said, “We are offering you the position. When can you start?” I said, “Well, I just have to clear up a few things here; close up some files, transfer files, at least go through all the files, make a memo for each file on what’s going on so that somebody else could pick it up.” I do not know if it was the matter of a month or two. It was a pretty short time, and the only request that I made of Judge Reynolds was that because I knew that judges got to park in the building’s parking garage, I said, “Will I have a space in the parking garage?” And he said, “Yes.”

Maria: You put that on the pro side?

Judge: I put that on the pro side. I needed that space in the parking garage. I did not know where my office was going to be, you know, what I was going to do. I just assumed the office of my predecessor, and he had a secretary, Marilyn O’Connor, and she seemed like a very nice person so I said, “Do you want to stay on because you know how this job works. I certainly do not.” She said, “Yes,” and she was with me for twenty some years until she passed away. So we just transitioned over to the federal building.

Maria: So did you have a sense of what your duties would be when you started the magistrate judge position?

Judge: It was difficult because they said they wanted me to do whatever I could do. Unfortunately, my predecessor, John McBride, who retired so that he could enjoy retirement, died shortly thereafter. So I could not even talk to him. Barbara Crabb, who is a district judge in Madison, Western District of Wisconsin, had been the magistrate there before she was named to the district bench. She had just gone on the district bench shortly before I assumed my duties, November 1, 1979. I went to Madison, sat down with her, and said, “What have you been doing?”

Maria: Tell me about my new job. That sort of discussion?

Judge: Yes, tell me about my new job. How do you do your job? One of the things that you do in this job is you do the criminal intake. When people are arrested, they are brought to you for bail hearings, agents need search warrants, so that started right away. But then the judges said, “Well, let’s sit down and talk about....” Judge Reynolds said, “Give us a proposal of what you think you should be doing. How do you think we should...”

Maria: Is there some sense of excitement to that? Chart your own course ...

Judge: Oh, there sure is, and because the magistrate judge system is sort of the utility ball player of the courts, they are used differently in different districts. Each district can structure how they want the job to function. All magistrate judges across the country do the criminal intake work. That is the old court commissioner duties

before they created the system. We all do that. But then, how much you're going to do in the civil area, how much you're going to do in the criminal area, that really varies district-to-district. In some districts, magistrate judges will just do civil work, discovery work for the district judges in their cases, handle all the discovery disputes, do all the civil processing, might not do much in the criminal area. I knew that there were these different ways that you could operate, and my proposal was – I thought it would be unworkable – I was the only one, and we had four district judges (Judge Evans had been appointed and came on the bench shortly after I did) -- I thought it would be very unworkable or I would be swamped if I was to do all the civil pretrial work for all the judges. I mean that would be impossible.

Maria: Sure.

Judge: I thought I could do the criminal pretrial work because, at that time, there were fewer criminal cases. The U.S. Attorney's office was much smaller. I thought, in addition to doing this intake work, I can help you by doing the criminal pretrial work; evidentiary hearings on motions to suppress, making recommendations on motions. I can do that. Then the other thing I can do is when civil cases come on consent, you can send those down to me. I can handle those cases. So that was the proposal.

[Judge Goodstein's December 13, 1979 internal memo to Judges John W. Reynolds, Myron L. Gordon, Robert E. Warren and Ruth W. LaFave regarding proposed criminal and civil proceedings before the Magistrate Judge is included in the Appendix of Materials.]

Maria: That was the broad structure?

Judge: That was it and then also any judge could send me a case on an ad hoc basis. For example, if you want to me handle a discovery dispute, you call me up and say, "We'll send it down." That is how the structure was and that is really how the structure continued and developed as other magistrate judges came into the district. But it was based on the fact that I was one with four and basically I was on duty all the time. My only help was the clerk of court, Ruth LaFave, who was also designated a part time magistrate judge. She would help me out with some of the criminal duty. When there was an overflow, she'd help me out with petty offense cases, which we had maybe once a month.

Maria: You said that you thought it was doable that you could do the criminal pretrial matters because there were fewer criminal cases. Is there a way to compare the number of cases then to now?

Judge: Well, as I mentioned, the U.S. Attorney's office was much smaller. Maybe there were ten or twelve attorneys in the office, and now there are thirty or forty. It is a much bigger office. At that time, what was our typical federal case? Bank robberies, drugs, but it was not the big drug conspiracies that you see today. If

there was a drug case, it would be an individual who would be selling drugs or maybe two people together. A big conspiracy might be six people named in an indictment.

Maria: Okay.

Judge: It was certainly manageable. One of my first criminal cases – it was interesting – the first thing I did is I had an evidentiary hearing on a motion to suppress. It was my second day on the job. I had certainly done that when I was a lawyer, but now I was on the other side of the bench. I am saying, “Well, wait a minute. What do I do? How do I handle this? I have got to hear evidentiary objections.” It was like you were just thrown into it. There was no training.

Maria: Baptism by fire!

Judge: Yes, baptism by fire. But then one of the cases I had probably within my first year or so, was this big criminal case involving the Balistreris, Frank Balistreri, who was the alleged – well, he was convicted, so it is not alleged – crime boss, and his two sons, John and Joe, who were indicted on conspiracy and extortion charges. This was the *cause celebre* because this was the big crime syndicate in Milwaukee.

Maria: This is how long after you have been on the bench?

Judge: Probably within the year, and I am tasked to do the evidentiary hearings. There were lots of wire taps that were involved. There was the father who was represented by a nationally-known attorney. One of the sons was represented by Jim Shellow. We had hearings on wire taps and the extent of the wire taps, extensive hearings and all of the other motions, and I had to make recommendations on all of the motions. It was pretty exciting.

Maria: It sounds like the wire tap cases, was that somewhat rare, at the time then? Or was it not?

Judge: The law was just developing. When you applied to the court for a wire tap, you had to, certainly, meet a certain standard, that you’d exhausted all other means of investigation and that you had probable cause; but then, if you were authorized to tap somebody’s house or office, or what have you, you were required to -- the standard is -- minimize. In other words, you were to listen and then when it got to an area that was not pertinent to the crime, let’s say a person started talking about, well, let’s go to the movie for example. Then, you were supposed to – you had to shut off, stop recording, but then you could pick it up a little later on; and you had to keep extensive logs as to when you did this; and the listening agents had to be given certain instructions. This was developing law. Now it is very routine, and you do not get many challenges today on what’s known as minimization. But back then, it was just developing, and there was this case that also involved a crime syndicate – a case in Chicago, Northern District of Illinois, where a judge wrote a lengthy decision on the standards, which I then tried to follow and adapt.

