

## **An Interview with Brian M. Nemenoff**

### **Illinois Supreme Court Historic Preservation Commission**

Brian M. Nemenoff clerked for Third District Appellate Court Judge Jay Alloy after graduating University of Illinois at Urbana-Champaign in 1974 and served in that clerkship until 1975. Nemenoff has been a licensed attorney since 1974. He served as Municipal Attorney for the City of Peoria and for the Peoria Civic Center Authority, starting in 1976 until 1986. Nemenoff was appointed an Associate Judge in the Tenth Judicial Circuit in 1986 and served in that position until 2007. After serving as a judge, Nemenoff has practiced in mediations with an emphasis in court ordered family law mediations.

#### **Interview Dates:**

April 26<sup>th</sup>, 2016; June 28<sup>th</sup>, 2016

#### **Interview Location:**

Judge Nemenoff's office, Peoria, Illinois

#### **Interview Format:**

Video

#### **Interviewer:**

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#### **Technical Assistance:**

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#### **Transcription:**

Interviews One and Two: Benjamin Belzer, Research Associate/Collections Manager  
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#### **Editing:**

Ben Belzer, and Judge Nemenoff

#### **Total pages:**

Interview One, 41; Interview Two, 56

#### **Total Time:**

Interview One, 01:29:26; Interview Two, 02:11:05

## **Abstract**

### **Brian M. Nemenoff**

#### **Biographical:**

Brian Mark Nemenoff was born in Chicago, Illinois, on December 3<sup>rd</sup>, 1947, and lived there until the age of five. He spent his childhood and teenage years in Aurora, Illinois, and graduated high school in 1966. Nemenoff attended Miami University in Oxford, Ohio, where he graduated in 1970, and he then served in the U.S. Army Reserves from 1970-1976. He became licensed to practice law in 1974 after graduating that same year from University of Illinois Urbana/Champaign School of Law. Nemenoff clerked for Third District Appellate Court Justice Jay Alloy from 1974-1975. He served as Municipal Attorney for the City of Peoria and general counsel for the Peoria Civic Center Authority, starting in 1976 until 1986. Nemenoff was appointed an Associate Judge in the Tenth Judicial Circuit in 1986 and served in that position until 2007. After serving as a judge, Nemenoff has practiced in mediations with an emphasis in court ordered family law mediations. Nemenoff is on the board of CASA of Peoria County, which is Court Appointed Special Advocates which is a private non-for-profit group that provides juvenile abuse and neglect courts with help. He is on the board of the B'nai B'rith Covenant House. Nemenoff also serves on the steering committee for the Illinois High School Association Boys Basketball Tournament and has worked the exhibit hall and as a team host for several years. He enjoys time with his friends, family and wife Kathryn.

#### **Topics Covered:**

Parents and family background; growing up in Aurora, Illinois; early education; playing baseball and childhood activities; family life and memories; adolescence; Cold War; Cuban Missile Crisis; Kennedy Assassination; family faith; attending Miami University; fraternity memories; working for Barber Green; Kent State and Allison Krause; Vietnam; outlook on society; serving in the U.S. Army Reserves; attending UIUC and law school memories; clerking for Justice Alloy; first impressions of Peoria; family life; time as attorney for the City of Peoria; reflections on cases; Peoria Civic Center Authority; memories of other judges; differences between federal and state courts; thoughts on our legal system; time as a judge; running for circuit court; second term as associate judge; memories of the courthouse; cameras in the courtroom; relationship between the bench and bar; media and judiciary; pro bono work and civic engagement; his legacy.

#### **Note:**

Readers of this oral history should note that this is a transcript of the spoken word, and that it has been edited for clarity and elaboration. The interviewer, interviewee, and editors attempted to preserve the informal, conversational style that is inherent in such historical sources while also editing for clarity and elaboration. The Illinois Supreme Court Historic Preservation Commission is not responsible for the factual accuracy of the oral history, nor for the views expressed therein.

## **Judge Brian M. Nemenoff: An Oral History**

LAW: This is an oral history interview with Judge Brian Nemenoff. Today's date is April 28<sup>th</sup>, 2016. We are in his law office here in Peoria, Illinois. This is our first interview and today we are going to talk about his background. Judge Nemenoff I thought I would start with when and where were you born?

NEMENOFF: I was born on the west side of Chicago in 1947 at Edgewater Hospital on North Ashland.<sup>1</sup> My mom and dad lived in an apartment in a building owned by my grandfather, my mom's dad. Nathan and Dora Greenholz. We lived there until I was just about six years old.

LAW: Tell me a little about your parents.<sup>2</sup>

NEMENOFF: My dad was born in 1920. He was one of eight siblings, one of whom died at birth. He was the second youngest. He ended up living the longest of any of them in terms of years. He was almost ninety-four when he passed away. I'm not sure anybody else in his family quite broke ninety but there were a lot of them in their eighties. He lost his father in 1929 in a car accident, so he grew up without his father. They were very poor. Seven, eight kids, no parent, no one working, in a day when there wasn't a lot of social service, during the Depression. But they had a strong family. He went to college for one year but couldn't afford to go any further. He took a job with the Aurora Meat Packing Company, which is a western suburb. He got that job because the family that

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<sup>1</sup> December 3, 1947.

<sup>2</sup> David and Sylvia Nemenoff.

runs Aurora Meat Packing grew up in his neighborhood with him. They had run a butcher shop in his neighborhood. So, he knew the old man and became friends with the old man's son who became a friend of my dad's, an employer of his throughout his life. In 1953 it made sense to move to Aurora instead of driving back and forth. There were no interstates or freeways. It was just two lanes with stop and go lights for fifty miles and it took forever. So, we moved out to Aurora in December of 1953. I had a young sister then who was three years old. And we moved from the west side of Chicago to a suburb that had lots of trees, lots of grass.

LAW: Now did you know your Dad's mother?

NEMENOFF: Absolutely. Her name was Rosie, I think her given name was Rachel [Glick].

She was like nobody else. Everybody says that about their grandparents or parents, but she truly was. She would make meals every Friday night at her place in Chicago. And whoever in the neighborhood showed up got to eat it. And it was mostly family but anybody who should knock on the door, could come in and have a meal. She'd be sitting in the kitchen making either brisket or chicken, vegetables or soup. Some other ethnic Jewish foods perhaps. She was a great lady. She was born in a little tiny town in Lithuania called, it was then called Latskova, I've been there.<sup>3</sup> It's now called Leckava. It's still a tiny little town with gravel roads and chickens and dogs running wild. Streets are not paved. There used to be a school there, but you have to go about ten or fifteen miles to the school. My son and I went there in 2006.