So we had all of these issues – did they properly minimize? One of the problems here was not only were they wire tapping in this restaurant, at one of the tables where the family, the father, his lieutenants, other people meet and talk business, and that was all being recorded. But then there was a law office. One of the sons had his law office, and they were taping there, too. Now, this really led to problems because of the attorney-client privilege, and he had regular clients, and what were they doing about minimization? So there were a lot of pretty interesting and challenging issues that arose in that case. That was one of the early things that I did.

Maria: How long did the case go on?

Judge: The pretrial lasted for some time. Then there were, of course, the trials. The prosecutor in that case – it eventually was assigned to Judge Evans -- the prosecutor in the case was John Franke, who then later became a state court judge.

Maria: You mentioned, kind of prong two on your broad plan was consent for civil cases. Tell me about that.

Judge: Well, we thought that the best way to handle it would be by way of consent. Now, why would the lawyers consent? The lawyers knew me, but did the clients? It took a while, but then the lawyers, I think, for a number of reasons, might consent to have me handle a case because they thought it could be processed much quicker than before the district judges since one thing magistrates cannot do is conduct trials in felony cases, and felony cases always have to be given priority. So parties started consenting, and I started developing my case load, and it is just a matter of the culture of the community that the lawyers can talk to their clients, and say, “Well, we have these magistrate judges who also handles cases, and they do a good job, so we can consent, and maybe get the case moved along quicker. That is how it developed in our district and then I finally got some assistance about three years later when a second magistrate was appointed. That was Robert Bittner. It seemed to be a good format where now we had two of us handling the criminal pretrial work which gave me some relief from being on duty one-hundred percent of the time, and the same thing with the civil cases, and we were getting more ad hoc assignments from the judges on discovery disputes and things like that. There were certain areas that had developed that they thought we should handle at the outset like social security reviews. We would take those cases and then we started developing a system in the civil area where we would be paired with a judge on a civil case. Early on, when I was the only one there, I would just get this ad hoc. But as soon as Bittner came in, then we would be randomly assigned.

Maria: This is early eighties?

Judge: He came on maybe, 1982. He stayed for one term of eight years. Then, Judge Gorence. About two years later, we got our third position, and this was all based on case load, both civil and criminal, which justified a new position, and Judge

Callahan came in. By then we had developed a more formalized system. With three of us, when there was a civil case filed, it was randomly assigned at that time to a district judge and a magistrate judge. We would do the pretrial processing on a civil case including summary judgment motions and discovery disputes. If the parties consented, it would become our own case. When a criminal case was assigned, it would be randomly assigned to a district judge and a magistrate judge. We would do all the pretrial criminal work. In the civil area, we would also be assigned all of the Social Security cases because the district judges thought that was a good area. After the Civil Justice Reform Act of 1990, a committee was appointed to look at how lawsuits could be processed more efficiently, more cost effectively, those types of things. The upshot of that was the Committee believed that what we were doing by way of helping the district judges on their cases and making recommendations on summary judgment cases was extra work. We were reinventing the wheel. In other words, why should we make a recommendation on summary judgment and then have it reviewed by the district judge who then has to write an opinion? So we shifted our system to what we know have, which is a one case, one judge assignment. Now, once a civil case is filed, it is either randomly assigned to a district judge or a magistrate judge. If the parties do not consent to the magistrate judge, it is reassigned to the district judge. That way parties know who the judge is going to be and we aren't doing work for the district judges and doing double work; and even in Social Security, those are handled just like regular civil cases.

Maria: You mentioned that you talked about a road map with Judge Crabb. Is the road map that you came up with similar to what she was doing, or how did it differ in the Western District?

Judge: She had a different situation. She was the magistrate. Judge Doyle was the district judge. It was the two of them. She assisted him on his cases. From her, I got a feel for what's done and what's the extent of authority and things like that.

Maria: What are the possibilities?

Judge: Right, but they were unique, and they continue to be unique and run their own system. So what they do in the Western District is different than what we do here because they've always had just the one magistrate judge and usually two district judges. Each district judge had the magistrate judge do different things. But the lawyers knew what the setup was, and that is why I always tell lawyers, if you are going to go the Eastern District of Pennsylvania, and you are in the courts in Philadelphia, you'd better to look to see what duties the magistrate judges do there because they are going to be a little different than, maybe, what we do here or in Chicago or elsewhere. Right now we've really taken a position of fully utilizing our magistrate judges with the system we have, and that seems to be the developing national trend. When we put our magistrate judges on as it is called the "assignment wheel" back in the 1990s, we were probably one of a half-dozen districts that did that; and now, of the 96 federal districts, maybe 30% or more have the kind of system that we have.

Maria: You mentioned Judge Bittner stayed one term, what is the term?

Judge: It is an 8-year term. The magistrate judge system was developed in 1968. There had been United States court commissioners but Congress thought that there needed to be more help for the district judges. The district judges are lifetime appointments. They are known as Article III judges – Article III of the Constitution provides for a judiciary – a lifetime judiciary; basically the Supreme Court, the appellate courts and the district courts, and those are lifetime appointments, appointed by the president, with the advice and consent of the Senate, a very political process. You still get good people but it is a very political and slow process. So Congress asked, how can we get more judges to help process the cases and avoid this lifetime appointment political process? They had the court commissioner system but they wanted to create a new system, so they started with the pilot project in 1968, maybe in twenty districts or so, of United States magistrates and then it quickly went to nation-wide. In 1968 there were sixty-one magistrates. Now nationally there are about five-hundred thirty full-time magistrate judges and forty-one part-time. And that compares to say eight-hundred district judges, so you can see what the ratio is. The title “magistrate” – and that was I guess a subject of extensive discussion, what the title should be. Some said, let’s call it associate judge, but that might confuse us with the judges on the Supreme Court who were associate justices. The story goes that Chief Justice Warren Burger was a big fan of the English system. The English system at the trial court level has magistrates, so he said, we’ll call them magistrates. The problem was that nobody knew what a magistrate was, except that there were sometimes rural communities that had justices of the peace, or magistrates that did traffic matters and sometimes were not even lawyers. Well, we were not that. Therefore, the title in 1990 was changed to “magistrate judge.” We wanted to put “judge” in the title so that litigants and even lawyers knew that we were judges. It was similar to the bankruptcy judges. Around 1990 their title also changed. They used to be called referees in bankruptcy. They wanted to signal that they were also judges, so the title became bankruptcy judges. People always say, what should we call you? And we say, the title is “magistrate judge,” or “judge” works, or “Your Honor,” when you are in court. But people that have been around since the system started will often just refer to the position as magistrate because that is what it used to be called. Since that time there have been other statutes expanding the jurisdiction; there has been case law expanding the jurisdiction. In fact, today there is only one area remaining in which magistrate judges do not have jurisdiction and that is to try felony cases or to sentence people convicted of felonies. Although magistrate judges can take a plea of a defendant who is going to be judged guilty of a felony, they can’t do the sentencing. And they do that in certain districts where they have so many criminal cases that the district judges need help in taking pleas so they said, we’ll have the magistrate judges do it. And that’s how that has developed in those areas. Our jurisdiction has really expanded and districts really have the flexibility to use magistrate judges in the way they think best suits their purposes.

Maria: How is it determined that the court is going to add additional magistrate judges for a particular district?

Judge: The court system is governed by the Judicial Conference of the United States which is the judicial board of directors of the judiciary and there is an Executive Committee of the Judicial Conference. The Judicial Conference consists of representatives from each of the eleven circuits and DC; usually the chief judge and a district judge from each of the circuits. On the Executive Committee are the Chief Justice of the United States and the other justices selected by the Chief. The Conference created many committees and the system is really run by committees. For magistrate judges, it is called the Committee on the Administration of the Magistrate Judge System. That committee also consists of representatives from all of the circuits including magistrate judges. There are about twelve people on the committee, all appointed by the chief justice. They meet twice a year. They study certain issues, including when a new magistrate judge position should be created in any district. They make recommendations to the Judicial Conference which meets twice a year and approves whether or not a position should be created. Unlike creating new district judgeships, which has to be an act of Congress, (and I do not think there is been a judgeship bill for years), you do not have this political process for magistrate judges or bankruptcy judges which originates in committee and goes to the Judicial Conference. To assist the committee and to assist the Judicial Conference is the Administrative Office of the United States Courts and that is really the administrative arm which has its division directors including a Magistrate Judges Division which staffs the committee. For example, when we got our second and third positions, the process was that our chief judge said to the Seventh Circuit that we could use another position. The Seventh Circuit then said to the Judicial Conference that we could use a position in the Eastern District of Wisconsin. The Magistrate Judge Committee asked the staff from the Administrative Office to look at us. They keep statistics as to how many cases are assigned, what's the judicial workload. It all has to be weighted, case load, blah, blah, blah. I mean, all these statistics ...we live by statistics. I left private practice to get away from keeping billable hours. And now we keep statistics! Fortunately, it's now all automated. But they look at the statistics and they say okay, based upon your civil case load which is above the national average, based upon the number of criminal cases you have, you could use more help. We will create a position. That is what happens. It is the same when one of us retires; the same process to determine whether the position should be filled. Does the workload justify filling a vacancy? And overlaying that whole system is the question of cost and budget and can we afford it and all of that. It is a process, but it works pretty well.

Maria: What happens at the end of an eight-year term?

Judge: Okay, returning to the selection process. I described mine as just - submit your application. Now it is a much more formalized process. If we are looking to fill a new position or to fill a vacancy, the district judges will name a committee and that committee has to have at least one lay person on it. The committee will

consist of both civil and criminal defense attorneys. Then the committee creates an application form which asks numerous questions regarding background, cases that you have worked on, and work in community organizations, and it is a pretty daunting task to fill out the application and discourages those who really do not want the position. You could have hundreds of lawyers applying. The committee will go through all of the applications and narrow the list. The last time, the committee narrowed the applicant list to 12 people who were called in for interviews. The committee then interviewed 12 people, decided upon five names and then sent those five names to the district judges. Then, the district judges and the magistrate judges interview those five people and by a majority vote of the district judges, select one. The Eastern District of Wisconsin is unique in that the current magistrate judges participate in the final interview process. The process is a little different after the 8-year term. There is still a committee, but the committee asks the question of the public, "Judge Goodstein is up for renewal, if anybody has anything to say . . ."

Maria: Speak now or forever hold your peace.

Judge: Hopefully, you get nice letters such as, retain him or her for another eight years; no letters written in crayon from a disgruntled litigant... at least I don't think I have gotten any. And then you are retained for another eight years and so it goes. In the Eastern District, magistrate judges are doing a good job and are retained. Nationally, there have only been maybe one or two instances where somebody has not been retained.

Maria: What do you think are the biggest changes in terms of the cases that you see?

Judge: In the criminal area there are many more cases and more multi-defendant cases. It is not unusual for us to get a case with 30 or 40 defendants. And, a lot more gang-related cases. In the early days, the limited number of drug cases, usually involved one or two individuals. Now the drug business has been taken over by gangs – the Latin Kings, the Mexican Posse, the Asian this-or-that. Unfortunately, all different ethnic groups have established their own gangs and they are involved in violent activities. We would talk to agents in the early years who said they would go out to arrest somebody and, well, they would just arrest them. But one time, I think after I had been doing the job five or six years or so, an agent said "Wow, we went to go out and do this arrest and somebody shot at me." I mean, you know, this is getting dangerous. And so it has turned into a much more violent and dangerous business. In the criminal area affecting the district judges have been the sentencing guidelines, which attempt to create some uniformity in sentencing. They have gone full circle where the guidelines started out as guidelines but became mandatory, and are now more just guidelines again with the district judges having more discretion. In the civil area, one of the big changes is in the area of discovery and computers. Where discovery was once limited to the number of boxes of materials in warehouses, now it is exponential with electronic discovery. It is becoming a cottage industry of E-discovery experts. It has certainly become more difficult for lawyers and their clients, but

also for the judges who deal with the fallout. That is a big change. We have also seen an increase in mediation and a decrease in trials. Mediation affects us directly because that is one of the roles that we have assumed. Magistrate judges across the country had been doing more and more mediation. This is where we really provide a service to the litigants and the other judges. If you can spend a half a day or a day mediating and resolve a case which saves the judge two weeks in trial, or even three days in trial, you have served a purpose plus you have brought certainty to the life of the parties and reduced their costs.

Maria: How did mediation evolve?

Judge: I had always been doing mediation. Cases where parties would say to the district judge, we would like to have a settlement conference and the judge would say well, maybe I'll send it down to Goodstein, are you available... and so it was more of an informal scenario. But after the Civil Justice Reform Act, which recommended alternative dispute resolution, Congress got involved and passed the Alternative Dispute Resolution Act, requiring that all districts institute formal programs for dispute resolution.