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<sup>3</sup> See <https://nemenoffhistory.wordpress.com>

The family largely immigrated from Lithuania to Germany, and then from Germany to Denmark. Around 1900 maybe or earlier, she was a little girl then, she was maybe thirteen or fourteen. She stayed in Denmark where her family was, where some of her family still is by the way, then she left for Canada. Exactly how old she was or why she left for Canada I don't know. But that's where she met my grandfather and they were married in Montreal in, oh I'd say 1908, 1909.<sup>4</sup> Maybe a little later. And they had one child, Harry. And you saw that on the [census] documents you were showing me earlier. And they came to Chicago, I think there were friends of my grandfathers who had immigrated to Chicago and that's when they left Canada, you know went to Chicago. They left separately. One came through Buffalo, New York. The other came through essentially Detroit. It was my grandmother that went through Buffalo and a sort of interesting story. She changed trains at the border, but it was in the middle of the night and there's no record of it. And because there was no record of how she got into the country it was a half century before she could become a citizen; they delayed it. I don't think she became a citizen until she was eighty years old because she couldn't prove how she got in. I think after a while they sort of let her become a citizen. But she died an American citizen. My grandfather came separately through Detroit and he became a citizen right away as I understand. There was no problem with trying to figure out how he got across the border.

LAW: Did they ever tell, did she ever tell you, or did you find out through family lore, what brought them to the United States?

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<sup>4</sup> Benjamin Nemenoff.

NEMENOFF: They came from Montreal to the United States because my grandfather had a friend here in Chicago. How, or why either of them came to North America, I don't know. But I do know the story of my grand, of my grandmother because there was a book about it strangely enough. There were four families in this Lithuanian town that were all related and they all left Lithuania in the early 1900s, if not before. And there is a book published about those four families. And I was contacted by the author of it and she, I don't know how she found my name, maybe the Internet or something like that. We became friends. I visited her in London. We spent time with her and her husband. And she is the one who told us all about the Lithuania experience, and we went to Lithuania. And then saw her afterwards. So we know about my grandmother. My grandfather, Benjamin, my dad's dad of whom very little is known, was born in a town called Dashkovka in eastern Belarus, which was Russia at the time. He was a Russian ethnic and he left there in the early 1900s. I'm not sure why but legend was to avoid the Russian Army. Being Jewish in the Russian Army, the Czar's army, was not something that was looked upon favorably I suppose. But he left and I don't know how or why he ended up in Montreal, but he did.

LAW: Did your grandma ever share any stories about the Depression? And how she managed during that time?

NEMENOFF: She did, and my uncles and my dad did. They, I can't tell you which is the source of all these stories, but you know they didn't have any money, they worked but apartments were going, begging. So, they would get an apartment and get three free months. Now, the higher you live in a building the more valuable it is, the more status there is. In those days the higher you rented, the poorer you were because there weren't

any elevators in some of these buildings. So, she was always on the third floor which was the tallest, the highest there was back in those days. And she always had to walk up and down. And she would always tell the stories that after three months she wouldn't pay rent. There was no money, there was hardly any money coming in. And it would take three months for her to be evicted. And she would have to go someplace and have to do it again. Occasionally they'd get to pay the rent. They had a couple older uncles who could probably work part-time. But that's what people did to survive.

LAW: So, I take it probably your dad and his siblings, they were probably working at a pretty early age?

NEMENOFF: Well yes. Everybody worked a little bit part-time, my dad worked, he was a coat and hat check guy at the Chicago Civic Opera. Lyric Opera House, that's what I guess it's called. And he did that part-time and then once he got out of high school and finished a year of college, I'm not sure where else he worked but pretty soon started working at Aurora Packing Company where he stayed until he was sixty-two or sixty-three.

LAW: What was he doing at the Packing Company?

NEMENOFF: He was the foreman of the place.

LAW: Now what about...

NEMENOFF: Used to be a truck driver, then he worked in sort of factory management if you want to call it that.

LAW: Now what about the other side of the family?

NEMENOFF: Well my mom, Sylvia, was the daughter of Nathan and Dora Greenholz. They both grew up as neighbors and young kids, I'm talking about my grandmother and grandfather, in a town called Tomaszów, Poland, which is about seventy miles southwest of Warsaw. It's a city of maybe twenty-five, thirty thousand, it's not a small town. Whereas Latskova couldn't have a hundred people, on my other grandparents side. And they both grew up there. They were friends, they both lived on the same street. I have been to Tomaszów with my son on the same trip that I went to Lithuania. We spent a full day there and were able to find the street that they lived on. And walk by the house that they lived at, but we didn't know which one it was. We had pictures of it, but they all look very similar. They're all two or three story dark brown brick houses. But we do know it was right across the street from the Jewish cemetery where my great grandparents were probably buried.

They, my grandfather, I probably shouldn't even concede to this, but he conceded to this. He told me this; he was a young man and a young eighteen or nineteen-year-old. He was a talented man. He was a smart man. He was a very talented tailor. And he was also a graduate of Yeshiva. The Yeshiva is the elite school for Jewish men. And probably could have become a rabbi if he wanted to. But he was very talented with thread and the needle. And when he was a young man he was a socialist. He might of even, maybe worse I don't know. He would go around to these small towns wearing a red cape and causing trouble. And invariably got arrested. And then opened his own tailor shop and understood that the benefits of capitalism and he quickly became quite the capitalist. And quite the opposite of being a socialist.



Well he married my grandmother and the World War I was coming, and he anticipated it. And he was subject to the draft, to the Russian draft again because Poland was part Russia at the time. Again, with the Czar's army. The communist revolution of 1917 hadn't happened yet, this was 1913, 1914. And he wanted to leave. So, he left, did not tell his wife. His wife was, this I don't know, was either pregnant or had just had a young child. I think she was pregnant. I don't think they had had the child yet. And he knew that she wouldn't willingly go with him because she wouldn't leave her mother and father. So, he left, and left money for her. He had earlier, as a preamble here, a year before he had sent his buddy, a good friend by the name of Ipskovich or something like that. He had sent his good friend to Chicago, for the same reasons. Had financed it, and said he was coming. So, my grandfather then left and said he was going to Chicago to meet his friend. And that he was sending money so that she would come after she had the baby, or with the baby if they already had it, but that part of the story I'm not clear on. And my

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grandmother loaned the money to somebody and by the time it got paid, repaid to her, World War I had begun, and no one was going anywhere. So, she stayed at home during World War I and she survived it and the child was now seven years old and then she left to see her husband. They were separated for years. They had been married just about a year before they separated, and she took her son and she went to Chicago and she lived her life in Chicago there and then later on had my mom. It's a pretty fascinating story.

LAW: So, did you know both of them?

NEMENOFF: Oh yes. My grandfather died in 1979 and my grandmother died two or three years later. My grandmother on my dad's side died in 1974. I got to know both of them. The only thing that my grandfather told me about the old days was how he found out after World War II how everybody in both his and his wife's family had been killed in World War I, or World War II, or in the concentration camps, with the exception of two people, a niece and a nephew I think on my grandmother's side. The nephew was very young, may have been born in a concentration camp. He went to Israel and lived his life there. He came out to visit us in Aurora once, he and his family. And my mom and dad went out to visit him in Israel. But he died a relatively young man, sixty-five. The niece went to Canada. In 2006 when my son and I, one of my children and I, went on our trip to Europe to visit these places, she was still alive. She had pictures and I talked to her daughter and they sent me pictures from the old days and that's why I have pictures of my grandparent's home. And I talked to her about all things, the stepdaughter knew everything and so it was pretty neat to talk with her before we left. All my aunts and uncles have now passed away. And my mom and dad are gone too. Though my mom and dad more recently. My mom died six years ago, and my dad died two years ago. So, I had them for a long time.