Maria: When was this? A few years ago?

Judge: Around 1993 it became effective. After that, the Federal Rules of Civil Procedure and our local rules were modified to provide for ADR – alternate dispute resolution. ADR became a huge cottage industry where private entities sprung up to train mediators; an alternate way of resolving disputes. Each district court established formalized procedures for referring cases for mediation, or early neutral evaluation, or one of these other ADA methods. Summary trial was something that was in vogue for awhile and I even did that once or twice.

Maria: What is it?

Judge: For a summary trial you would get the parties together and everybody had to agree, of course. Sometimes you might even do it with a “mock” jury; a jury that would be a real jury, but they did not know it was a summary trial. The parties would present an abbreviated version of the trial, either by lawyers saying this is what witnesses will testify, or maybe one expert might testify, but it was done within a day. And then the jury would render their verdict. And that verdict would then be used as a basis for a settlement conference. Summary jury trial it was called.

Maria: It is not binding, it is informative.

Judge: Right; it would help facilitate settlement discussions. And again, that was in vogue in some districts, not done much anymore. I think the more standard mediation has taken over. But as it became more formalized, it became more utilized in our district and now we conduct numerous mediations. From the litigant's standpoint, it provides certainty in result and reduces time and costs.

Maria: What are some your favorite cases?

Judge: I have had some memorable cases. In the criminal area I told you about the Balistreri case which is certainly memorable. In the civil area I had a very interesting case from the Milwaukee Repertory Theatre. They have two shops, one makes props and one makes more substantial items such as furniture. One is unionized, one isn't unionized. In this case they had a dispute as to whether or not this item used in a production was a "prop" or "furniture." In other words, should it have been made by the union shop or the nonunion shop? The issue simply stated was, is this a piece of furniture which should be made by the union shop, or is it luggage, which could be made by prop or nonunion shop? The parties consented. It was a trial to the court. As exhibits, they brought into court items from other plays, both furniture and luggage. The particular play was *King Lear*, and the item was a big trunk. Now, how is it used in the play? Was this big trunk just placed on the set for the actors to just sit on, which would make it a piece of furniture, or was it actually used in the play as a trunk being used by the actors to carry their valuables from one place to another? My decision was based on how it was used in the play. That was, certainly, a very memorable case. I had another case, a patent case, a very involved patent case. All patent cases are very involved, but this was a device to seal a piece of cheese, a single piece of cheese, involving its hermetic seal. Well, it was interesting, but the amusing thing about that is that the parties introduced as exhibits some pieces of cheese. We had to keep them in a little refrigerator, and my judicial assistant, for lunch, ate one of the exhibits. We were able to get more but not for eating. I also had a copyright case involving the creation of dolls, and these were very lifelike, very soft, that felt like a real person, and we had the creator come into court and testify regarding her process in making the dolls, and it was very interesting. So we've had a big variety of cases. One of my early cases was a contract case where the buyer purchased sheep and then sued the seller because of a misrepresentation. The sheep were older than represented to be. I learned how to tell the age of sheep. Do you know how you tell the age of sheep?

Maria: I do not.

Judge: You look at their teeth.

Maria: So you have exhibits of sheep?

Judge: Of the teeth; pictures. We did not have the sheep actually in court. But sometimes litigants will leave unusual things in court. It goes back to the days of when I was the only magistrate judge, but the clerk of court was a part time magistrate judge and would handle petty offense hearings. Many of the petty offenses were based on incidents at the VA hospital. In this one case, one of the veterans had a drinking problem and he was one of our steady customers who always came back to the court. He would go to the VA and drink with his buddies, and he would be arrested. In one instance, introduced as the evidence were several bottles of vodka. After the petty offense calendar had finished, I came out for my cases and

right on the bench as the litigants were coming in were these exhibits, a couple bottles of vodka. I'm not sure what people thought about that. So funny things can happen with exhibits.

One of my more significant cases, which was appealed to the Seventh Circuit, concerned the providing of special education in the Milwaukee school system. This class action also involved the Wisconsin Department of Public Instruction as a party.

Maria: You mentioned at the start that it was just you. I happened to know, at some point, you got the assistance of law clerks. When did that happen?

Judge: I should not say, "It was just me." It was never just me. It was just "me" as the only magistrate judge for a time.

Maria: Okay.

Judge: I do not think we could do our job without law clerks and judicial assistants.

Maria: Did you have a law clerk at the start?

Judge: No. Literally, it was just me and my judicial assistant when I started. I did not have a law clerk, and it was six months before I was authorized a law clerk. I was doing all the research on my own and there was not that much time with all the other duties. Magistrate judges are authorized one law clerk. District judges get two. So we get a law clerk and a judicial assistant. Recently, some magistrate judges, instead of having a judicial assistant will hire a second law clerk. This is more the current trend.

Maria: You mentioned Marilyn.

Judge: Yes, Marilyn O'Connor was my secretary, although now the position is referred to as judicial assistant; which is a more appropriate term because the job entails more than just secretarial work. Marilyn had worked for my predecessor and was able to handle the logistics of the position. For example, I could make the probable cause decision to issue a search warrant, but what do I do with it then? Who signs? Where do they sign? Marilyn knew all of that. Somebody has to know those things. So, fortunately, she was there to assist me, and we developed a really good relationship over the years.

Maria: Tell me about naturalization hearings.

Judge: That is one of the non-litigation duties that the judges perform, and I have been conducting these ceremonies for over twenty years. It is really a meaningful, very pleasurable ceremony. It is probably one of the few times that people come in the courtroom wanting to be there, and they are full of smiles and happy. This significant event is held usually twice a month. All the judges participate by taking turns conducting a ceremony. At the events, there might be anywhere from

seventy to eighty people that are being sworn in as citizens. We all develop little scripts as to what to say, and I can use the same script each time because it is a new cast of citizens. After my father passed away, I was looking through the various documents he had in a safe-deposit box, and I came across one which was my grandfather's naturalization certificate. *See Appendix of Materials.* I said, "Wow, this is really impressive." The certificate was dated September 16, 1912; which is when my grandfather became a citizen. The certificate says that he had two minor children: Charles, age three, who was my uncle, my dad's older brother, and here was my dad, Benny, age three months. My grandfather was twenty-nine years old and my grandmother was twenty-eight. I thought, how can I incorporate this certificate into the naturalization ceremony? So what I do with the certificate is to show it to the citizens, and I say, because we are supposed to explain the oath and the importance of citizenship, "You know this oath that you took, it is more than just paper. It is more than just words."

Maria: There is meaning to it.

Judge: There is meaning to it, and it meant so much to my grandfather that he passed this certificate on to my father who passed it on to me, and I'll pass it on to my kids, and I hope that you'll do the same thing. Because I know the struggle and sacrifice that each of you went through to be here, and you appreciate what is to be a citizen of this country. So my grandfather's certificate has become a very meaningful part of the naturalization ceremonies that I do.

Maria: Tell me about your work with Judicial Conference.

Judge: The Judicial Conference's Committee on the Administration of Magistrate Judge System has three magistrate judges that are appointed, together with Article III judges from each circuit. I was appointed to that committee and the appointments come from the Chief Justice of the United States. The Chief Justice actually signs that appointment form. I got a call from the director of the Administrative Office of the United States Courts who said, "The chief justice has appointed you to this committee, and it meets in a month." It was a wonderful experience. It is a three-year term and I was renewed for another three years – six years. It is meaningful work since the committee makes recommendations on whether or not districts should get new magistrate judge positions. You really see the work that you have done. We studied long-range plans for the system. I believe the committee had an impact on the Magistrate Judge System, and I felt that I was able to play an important role. It is especially important to have magistrate judges on that committee for our input. Since every district uses the magistrate judges in a different way, some of the Article III judges do not really have a background on all issues. I always felt that the magistrate judges could educate the other judges on the committee about certain issues. The meeting structure was conducive to interaction. The judges on the committee were very supportive of the system. During a two-and-a-half-day meeting, there would be meetings during the day and socializing at night. Members often brought their spouses. I find that when you socialize together, when you know somebody on a first-name basis, when you

have a drink or break bread with somebody, even though we may not see eye-to-eye on an issue, you really have a respectful discussion. I think that is a reflection on, as we are conducting this interview today, what's going on in Congress. There was a time when Republicans and Democrats could get together and compromise. But I think the people that served in Congress went out to dinner with each other; they socialized with each other. They knew each other personally and could compromise. Today, Congressmen rush back to their districts so they can work on reelection. They do not really have that interaction, and I think it is a problem. On our committee, we all thought, we are here for the common good of the magistrate judge system. So it was a terrific experience, and Karen, who went to the meetings, said that was the best six years she also had.

Then I am fortunate to have been involved in the educational aspect of judges. The Federal Judicial Center is the educational arm of the courts. In about 1990, a committee was established to assist the FJC in planning educational programs for magistrate judges. Again, I got a call saying I had been appointed to this committee. Would I be interested in serving? I said, "I certainly would." The caller then said, "Oh, by the way, you are going to be the chair of the committee."

Maria: When was that?

Judge: That was about 1990 and our committee was the first education committee.

Maria: Avoid the trial-by-fire methodology that you experienced?

Judge: Well, we really started developing and putting on what we feel are top-notch programs, planning outstanding educational programs for magistrate judges. Of course, staff of the FJC does all of the legwork, but we were the ones that planned the programs and often would be participant speakers. It is interesting that we have very well-known professors, lawyers who come and present at our programs. They receive no fee, only expenses. This is because professors and lawyers like to lecture the judges. I have been involved in that even though I am no longer on the committee. I continue to be involved in educational activities and, once a year, present at what we call Baby Judges School, for the new magistrate judges. I make a presentation on criminal practice and procedure. As long as they continue to ask me, I will continue to participate.

Maria: You said in 1990, you were the chair. How long were you the chair?

Judge: For about eight years. Normally, it is about a six-year term, but since the program was just developing, they wanted to keep me on until a good system of rotating the chairs and getting more people involved could be established. Now it is a pretty coveted position to be on that committee.

Maria: It sounds like education is important to you.

Judge: It is, and that is why I have been involved. We always tell the attending judges, "Give us a call at any time." I still receive calls today – a magistrate judge

somewhere will say, “Aaron, have you had this come up before?” So we discuss the issue and I can serve as a sounding board. That is one of the things we do because in our district, the four of us talk about how we should handle certain things. It helps to keep in touch with colleagues in other districts who may have had the same situation but are approaching it a little differently. You can get some good ideas. It is a continuing education process with which I like to be involved.

Maria: I was preparing for our interview, and I saw on the Eastern District of Wisconsin court website an announcement. The announcement was “as of July 1, 2010, Judge Goodstein is on recall status.” Then it goes on, and the next sentence is “He continues to handle a full case load.”

Judge: Yes, does that mean, retired and working as hard as ever? What’s “recall status?” If I were a product it would mean that I am somehow defective, and they’ve recalled me! It is a poor choice of words, and I was not the one that coined that term, but it is like a senior judge.

Maria: Okay.

Judge: Since we are not lifetime appointees, as the Article III judges, when they want to go senior, they just say/announce “I am going from active to senior.” And it creates a vacancy, which is then filled through the appointment process. With a magistrate judge, bankruptcy judge, all the non-Article III judges, if we want to exercise a similar option, we must first retire, which creates a vacancy, and then say, “I would like to be recalled to duty.” That is what I did. More than six months before July 1, 2010, I first met with my colleagues, and said this is what I am interested in doing. I have been on the bench for over 30 years. It is time that I take a little more time off. I still enjoy what I am doing, but you know, I would like to cut back a little, enjoy some other things, especially grandchildren. I talked with the chief judge of our district and said this is what I would like to do. Once the judges were all on board, the process is for the chief judge of the district to say, “Goodstein is retiring, and would we like to recall him for duty.” That request goes to the Seventh Circuit. If its council approves that, it is then sent to the Magistrate Judges Committee. In being recalled for duty, I still wanted to maintain a full case load, which means I needed my staff. The request for staff has to be approved, and the standard was performing “substantial duty,” which means that you are doing well over 50% of what you were doing before. So that is what I am doing, and you are recalled on an annual basis/year-to-year. Each year, I get to decide, do I want to continue doing this? If so, the district sends it on for approval. The Magistrate Judges Committee is currently considering establishing national uniform guidelines for recall.