LAW: So, what are your earliest memories of growing up? Do you have any Chicago memories?

NEMENOFF: I do, I do, I remember walking to school. I went to kindergarten at Penn grade school. I went to kindergarten there for a year, I remember that. I remember walking. I remember two or three friends that were living in my apartment complex. I remember the apartment. It was a two-bedroom apartment with a nice living room and a nice little

family room and kitchen. Entrances from the front and back. I could go right to it now. I could draw it like I say, I could draw the floor plan. I remember that. I remember a couple of birthday parties that I had there and when my cousins came. I remember a photographer coming over and taking family pictures when I was about three, and four. I have one of those pictures.

LAW: So, the whole family was in this building?

NEMENOFF: The only family in this building was my mother, my father, my sister and I and my maternal grandparents.

LAW: Okay, so I take it then that your grandfather had done well.

NEMENOFF: Yes. He was such a talented tailor that while he lost his investments during the Depression, he never lost his job. Because he worked at a very high-level men's clothing store. He lost buildings that he invested in. But after the Depression was over, he invested in several buildings, several apartment buildings in Chicago. And was, you know able to retire and travel a little bit and invested well I suppose, for those days.

LAW: What do you think took the family away from Chicago to Aurora?

NEMENOFF: It was my dad's job. It was the only reason. He was the first person on both sides of the family to leave the city of Chicago. And nobody else moved that far. They left to the inner suburbs, Skokie and Morton Grove and those places. No one moved more than ten minutes away from the border of Chicago. That was just because dad was able to buy a house, build and buy a house and have his own house with a lawn and trees and a half a block from school. Safer neighborhoods.

LAW: So, tell me about Aurora.

NEMENOFF: Aurora was back then probably not considered a suburb. Because it pretty much was an independent community. It still is. Aurora is now the second largest city in the state. It's one of the very few cities that can keep on growing because there is, the only thing west of Aurora is frankly the Mississippi River. So, they can expand and go west for a long way. It was, at least the west side of Aurora was a very quiet bedroom community. But there was heavy industry there. And the service industry that was starting to grow. West Aurora High School at that time was like a college prep school. Almost everybody who went to West High went on to college. And that's one of the reasons we moved to the west side. I remember the day we moved. I remember driving down our street. Every house had elm trees that arched over the street and the shafts of sunlight came through. I never saw it before in my life. I didn't know what it was. It was pretty interesting. I was just not quite six.

LAW: So, what did a young person do in the fifties for fun, for extracurricular activities?

NEMENOFF: Once I was about six or seven, in the summer we would play baseball every day. Every day, we played all morning and all afternoon.

LAW: Did you follow professional baseball?

NEMENOFF: Every pitch. My dad was a White Sox fan. And I became both a White Sox and a Cub fan. I live and die with those guys, with all of the city of Chicago sports. I'm mourning the loss by the Blackhawks. But on the other hand we still have three Stanley Cups in the last four or five, five or six years. My dad was really a diehard White Sox

fan, not so much a Cub fan. And we celebrated together the World Series win eleven years ago. We used to go to a couple baseball games a year. I really liked baseball and I followed it.

LAW: So, you then would, I take it you would occasionally make trips back to the city then?

NEMENOFF: We would probably go back to the city at least once a month, maybe twice a month to visit grandparents. Remember I told you about my grandmother on my dad's side would make, we would go there on Fridays and have a meal there and then maybe run over and stop and see my other grandparents who only lived down the street, frankly. And spend an hour or so with them and then go back.

LAW: So, any other activities besides baseball?

NEMENOFF: I played grade school and high school basketball. I learned to play golf when I was probably in sixth or seventh grade and still play. On the non-sports side, I loved astronomy and space flight. I actually used to tell my mom I was sick on the days when the first American astronauts would be taking off so I could watch it at home. I still, I still love space flight and I think the generations younger than I have been deprived of that excitement. Most people don't agree with me, but I think we could have colonized the moon by now. And the technical benefits that we would have gotten from that would astound people.

LAW: So, the fifties is also kind of thought of as the early years of the Cold War. Did the Cold War impact your life at all?

NEMENOFF: Well, it had an impact, but I was pretty young then. But of course, the Russians were considered “evil”, the Chinese were considered “evil”. I was a sophomore in high school during the Cuban Missile Crisis. For all the predictions of war, I never thought it would come to nuclear war. I didn’t know, I was just guessing, it didn’t. But of course, you grew up doing that. You grew up thinking the Russians were the enemy, and the Chinese were the enemy. It’s interesting, my wife and I travelled both now, since my retirement, to China and Russia. Never would have thought when we were growing up that we would ever be there and welcomed with open arms. You go in Red Square where they used to have those May Day military parades with those long missiles and the marching troops and be greeted as you walk in the archway to Red Square by Spongebob Squarepants and other Disney characters. Because that’s what happens now. Turns out the Russians and Chinese people are wonderful.

LAW: You mentioned the Cuban Missile Crisis. Do you have memories of that?

NEMENOFF: I remember it. Sure, I was fifteen when it happened.

LAW: What comes to mind?

NEMENOFF: That every, people were worried. As American ships had blockaded Cuba. There was complete support for that in our community. But there was worry about what happens. Stories about Russian battleships bringing equipment in and the worry of what would happen when they met in the open seas, but nothing happened that couldn’t be taken care of. And then a day later, the whole thing seemed to be solved. At least that’s the impression.

LAW: Now that took place when you were a teenager. How did your life change when you were a teenager?

NEMENOFF: Well you just grow up like everybody else does. There was the Kennedy assassination that next year.

LAW: What do you remember about that?

NEMENOFF: I remember being in school. I was in Latin class, I took Latin. I took Latin because it was a little history and it turned out to be a pretty interesting course to be honest about it. Learned a lot about language arts because Latin is the basis for English. Some people in those days went home for lunch, while most of us ate lunch at school. This was the first class of the afternoon hour. They said President Kennedy had been shot. And as the Latin class started you could hear, I do remember this, you could hear the click of the P.A. system coming on. And we all knew, we just sort of knew. And they announced his death. I think they sent everybody home.

LAW: Was there any kind of, do you remember any kind of community events related to that?

NEMENOFF: Not anything in particular.

LAW: What was the reaction of the community and your family?

NEMENOFF: Aurora probably was a largely Republican city, or at least the west side was. But everybody had fallen in love with John Kennedy and his personality and of course the assassination was terrible. Everybody was off work for a couple of days. Families stayed together and watched TV because it was all covered. That was probably the most

memorable thing that happened during our, during my teenage years. Learned to drive a car.

LAW: What about any early jobs?

NEMENOFF: I caddied for a country club. From about seventh grade into my, beginning my high school years would caddy every Saturday and Sunday and maybe on Wednesdays and made a couple of bucks.

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Caddies could play golf on Monday mornings when the course was closed. You just had to dodge the sprinkler system. That was fun.

LAW: Any memorable teachers or classes from when you were a youngster or in high school?

NEMENOFF: You told me that a couple days, you asked me that. I was thinking about it. I, one of, my fifth grade home room teacher, Mr. Ball, I always liked him. He was my basketball coach, my sixth grade basketball coach. But I always liked him, and he was interesting. And he made a prediction, this would have been 1958. He made a prediction he said, "By the year 2000 Aurora would be the second largest city in the state." And Aurora, it was probably tenth largest at the time. And he was right! I remember that, I remember that he made that prediction. I just liked him. He was just an interesting guy. He was funny, he became principal later of another grade school. I had an eighth, a ninth grade English teacher who thought I would never like being a lawyer. I remember that. And it strangely enough I know her cousins are from Peoria and I run into them.



LAW: Small world.

NEMENOFF: Small world. High school teachers, there are a few that I really liked. I had a physics teacher that was really good. And a history teacher and a couple mathematics, a couple of math teachers that were really good.

LAW: Any other extracurricular activities as a teenager that we should take note of?

NEMENOFF: If I can't remember them, I guess you shouldn't take note of them. I didn't really join too many clubs. Most of it was just sports related. I take that back, a sort of extracurricular. There is a, there was then, I think there is still now, called, a Jewish youth group called B'nai B'rith Youth Organization or BBYO. It was mostly in and around the Chicago suburbs, but it came down as far as Peoria and Rock Island and Elgin. And I was a member of that, and I was pretty active in that. I was a state officer for one year. I made a lot of friends from around the state. Including here, including people that I met in Peoria and are still friends with strangely enough. And I enjoyed it and it was a lot of fun. It meant a lot to me.

LAW: So, I take it your family, they were observant?

NEMENOFF: We were, yes my parents were throughout their lives. I'm not so much anymore.

LAW: Was there, tell me about the Jewish community in Aurora.

NEMENOFF: It was pretty active. My dad was a board member there from the time practically that he moved on. We had a small temple in downtown, right off the edge of

downtown Aurora where I was Bar Mitzvah'd. I was the last Bar Mitzvah there. Do you know what a Bar Mitzvah is?

LAW: Go ahead, tell me.

NEMENOFF: A Bar Mitzvah is a rite of passage. It's called Bar Mitzvah for young men and Baz Mitzvah or Bat Mitzvah, either way is okay, depends on how you pronounce particular Hebrew letters, for young women and it's a passage from childhood into adulthood. You are required essentially to run a Saturday morning Sabbath service and to do things in Hebrew and in English and it takes a lot of practice and time. It takes about three or four months of your life to get ready for. And the whole community is invited, and they come and afterwards there is a meal put on by your parents in the temple social hall. And I did it, and I was proud to do it. But what I think is the thing I remember the most is it really gave me a stake in at least being a Jew, not so much a Jewish religion, but a Jewish ethnic, and a Jewish community. I had to practice for about ten weeks, once or twice a week. And the time we did it was in the late fall. Real late fall, and that's when I was in seventh grade. And that's when basketball season started. And I couldn't play basketball because I couldn't practice. And sometimes I think that is why the Jewish community remains a more tight-knit community is because their kids have their stake in the community.

LAW: I understand.

NEMENOFF: I never even questioned that I was just going to miss basketball for a year. I just couldn't play basketball for a year. If that meant I could never play high school basketball, then I couldn't anymore. If I was out of the loop, then I guess I was out of the

loop. But I never questioned it, I just thought it was bad luck that I had it during basketball season. If I happened earlier in the fall or summer or springtime it wouldn't have caused that to happen. But it happened and that's the way it goes. In fact, I got in trouble with the rabbi. Because John Kennedy was running for election in the fall of 1960 and came to Aurora. And my mom wanted to go see him. So, my mom, we were late for my practice by forty-five minutes. And he didn't like that, the rabbi didn't like that.

LAW: So, your mom, she was a Kennedy supporter?

NEMENOFF: I don't know, she was just interested, the guy who was running for the President of the United States and was going to be twenty feet from her. So, she wanted to go see him.<sup>5</sup>

LAW: Okay.

NEMENOFF: We went, and he spoke out in front of City Hall in Aurora as I recall. A couple weeks later he was elected, I don't know who she was supporting.

LAW: Okay, so when you were in high school, these are the sort of the earliest years of the Vietnam War. What are your earliest memories of the Vietnam War?

NEMENOFF: It was more of a college experience for me. I graduated high school in 1966 and it really hadn't expanded to the extent that it would in the next six or seven years. And it wasn't something that was, something that I had to worry about in the near future

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<sup>5</sup> See, John F. Kennedy, "Remarks of Senator John F. Kennedy, Aurora, Illinois," October 25, 1960. Made available online by Gerhard Peters and John T. Woolley, as part of *The American Presidency Project*, see, <http://www.presidency.ucsb.edu/ws/?pid=74201>.

because in those days you had college deferments. You didn't have to worry about the draft until you were out of college and the assumption was we would be out of the war by then. But it was a much bigger deal in college.

LAW: So why Miami University in Oxford, Ohio?

NEMENOFF: When I was a sophomore in high school I was at a neighbor's house and he had a college directory. And I sort of started flipping through schools in the Midwest. And I was flipping through and each school had a little blurb. And one of the things in the blurb said how many men and how many women. And this is all going to sound awfully silly, but this is a true story. Many of the schools were mostly sixty-five percent men and one-third women. So, I'm flipping through to see if there was a state school somewhere in the Midwest that was pretty close to even. And I found Miami, Ohio. As a sports fan everybody knew about Miami (Ohio). Miami of Ohio as opposed to Miami of Florida. So, I was familiar with it. And lo and behold it was a state school no more than a few hours away in Ohio and it had a one-to-one ratio. So, I checked into it. And I applied and was accepted. And I fell in love with the place and didn't want to go see any place else. And to this day I try to direct kids from high school there. There's always a few from around here that go.

LAW: How did Oxford compare to Aurora?

NEMENOFF: Oxford was a tiny little town of five thousand. The school had thirteen or fourteen thousand. It had a quiet little campus town. It had a few stores. The Miami University campus is among the most beautiful you will ever find. It's classic. Everything is Georgian architecture. Everything is red brick. No building is more than

three stories. There is lots of grass and fair amount, some trees. And there are four or five quads that are surrounded by the dorms that are three stories tall, red brick with white pillars. It's everything that you'd think the University of Virginia would like I suppose. They now have expanded across the highway to Western College for Women which was a upper class women's college which is now part of the Miami University school but its campus is different. It's in a wooded area with lakes and it's rolling hills and it's more English in terms of granite structure building. Big granite box buildings. What you would think an English shire would look like. It is now the, I think the American Studies Center for the University.