In fact, what’s interesting is that nationwide, there are probably 59 magistrate judges on recall and the nature of their duties varies district-to-district. Some are district based, as I am, and just stay in the district. Others have said, “No, I would like to be recalled, but I only want to work on an as-need basis.” So they’ll take

assignments for maybe three, four weeks at a time in different districts where they are needed. For example, the Eastern District of California, which I think has the most prisons per district and has the highest number of prisoner cases, they need help, and usually it is magistrate judges that do that work. So they have some judges on recall that handle prisoner cases. They do not have to be out there all the time, maybe they show up once or twice a month, and the rest of the time they stay at home and work on their computers with the assistance of law clerks in Fresno. Another example – one of my colleagues went to Tucson where they have lots of immigration cases and all these misdemeanor sentencings, people that come across the border only to be sent back. It is a misdemeanor. So magistrate judges will go other there, maybe several weeks at a time, handle hundreds of these cases. I choose, at least for now, to stay in the district and just handle my regular case load.

Maria: What is the change?

Judge: The change for me is that I have given up criminal intake duties. I am no longer doing bail hearings or issuing search warrants. That is very time consuming when we are on duty. So I have given that up, which allows me to set my calendar a little more reasonably. I know what I am doing from day to day. I am still handling the civil cases. I am still doing the pretrial work in criminal cases, motions to suppress, things like that. Then I am doing more mediations, and that is keeping me busy.

Maria: I can imagine. More than 30 years on the bench, what do you think that you enjoy the most?

Judge: I enjoy helping people resolve their disputes. You know, one way or another, when you come into court, the case is going to be resolved. It is going to be resolved by trial or on motion, or even more so, in mediation. And for me, mediation is very satisfying because you are really on a more informal, sometimes ex parte basis with people, and you can talk about the case with them. Sometimes people feel justice has been served, but other times it is just resolving disputes. I think that is what I enjoy the most.

Maria: If you had to describe your judicial philosophy, what would it be?

Judge: It is something I picked up from Judge Gordon who said, “You just apply the law equally to the parties, regardless of the consequences. You give the parties a full opportunity to be heard, but then whatever the consequences are, you try and apply the law equally, fairly and impartially.” I know some cynics will say, “Well, no, you are swayed by political philosophy,” and all of that. But I try not to be.

Maria: You are human.

Judge: I am human. I have views just like jurors are human. They have views. But we always tell our jurors, “Can you put those aside and decide this case fairly and

impartially? That is what I try and do. Then, as I tell the “baby judges,” “When in doubt, just do the right thing. You will know what it is.” So that is my philosophy. Do the right thing.

Maria: You brought up Judge Gordon again, and I want to ask you about mentors. My sense is he is one of them.

Judge: Judge Gordon was one of my mentors during my clerkship and throughout my judicial career. He showed me what it means to be a good judge, and that is what I have done for a good portion of my career. I think the other important influence in my life professionally was Ben Chernov. And that is what it means to be a good lawyer. So, professionally, they were my two mentors. Other than that, I owe a lot to my parents. Both were not – did not have, especially my dad, did not have the opportunity to go to college because he had to provide for his family. But he studied his entire life and was self taught and always interested in learning new things. He’d talk about doing the right thing and had a very high ethical standard; he was very charitable, always looking out for other people, and very tolerant with people. So I learned a lot from my parents. I grew up in a very good atmosphere.

Maria: There are a few events I want to talk about. One relates to your recall status. Tell me about that.

Judge: As part of my retirement and recall, I guess they did not want to let me get away, even though I was not going anywhere, without some fanfare, so the Eastern District of Wisconsin Bar Association used their annual event to honor me. You were one of the planners for that event together with some other former law clerks.

Maria: An Evening at the Court House.

Judge: An Evening at the Court House – very gratifying. Most people may say, no, I do not want any honor, and it might be a sense of false modesty, but everybody likes to be recognized for things that they have done. It makes you feel like you have served some purpose, that you have accomplished something. And, the words that you and others said about me were very meaningful. It was meaningful that my brother, my sister-in-law, my brother-in-law, my son and one of his daughters were able to come. My daughter lives in California so she was not able to be here with her family. It was so great having that Evening at the Courthouse, and then afterwards, having the law clerks take us out for dinner. You certainly remembered a lot more than I did. What was particularly interesting was the impact various cases had on my clerks. Some cases have an impact on me, others do not. But when we went around the table and my former clerks recounted what they remember most about their clerkship, it was really something to bring back those memories.

Maria: The technical title is Evening at the Courthouse in Recognition of the Honorable Aaron E. Goodstein, United States Magistrate Judge. It was September 16th. I have the program for that night, and it talks about some of the things we've been talking about. *See Appendix of Materials*. Some of your law clerks spoke as well: myself, Bruce Keyes, and Rebecca Dallett, who now, herself, is a judge.

Judge: And, I will tell you how gratifying that is to me! I don't know what Judge Gordon felt when some of his former law clerks, like myself, became a judge, but I certainly had this feeling of pride when Rebecca got elected. She did it on her merit and I had nothing to do with it but I was still very proud. You like to see people turn out well, and I am proud of what all of my former clerks have done.

Maria: I was calling this a milestone event because it is a semi-retirement, but it is not retirement.

Judge: No.

Maria: In some respects, this is very "Goodstein retirement" in that you continue to have a full case load. You have had other milestones, too. Tell me about them.

Judge: In my judicial career, the first one was my installation. That was an event held at the courthouse in the ceremonial courtroom. What really made that memorable was that both of my parents were both alive and able to be there. There is a Yiddish word called *kvell*, and it means exactly what it sounds. Kvell! You are so overcome with emotion and pride. You know, you are just bursting, and I know that is how they felt to be at that ceremony. Karen's parents were also there and other family members. My children were pretty young at the time but they still remember. So that certainly was a milestone, something that is really memorable.

There were three events. One at the beginning, one at the – not the end, and one in between.

The one that was a total surprise was after I had been on the bench for twenty-five years. My law clerks gave me this surprise party, a surprise dinner, and it really was a surprise. Bruce Keyes was the one that got me there. He has a nice legal career, and he said he was being honored by his firm, which was true. But I thought that was why I...

Maria: A credible purpose?

Judge: It was a credible purpose. I thought I was showing up to honor Bruce for his good work in the community. It was strange that Karen wanted to also go to this downtown restaurant and that she would pick me up from work. As we were driving over to the restaurant, and as I always seem to be early for things, we were early, and they were just getting set up. Parking places are so hard to find and I said, "Here's a parking place." She said, "No, no, no, we can find a better parking place." "No, we can't find a better parking place." We drove around the block again, but she was just trying to waste some time until everything was set. Then I

go in, and one of the first people I see is Bruce, and I say, “Bruce, congratulations!” Then I look around, and to my amazement I see all my former law clerks. All of them, except one who’s in Washington were able to make it.

Maria: I can remember the look on your face, and you were surprised!

Judge: I truly was surprised. So those are three events in my judicial career that stand out.

Maria: We talked a little bit about educating new judges, and you have certainly had an influence on your law clerks. I guess if you had to pass on some advice for the next generation of attorneys or judges, what would it be?

Judge: It would be what I always tell law students at various programs at the law school. The first thing is always to maintain your integrity. Because you are worth nothing if you lose it. If you lose your integrity with the court, if you lose your integrity with other lawyers, with your clients, it is going to be a struggle. If you maintain your integrity, first of all, you should feel better about yourself. But you are able to work with attorneys and the courts on even miniscule things. For example, if a lawyer contacts the court and says, “I need an extension of time” or something, and if this is a lawyer I know is a credible person, has integrity, fine. But you find that some lawyers aren’t being honest with you. They are never going to get that benefit of the doubt. That is the main thing. I think the second thing is for a lawyer to always be prepared. You have got to be prepared for everything and anything; whether it is in talking to a client, coming in to court, dealing with the other side. Especially if you are going to be a litigator, always expect that your opponent knows everything and be prepared for it. It may not come up, but you have to be prepared in court. I remember that Judge Gordon used to have this practice about time things. He used to set a time on trials. He got reversed by the Seventh Circuit on that, but he used to say, “You have half an hour or 45 minutes or so to make your presentation of this witness.” So you had to come in prepared. When I was practicing, I would prepare for a direct examination of the witness, I had my questions, and then I had them prioritized in case he imposed his time limits. I had to be prepared for the unexpected. Furthermore, juries recognize that you are prepared and that you are organized. Some lawyers think “Well, I have to be flamboyant.” But if that is not you, do not do it. Just be yourself. You have to be yourself because people know if you aren’t. So I think those would be the three things.

Maria: What makes you tick?

Judge: My job and my family. When I wake up each morning, I think I have a purpose in life. That is why I was not ready to fully retire. When I wake up, it is another day, and there is something to do.

Maria: Something I learned quickly when I became your law clerk in 2004 - you are formally Magistrate Judge Aaron Goodstein, but you have a nick name: "The good Judge Goodstein." Why do you think you have that name?

Judge: Somebody told me about that. I guess they talk behind my back. I think and hope it is a favorable characterization. It probably means that I followed my own advice of what I tell other people – doing the right thing. I think I do the right thing and people recognize that.

Maria: Final thoughts?

Judge: Final thought is I am glad that we are near the end of this interview because it is very difficult talking about myself. But in preparing, it has brought back a number of wonderful memories. Everyone should look back on their lives and reflect. When you are gone, others will do the reflecting, but we will not be here to enjoy what they are saying. So I thank you for making this possible.

APPENDIX OF MATERIALS

No. 239433

UNITED STATES OF AMERICA

To be given to the person
Naturalized.

DEPARTMENT OF COMMERCE AND LABOR

Petition, Volume II, page 16 Sub. Volume 9359, page 33
Description of holder: Age, 29 years; height, 5 feet, 4 inches; color, white; complexion,
light; color of eyes, blue; color of hair, black; visible distinguishing
marks, none

Name, age, and place of residence of wife Anna age 28 yrs Sheboygan Wis
Names, ages, and places of residence of minor children Charles age 3 yrs
Benny age 3 months Sheboygan
Wisconsin

State of Wisconsin **ORIGINAL** Harry Goodstein
Sheboygan County S.S. (Signature of holder.)

Be it remembered, that a general term of the Circuit court of Sheboygan Co.
held at Sheboygan Wis on the 16th day of Sept, in the year of our Lord nineteen hundred
and twelve Harry Goodstein, who previous to ^{his} naturalization, was a ^{citizen} Subject of
Russia, at present residing at number 1035 Michigan Ave. St. Paul,
^{City} of Sheboygan, ^{State} Wisconsin, having applied to be admitted
a citizen of the United States of America, pursuant to law, and the court having found that the petitioner had resided con-
tinuously within the United States for at least five years, and in this ^{State} Wisconsin for one year immediately preceding the date of
the filing of ^{his} petition, and that said petitioner intends to reside permanently in the United States, had, in all respects
complied with the law in relation thereto, and that he was entitled to be so admitted, it was thereupon ordered by
the said court, that he be admitted as a citizen of the United States of America.

In testimony whereof, the seal of said court is hereunto affixed on the 16th day of Sept
in the year of our Lord nineteen hundred and twelve, and of our Independence the
one hundred and thirty seventh

W. E. Ryan
(Official character of attester.)

On the criminal law front, if the movie and book [Donnie Brasco](#) had continued a little bit longer, Judge Goodstein would have appeared as the judge who [detained reputed New York mob figure Lefty Ruggiero](#) (played by Al Pacino in the movie) and [oversaw the pretrial processing of the numerous motions](#) in the prosecution of Milwaukee mob leader Frank Balistrieri, including issuing a [146-page order and recommendation](#) regarding the defendants' pretrial motions.

In addition to cases that were turned into major Hollywood movies, throughout his career, Judge Goodstein has been involved in many other high-profile RICO cases, including cases against the [Outlaws](#) motorcycle club and a case against the Latin Kings street gang which, with 49 defendants, was one of the largest criminal cases in the history of the district and led to Judge Goodstein writing a 134 page order and recommendation to resolve the defendants' 160 separate pretrial motions.

Long before technology like GPS or cell site tracking, Judge Goodstein was still at the fore of emerging technological issues in criminal law. In 1984, two very early computer hacking cases were before Judge Goodstein when the federal government utilized essentially a prank call statute to prosecute a group known as 414 (after Milwaukee's area code) for gaining access to industrial computers. These cases were described as ["the first computer cases ever brought by the federal government in which financial gain was not the motive."](#)

Although the criminal docket of a United States Magistrate Judge is filled with many routine matters such as drug dealers and bank robbers, there are also many matters that 31 years ago Judge Goodstein likely never expected he would face in a career on the bench. For example, Judge Goodstein has been involved in a case dealing with [the international theft of 16th century Italian art](#) as well as cases centered on [polar bear skins](#), eagle feathers, [mountain goat](#) meat, and a [multi-state deer poaching ring](#). Judge Goodstein also likely never expected to find himself issuing warrants to search for imitation rhinoceros horns, endangered butterflies, or elephant toenails as he has in the past 31 years.