LAW: Give me a sense of what campus life was like.

NEMENOFF: It was the most enjoyable four years of my life. I loved every minute of it. I couldn't wait to get back in the later, after the summer break, excuse me. Some of my closest friends went to school there. The academics were challenging, the social life was fun. I made tons of friends, like I said many of which I still do. I showed you this picture here of, in my office, the three of us we were three fraternity brothers. And we meet at least once a year and have for the last twelve or thirteen years.

LAW: What was the fraternity?

NEMENOFF: Sigma Alpha Mu. When we meet and go to a football game a year down in Oxford. And when Roethlisberger was playing, they were so good. We used to go to two. One home and one away. In fact, my wife and I are making a trip to Cincinnati in a couple weeks to pick up something. A wedding present for one of my kids. And we are going to stop and see one of these guys and we are going to have dinner with him.

LAW: Now were you working while you were...

NEMENOFF: I worked summers. I worked summers from after I graduated high school all the way through the end of law school. One summer I worked in a metal fabricating factory. The next summer I worked for about, I worked on a maintenance crew with Barber Green, which was a competitor of Caterpillar's, I guess. They made road equipment.

LAW: This is all back in Aurora?

NEMENOFF: Yes, back in Aurora. After that I worked three or four summers in a row at a lumberyard. And once I started law school, I did some legal work for an attorney who was in the Chicago ACLU in 1972. And then in 1973 I worked in an Aurora law firm, in their office. We remain friends to both those lawyers to this very day, and then I graduated law school in 1974.

LAW: Any influential professors or classes at Miami?

NEMENOFF: I'm a political science major one and the hugely memorable teacher I had was a teacher of constitutional law, civil rights and liberties. The legal side of political science. His name was Alan Engel. And we kept in touch for a while afterwards. He just was pretty inspiring. I liked the way he taught. There were others. I had a history teacher, American history teacher that was pretty interesting. And there were several others, I was pretty lucky with the teachers I had. But Alan Engel is probably the one that is most memorable.

LAW: So, you said earlier when you were in college, that's when you really remember the Vietnam War. What comes to mind?

NEMENOFF: Well, the war had expanded and expanded over my first three years in college. And sort of came to a head in 1969 and '70 with campus demonstrations and the SDS and the Chicago Seven and all that sort of thing. And where it became personal to me was when Kent State occurred. Are you familiar with Kent State?

LAW: Yes.

NEMENOFF: Kent State University was the state university in the same university system that I was going.

[00:45]

And it turns out that one of the four students who were killed at Kent State was someone I knew.

LAW: Oh wow.

NEMENOFF: But I didn't know her as a college student. I knew when she was in like fifth grade. Our family went on a trip to Miami, Florida. We stayed at this place, a resort. And there was this family from Pittsburgh, the Krause's and they had a little girl that was my sister's age. Three years younger than I was. And I remember her name was Allison Krause just like the rock star. Only she wasn't a rock star. And she was just a little girl and I didn't think of her. I was in seventh grade or eighth grade at the time. I didn't think anything about it. And I didn't even make the connection when the names were

disclosed when the four kids at Kent State were killed. Then my sister called me, I remember it. It was Allison Krause, a little girl I knew when she was in fourth grade, she was now a freshman in college and was killed. You think about it she'd have been probably sixty-five now. That really brought a personal story of how Vietnam came to my front door. Of course, at that point in time when Kent State exploded, so did all the state schools in Ohio. And we were closed for a couple of weeks in my senior year, then we came back to finish up my senior year.

LAW: What were your views on the war?

NEMENOFF: Well I suppose just like most everybody was questioning whether it was worth it or not. I was a twenty-one-year-old, what did I know? Probably like most other men you were a little more worried about your own draft status. And then other things, everybody back then had friends or people they knew or went to high school with and were killed in Vietnam. And I knew two. One college woman I know was a nurse over there and she was killed. And someone I know from my high school was killed in their second tour of duty there. You know about these things, you know, I'll leave it to historians as to whether Vietnam was worth it or not.

LAW: How would you kind of describe your world view as a young person? What was your political and social outlook at this time?

NEMENOFF: I think I was a little more liberal then than I am now. I'm pretty middle-of-the-road now, and I was pretty middle-of-the-road then. But I probably had a little more progressive tendencies when I was in college. Like so many other people I guess once you have a family and make some, earn some money, have some, the need to take care of



your children, and perhaps that's when you move a little more to the center. Because, but my perspective then and my perspective now on social issues is I'm pretty middle-of-the-road-ish. I always was a supporter of Israel. Still am a supporter of Israel, but it's a complicated area. It's a complicated situation there and I think it will all come to a point where all ethnic groups have a right to their own place. And I think that's eventually the way it will end up.

LAW: Do you think that you, these views were in any way shaped by your parents? Did you inherit any of these political views, or social views?

NEMENOFF: I'm sure they were. I can't tell you if they were. I was not very active politically particularly. Voted for candidates for both parties once I started voting, which by the way I still do.

LAW: But your family wasn't particularly involved politically?

NEMENOFF: No not at all.

LAW: Okay, at the time did you have a conception of being part of a particular generation? And if so, how would you have defined it?

NEMENOFF: Oh sure, there was, whether we understood it or not at the time, sort of the sixties were sort of a special revolutionary time in terms of more active freedom of speech, more active speech through demonstrations. More younger people becoming somewhat more politically active. There was of course all punctuated by the civil rights revolution. Which everybody was in favor of. Everybody, it was supported universally by kids and the students in college. Maybe some more than others. But it was, that was a

period of time, there was upheaval. Three assassinations of three highly respected people. There was the expansion of legal rights because of the Civil Rights Act and the Voting Rights Act. None of us really, I mean I didn't fully understand of the impact it would be. And then the war in Vietnam exploded to a much greater situation than it had been when I was in high school. It was the drug revolution, the sexual revolution. People were more active sexually, more active in experimenting with some drugs and alcohol. Although I don't think alcohol is anything new, I think the drugs became much more prevalent at that period of time. People were acting more casually, dressing more casually. Guys grew their hair longer, you know all that sort of stuff. And I was in the middle of it all.

LAW: How did, what were the similarities and differences between, that you saw at that time between your generation and your parents' generation?

NEMENOFF: Well they were, I mean, they were I presume much less active sexually 'til they were married. I would imagine nobody in my family ever used drugs. And they're just more, I think they were more family oriented than people of my generation were. I exclude myself because I consider myself pretty family oriented. But the family and your community and your neighborhood were of prime importance, I think less so today. People are much more mobile. They move from neighborhood to neighborhood for whatever reason they care to do so. Usually upwardly mobile. Nicer house, nicer neighborhood I suppose. My parent's friends they bought a house in the fifties and they died there. I mean they lived there for fifty years. That's what I would think.

LAW: What did they think about all this upheaval?