*The Eastern District of Wisconsin Bar Association
Presents*

An Evening at the Courthouse



*In Recognition of the Honorable
Aaron E. Goodstein
United States Magistrate Judge*

September 16, 2010

Speakers:

G. Michael Halfenger

President, Eastern District of Wisconsin Bar Association

The Honorable Charles N. Clevert, Jr.

Chief Judge, Eastern District of Wisconsin

The Honorable William E. Callahan, Jr.

United States Magistrate Judge, Eastern District of Wisconsin

Three of Judge Goodstein's Former Law Clerks

Bruce A. Keyes

Foley & Lardner, LLP

The Honorable Rebecca F. Dallet

Milwaukee County Circuit Court

Maria L. Kreiter

Godfrey & Kahn, SC

The Honorable Aaron E. Goodstein

United States Magistrate Judge, Eastern District of Wisconsin

Education:

University of Wisconsin, B.A., 1964.

University of Wisconsin Law School, J.D., 1967.

Wisconsin Law Review; Order of the Coif.

Career:

Law Clerk to the Honorable Myron L. Gordon,
U.S. District Court, E.D. of Wisconsin, 1967-68.

Shareholder, Chernov, Croen and Goodstein, S.C., 1968-79.

United States Magistrate Judge, Eastern District of Wisconsin, 1979-present.

- Federal Magistrate Judges Association, president, 2004-05.
- Advisory Committee on Local Rules and Practice, Eastern District of Wisconsin, chair, 1983-present.
- Judicial Conference Committee on the Administration of the Magistrate Judge System, 1993-99.
- Federal Judicial Center Magistrate Judges Education Committee, chair, 1991-98.
- University of Wisconsin Law Alumni Association, Board of Directors, 1989-98.
- Milwaukee Forum, president, 1979-80.
- Milwaukee Bar Association, Executive Board, 1978-82.
- State Bar of Wisconsin, Board of Governors, 1975-77.
- State Bar of Wisconsin Young Lawyers Division, president, 1975-76.



Judge Goodstein, circa 1987

From desegregation to special education; from mobsters, gangsters, and drug dealers to the occasional deer poacher or bear skin smuggler; in his 31 years on the bench, Judge Goodstein has addressed a wide variety of matters. Set forth below are just a few highlights of his career so far.

A [simple act of jaywalking in 1980 turned into a federal case](#) for Judge Goodstein when two presidential campaign workers sued after being arrested for crossing the street against a light.

After a trial to the court, Judge Goodstein awarded one of the workers \$2,500 for having to needlessly suffer the [“embarrassment and humiliation of \[a\] custodial search,”](#) and [permanently enjoined](#) the Milwaukee Police Department from subjecting simple jaywalkers to the [police booking process and a custodial search](#).

[“Furniture or not furniture: that is the question,”](#) is how Judge Goodstein opened a decision in a seemingly minor dispute between a union and management over the meaning of a contract term. In deciding whether union or non-union craftspeople should have constructed a trunk used as a prop for the Milwaukee Repertory Theater's production of *King Lear*, Judge Goodstein creatively put to use his undergraduate English degree as he quoted Shakespeare liberally throughout his decision, including utilizing the phrase, “The play's the thing” as the central holding of the case.

When the board created to implement Judge John Reynolds' order desegregating the Milwaukee Public School system [overturned the School Board's decision](#) to close certain schools, [Judge Goodstein was thrust into the forefront of this high-profile](#) and emotional [controversy](#) and tasked with reviewing the boards' decisions.

Decades later, another high-profile dispute involving the Milwaukee Public Schools was before Judge Goodstein when he was assigned a proposed class action [challenging how MPS served its disabled students](#). The case, now pending before the 7th Circuit Court of Appeals, has so far consumed more than 9 years, 28 days of trial broken up into three separate [phases](#), five-thousand pages of transcript, tens of thousands of pages of exhibits, and hundreds of pages of [decisions](#) and orders written by Judge Goodstein.

(continued)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Aaron E. Goodstein
~~XXXXXXXXXX~~
U. S. MAGISTRATE

486 FEDERAL BUILDING
MILWAUKEE, WISCONSIN 53202

December 13, 1979

To: Hon. John W. Reynolds
Hon. Myron L. Gordon
Hon. Robert W. Warren
Ruth W. LaFave

FROM: Aaron E. Goodstein *AGS*
U. S. Magistrate

Re: Internal Memo on criminal (felony) and civil proceedings
before the Magistrate

I. Criminal

- A. The magistrate will conduct all initial appearances, set bail and appoint attorneys when necessary.
- B. The magistrate will conduct all arraignments
 - 1. In those cases where the defendant indicates his intention to plead guilty or nolo contendere, the magistrate will note the defendant's intention, order a presentence report and return the case to the assigned judge. See Local Rule 13.06(c).
 - 2. In those cases where the defendant enters a plea of not guilty, the magistrate will schedule a pretrial conference date.
 - (a) The date for the pre-trial will be obtained from the assigned judge in advance.
 - (b) The pretrial will normally be held within 3 weeks to 30 days of the arraignment.

C. Motion Practice

1. All motions will be initially sent to the magistrate.
2. Depending on his work load, the magistrate will decide whether he can handle the motions in a particular case, or whether they should be transferred to the assigned judge.
3. If the magistrate decides that he can handle motions falling under 28 U.S.C. §636(b)(1)(A), e.g. motions to suppress evidence, to dismiss the indictment, the magistrate will inform the assigned judge who should then sign a form order designating the magistrate to proceed.

1-17-80

Conf. Evans - if AGG
s to deny "dispositive"
motion, make that ruling
instead of just recommendation.

- (a) See Local Rule 13.03(a)
- (b) In making his decision on whether or not to proceed, the magistrate should consider whether issues of witness credibility and demeanor are central to the determination of material issues of fact. If so, it may be advisable to immediately transfer the motion to the assigned judge for a hearing. See U.S. v. Raddatz, ___ F.2d ___, (7th Cir, no. 78-1350, decided February 6, 1979).

- D. The assigned judge will conduct the pretrial conference and schedule a date for trial.

Page Three
December 13, 1979

II. Civil

A. Consent for exercise of jurisdiction by the magistrate forms will be sent by the clerk in all pending cases.

1. If the consent is obtained from both parties, the assigned judge will decide whether the particular case is one which he would want the magistrate to handle.
2. No assignments of these civil cases will be made to the magistrate until he is certified by the Seventh Circuit and the new local rules are approved.