NEMENOFF: They never really talked about it. Nothing memorable. I'm sure they were concerned for my welfare, you know, for my sister's welfare. But they didn't talk a lot about it that I can recall.

LAW: Now this is also the time where there was a draft, which you've talked about. How did the draft function in your area?

NEMENOFF: Everybody was subject to the draft unless you were in college or married. Married with a child. And then the marriage with child got taken off. And you still had a student deferment but if you flunked out of college or left college you were likely to get drafted. In those days they were drafting almost everybody who was eligible. And then President Nixon got rid of the draft and made it all volunteer. Well, the first thing he did was he decided to do draft by lottery. I was one hundred and fifty-seven, and in that year, in 1970, they drafted up to one hundred and ninety-five. After that they never drafted past one hundred. I joined the reserves. Then later on of course they got rid of the draft and they became an all volunteer professional army.

LAW: Tell me about that time in the reserves, what do you remember?

NEMENOFF: Oh well I could probably tell you every minute of it. I was in an engineering unit, but I was a clerk in Aurora. I was supposed to start law school at the end of, on Labor Day weekend 1970 and ten days earlier I got my orders to basic training. So, I had to defer law school for a year. And I went out to Fort Ord in California in Monterrey and Carmel and Big Sur and San Francisco. There are worse places you could go. And I got lucky and I got assigned to a sort of new age experimental basic training unit that was low on harassment and discipline so long as you stayed out of trouble. It was more of a

job. You have to be ready to go at seven-thirty in the morning and you were done by five. If you did well you earned points and the points got you base privileges or off base privileges. And almost everybody, there was two hundred ten people or so in my basic training unit were reservists. I think there were eight regulars. Most of us were college graduates. So, I went in early September and I was home by middle of December. It didn't seem long at all. I went through basic training which was actually quite interesting. Both the physical and the intellectual side. There was a lot of classroom. There was a lot of weapons work; there was a lot of physical training. You didn't overdo it. Food wasn't half bad. And I was in probably one of the nicest pieces of country you could have. And I was lucky because my advanced training, which was the clerical training, was at Fort Ord. A lot of the friends I had went to other places. So, you know once you're past basic and into advanced training you have free roam of the base and you could leave base anytime you want. Go into Monterrey, up to San Francisco. Actually, Carmel is where I liked to go. And I had some, met some close friends from there. And it wasn't very long, and I came back and worked in Chicago at an insurance company for, working in a pension department for a few months. Then I went back to law school, went back to the University of Illinois, in September of '71.

LAW: Okay, so I just, before we get into law school I just want to ask generally why? Why did you decide to study the law?

NEMENOFF: Okay, this will bring a little bit of a smile to your face. Because my mother, when I was about in third grade told me that I was going to be a lawyer. And I believed her. And I never wavered from that. Why? She says, "You should be a professional because professionals can work for themselves if the company they work for doesn't

work out for them.” And she said, “Being an accountant will bore you to death. You’re not going to be good at the sciences so you’re not going to be a doctor. So, a lawyer is what you should be.” I believed my mother.

LAW: Did you know any lawyers?

NEMENOFF: My dad had friends who were lawyers.

LAW: So, they were family friends?

NEMENOFF: Sure.

LAW: Okay, so why the U of I?

NEMENOFF: Well first of all it was really a good school. It was then and it is now. It was at that point in time a top twenty-five law school and probably top ten public school, public law school, and it hardly cost anything. Now I think it’s about forty thousand dollars a year for an in-state resident. Back then I think it was three or five hundred dollars a semester. And they gave me a scholarship. They gave me a tuition waiver plus five hundred dollars cash. And the tuition was only three hundred dollars. Five hundred dollars was a lot of money then. It paid for all my room, my food, my car, and all sorts of other things. And my dad, he was blue collar, wasn’t going to have much in the way of money that they could spend on school for me. It was a good school and it was only a couple hours away from home. So, I went there and I’m glad I did.

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I had any number of law school professors who would become deans. And I dealt with some pretty prominent professors there. The Dean of the school was a fellow by the name of John Cribbet. Everybody still uses his textbook and he was an adjutant to General Patton during World War II.<sup>6</sup> And I had Wayne LaFave, who is still alive I believe, who is maybe the nation's top authority on the fourth amendment.<sup>7</sup> And I had Charles Quick who taught constitutional law and he was Thurgood Marshall's right hand man through *Brown vs. the Board of Education* and all the rest of those early cases.<sup>8</sup> Had Prentice Marshall, who was, became a federal judge.<sup>9</sup> I had another professor that became a federal judge in Danville.

LAW: Was that Baker?

NEMENOFF: Yes. Baker, Harold Baker.<sup>10</sup> Had him for the trial advocacy program. There was J. Nelson Young, who taught tax.<sup>11</sup> He taught tax like it was poetry. If I have a soft spot in my heart for any of them it was probably Professor Young. It had nothing to do with his teaching methods. Though he was real good, I mean he could really teach tax. And I was not, it was not my wheelhouse, that sort of stuff. I was not that comfortable with it. And he really taught me well. But I had this scholarship, this full tuition waiver

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<sup>6</sup> John Cribbet was a Professor at the University of Illinois from 1947-79, and Dean of the Law School from 1967-79. From 1979-84 he served as the Chancellor of the University. For more on Cribbet, see, *University of Illinois Law Review*, Vol. 1978, No. 1, pgs. 1-20. Also see, David A. Myers, "Dean John Edward Cribbet: The Illinois Prophet of Property Law," *Marquette Law Review*, Vol. 95, No. 1 (Fall 2011), pgs. 5-16.

<sup>7</sup> Wayne LaFave was a Professor at the University of Illinois from 1961-93, and is currently a Professor Emeritus. For more on Prof. LaFave, see, *University of Illinois Law Review*, Vol. 1993, No. 2, pgs. 169-205.

<sup>8</sup> Charles Quick was a Professor at the University of Illinois from 1967-79. For more on Prof. Quick, see, *University of Illinois Law Review*, No. 2, pgs. 357-368.

<sup>9</sup> For more on Judge Prentice H. Marshall, see, <http://www.lb7.uscourts.gov/oralHistories/MarshallPrentice.pdf>.

<sup>10</sup> Judge Harold A. Baker became a U.S. District Judge in 1978, and assumed senior status in 1994.

<sup>11</sup> J. Nelson Young was a Professor at the University of Illinois from 1946-81. For more on Prof. J. Nelson Young, see, *University of Illinois Law Review*, Vol. 1981, No. 3, pgs. 555-566.

and then money. You know I was supposed to be starting in 1970. But when I couldn't go to school because of the military commitment, they took it away from me. And they said they would reconsider it, back in 1971, when I got back in 1971. I mean they actually made me reapply. They let me in, but they didn't give me any scholarship back. They said I was lower in the rankings in the students, of the students coming in. Then they didn't give it to me. So, when I sort of suggested that it didn't seem very fair, I was sort of told I just didn't understand. The assistant dean sort of humiliated me. So that was that. The next year that assistant dean was gone. So, I went, I thought I'd give it a new shot, I went to the new dean who looked puzzled when I told him this. I guess he was puzzled because he had been a career military man. He says, "Well I don't know what they will do, but let me take this to Professor Young, maybe he will take it back to the scholarship committee." I guess Mr. Young was the chairmen of the scholarship committee. Five minutes later I get a notice that Professor Young wants to see me, and he tells that he's not taking me back to the committee. He's reissuing my scholarship on his own, and that while he couldn't make it retroactive for my first year, he would make it retroactive to my second year and I wouldn't have to have a certain level of grades to maintain it. I was good so as long as I was in good standing. So, I always have a soft spot in my heart for J. Nelson Young.

LAW: Do you recall what the composition of your law school class was in terms of race, ethnicity, gender, and age?

NEMENOFF: Well, age was twenties. There were few people there that had a career beforehand. It was largely male. I would say I think there was two hundred people in the class. I would think probably thirty women. There was twenty African Americans. The

population of African Americans and women was just starting to expand. There was a real effort at the University of Illinois to get African Americans in school, in the law school, women as well. By the time I graduated I think those numbers were higher. But it was still largely white male.

LAW: Were there a lot of veterans, or active duty?

NEMENOFF: There were a few.

LAW: Just a few, okay, help me understand the nature of the legal education you were receiving. What was the teaching method, was there a philosophy of the law school?

NEM ENOFF: It was like most law schools. It was the Socratic Method. I don't know if you know what that is. Students were called upon to answer a series of questions, to which there were no answers, but you didn't know that of course. And it was a fascinating methodology which I use all the time now. I use as a judge asking questions of lawyers. Because it made you think on narrow issues, narrow points. Not broad theories with sweeping statements, but very narrow sub-issues. It made you think in a critical fashion. Made you think in a logical fashion. Made you understand different points of view on certain things. This was very difficult for most students because most students who came to law school were liberal arts students. A lot of people who were straight A students in college got their fair share of C's the first semester in law school, including me, because they weren't used to understanding what the professors were looking for. But once you learned it, the method, law school became a lot easier to understand. It was a lot easier to learn. Law school really taught you how to think like a lawyer and to think.



LAW: Did the wider world ever impact your legal education?

NEMENOFF: The wider world?

LAW: Yeah, world events, current events.

NEMENOFF: The wider world led me to a summer job with the ACLU. I was, I just was looking for something. I can't remember why or how someone suggested the ACLU might be looking for a couple of summer interns, so I went down there. I remember now a friend of mine from law school had gotten one. And he called and said, "If you're looking for something to do, this is going to be, give them a call and we can do this together."

LAW: Okay, so one of my questions was, I guess this was an internship, but I was going to ask if you had any externships or any internships? Did you work with any law firms?

NEMENOFF: I worked for a law firm between my second and third year in Aurora. It was a firm that did a lot of real estate development, or, represented developers. So, I worked for them and that was pretty interesting.

LAW: If you could distill it down, what were the principles and legal skills that you were learning?

NEMENOFF: When I was working at the law firm, or elsewhere?

LAW: In law school.

NEMENOFF: Well, a law school education for the most part is not about learning the rules, unless you had a specialized course in tax law. You were taught to identify the various

issues that arose in property law or contract law. And you were taught how to understand the various sides of each argument of those things. And how to go find what the rules were. And how to advocate for a position or defend against another position. It was more a changing the way you thought about things. And this would be in the context of a subject, a subject of procedure, a subject of property, or subject of criminal law. You learned how to identify issues that arose within that subject matter and to think about them in a logical or critical way so that when you were a lawyer and were reading cases about a particular point of an assignment that had been given to you by a partner or somebody in your law firm that you could analyze it better. Then learn what the Illinois rules were. Or the Ohio rules were, or whatever the rules were, or federal court rules.

LAW: Do you recall what some of the big constitutional issues would have been at the time?

Did they ever come up in class?

NEMENOFF: Well we took a course in constitutional law but it wasn't so much what was happening in the present day but what had happened really from the New Deal forward. The cases that were the big ticket items would have been civil rights, criminal procedure, but I really think the one that was the most important on the day to day lives of the people were the one man, one person, one vote cases, *Baker vs. Carr* and cases like that which changed all the legislatures to having districts that were relatively the same size.<sup>12</sup> And it turned almost all state and federal legislatures from rural dominated legislatures to municipal dominated legislatures,

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<sup>12</sup> See, 369 U.S. 186 (1962). Also see *Reynolds v. Sims*, 377 U.S. 533 (1964).

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and just changed the nature of the people who were going to Congress and going to the state assemblies. And I think that has just as much impact as the civil rights cases, and criminal procedure cases.

LAW: Now you mentioned Professor Young. Did you have any other influential classes or professors?

NEMENOFF: Well they all were in some way or another. My property course was pretty influential, only because Dean Cribbet was the professor and he was such a star in his field. Wayne LaFave teaching the fourth amendment was memorable. All in some regard were pretty good.

LAW: Okay.

NEMENOFF: I enjoyed my time at the University of Illinois Law School and am very appreciative of the education they gave me.

LAW: I did want to ask also what your first impressions of Champaign-Urbana were and how it compared to Oxford and Aurora?

NEMENOFF: Well Champaign-Urbana, were two fairly good-sized municipalities compared to Oxford. The pace of life was much more quick in Champaign. It was a major university, Big Ten university as opposed to a Mid-American Conference university. We played football and basketball against the most prominent teams in America. There were

more students, at least forty thousand people there, just on the campus. Whereas only just ten or fifteen thousand in Oxford. It was a more fast paced social life there.

LAW: Did you live in Champaign or Urbana?

NEMENOFF: Champaign.

LAW: Any other memories of campus life?

NEMENOFF: Law school or?

LAW: In law school, yeah.

NEMENOFF: It wasn't as social as I was as an undergraduate. It was harder to socialize, harder to meet people, other than law students. But when you are in college you felt you're much more part of campus life.

LAW: Any kind of other activities outside of school and work?

NEMENOFF: No, nothing particular.

LAW: Okay, so you've gotten through college, you've gotten through law school. Did your world view change in any significant way?

NEMENOFF: No dramatic way. We all change over a period of time. But the changes in my, if you will, political world view have developed over a period of forty years. No dramatic shift of..

LAW: Okay, so after graduating, what was your first professional position?

NEMENOFF: I took a job as a law clerk for an Illinois appellate court judge by the name of Jay Alloy.<sup>13</sup> One of my friends from University of Illinois law school took a job with him, so the two of us had an apartment together. And we both worked for Justice Alloy which was a fascinating experience. He's among the most brilliant legal minds I've ever met. He considered us professional. We didn't need his permission to show up for work or not show up for work, just as long as we were getting the work done. If we wanted to leave and go back to our hometown, or to take a long weekend, to just let him know because he expected us to get our work done and get our work done on time and so long as we were doing that he let us do what we want. I worked for one year with him. My old roommate worked I think for two years with him.

LAW: Where was the clerkship based at?

NEMENOFF: Here in Peoria.

LAW: In Peoria, okay.

NEMENOFF: A block from where we are at now.

LAW: So, was he from here then?

NEMENOFF: Yes, he was a private attorney from Peoria. He grew up in Peoria. He was born in Peoria, he grew up in Peoria, his family was from Peoria and he practiced law here.

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<sup>13</sup> Justice Jay Alloy was elected to the Third District Appellate Court in 1964, and served in that position until his retirement in 1984.

LAW: Did you come to meet any of the other Justices on the...

NEMENOFF: I met them all. There was Judge Stouder, who was blind.<sup>14</sup> Justice Stengel, who had once ran for Governor of Illinois who was a most enjoyable person.<sup>15</sup> There was Judge Scott, Albert Scott from Canton who was real enjoyable to be with.<sup>16</sup> Justice Toby Barry, who I got to know very well as I grew older.<sup>17</sup> He ran for Illinois Supreme Court and lost to Justice Heiple.<sup>18</sup> I met Justice Howard Ryan, who would later be elected to the Supreme Court.<sup>19</sup> He was actually on the Supreme Court then. I got to know him.

LAW: So how were these, how were these men similar or different. Was there...

NEMENOFF: I think they're as different as any other group of people. Alloy was very studious and very stoic. And he had a very good sense of humor but unless you knew him you couldn't tell. He seemed quiet and reserved. But he really wasn't. He was the paradigm of a complete professional. And he was acting in his official capacity and he

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<sup>14</sup> Justice Alan Stouder was elected the County Judge of Peoria County in 1962, and became an Associate Circuit Judge for the Tenth Judicial Circuit in 1964 under the new Judicial Article. He was elected to the Third District Appellate Court in 1964, and served in that position until 1995.

<sup>15</sup> Justice W. Richard Stengel was a State Representative from 1948-56, State's Attorney of Rock Island County from 1960-68, a Circuit Court Judge for the Fourteenth Judicial Circuit from 1968-74, and a Justice with the Third District Appellate Court from 1974-80. Justice Stengel sought the Democratic nomination for Governor in 1960.

<sup>16</sup> Justice Albert Scott was elected the County Judge of Fulton County in 1950, served in the Illinois State Senate from 1953-61, and was elected a Circuit Judge for the Ninth Judicial Circuit in 1966. He retired from that position in 1987. Judge Scott also served on the Third District Appellate Court from 1970-74, and from 1975-1990 by assignment.

<sup>17</sup> Justice Tobias Barry was a State Representative from 1960-74, and a Justice with the Third District Appellate Court in from 1974-94. He returned to the Third District Appellate Court by assignment from 2002-2004. Barry was the Democratic candidate in 1990 for the Third Judicial District seat of the Illinois Supreme Court.

<sup>18</sup> Justice James D. Heiple was a Circuit Judge for the Tenth Judicial Circuit from 1970-1980, an Appellate Court Justice for the Third District Appellate Court from 1980-1990, and an Illinois Supreme Court Justice for the Third Judicial District from 1990-2000.

<sup>19</sup> Justice Howard Ryan served as the County Judge of LaSalle County from 1955-57, a Circuit Court Judge for the Thirteenth Judicial Circuit from 1957-68, an Appellate Court Justice for the Third District Appellate Court from 1968-70, and an Illinois Supreme Court Justice for the Third Judicial District from 1970-1990.

was perfectly well behaved. The others were... I think that Justice Ryan was that way too. The others were their own personalities and they would come down to visit every now and then. And we would go up to Ottawa and spend some time with them. They were all very nice and pleasant to two young lawyers who thought we knew something but didn't.

LAW: So, what exactly would have been your duties? What would you have been working on?

NEMENOFF: He would ask for research memos. He would give us the briefs of a case that he was on a panel. And he would ask us to sort of draft a mini-opinion of how we thought the case should be decided. And sometimes he followed it and sometimes he didn't.

LAW: Okay.

NEMENOFF: You know he sort of understood these issues. He knew them a lot better than I did or we did. And he had his own opinions on them and was very smart. I think he was only reversed once or twice ever by the Illinois Supreme Court. But it was mostly research and writing drafts.

LAW: Any memorable cases? And that have stuck with you?

NEMENOFF: There was one. It was only because he used a lot of my stuff. When he wrote the opinion, he used a lot of my stuff. It was whether or not one of the sexual abuse crimes violated equal protection because it treated men who had sexual contact with young women more severely than older adult women who had sexual contact with younger men. And the question was, did that violate either Illinois' Equal Protection

Clause, or Illinois has its own equal right amendment where it says there should be no discrimination based upon gender, and the question was did it violate any of those two provisions. And I wrote this lengthy thing saying the claim had been waived, that the argument had, that the issue had been waived four or five different reasons. And that's how the appellate court ruled, and they used a lot, about three pages of my stuff. That's why it was memorable.

LAW: First impressions of Peoria?

NEMENOFF: While I had been in Peoria once before when I was in high school, but I liked Peoria. I consider it home more than Aurora. That's where my kids were born and that's where I was married. That's where I sent my children to high school and one child to college at Bradley. I still do enjoy Peoria. I think Peoria has a lot to offer. For me anyhow.

LAW: Help me get an idea about what the city of Peoria was like in the early '70s?

NEMENOFF: Downtown was old, I wouldn't call it decaying, but it was aging just as I was coming into town. And they were just starting, the mayor and the city council, a very good mayor and the city council, were just starting the process of trying to renovate the downtown area because it's such a beautiful riverfront here. And the first thing that they did was bring in the University of Illinois Medical School, build the Civic Center, do all those things, and all those things were happening when I first started working here in 1976. And I got to do a lot of it along with Jack Teplitz whose office is right next to me. He was corporation counsel then and I was an assistant. And he and I did most of the development work. And I got to do a lot of it. Stuff that I would never have been able to



do but for the fact I was at the right place at the right time. And I think Peoria's downtown did a magnificent job of redeveloping itself. You commented upon this building. This was one of the buildings that were done. And hotels were re-done, and parking decks put on. And the Civic Center was built, and the courthouse was built. And any number of buildings were torn down. Old buildings were torn down and new buildings were put in their place. It was fun to be part of that.

LAW: Okay, well my final question for you today is, I believe in the seventies you got married. How did being a husband and later a father affect your work life? How did you balance work and life?

NEMENOFF: Well I was lucky because I had a job with the city of Peoria so I could be home by five-thirty or six every day. Because it was important to me and my wife that we both be around for the children. My wife worked part-time, but most of the time she was a stay at home, particularly when they got old enough to go to school. It was her choice. I mean I think it was done for the children. It doesn't work out that way for everybody, but it worked out for us. And she, after a while, when the kids got a little older, she took some other part-time jobs to have spending money. And she lived long enough to see all three of them graduate college. And right after our youngest graduated college, a couple weeks after that she passed away suddenly, without explanation. Then I remarried a couple years later.

LAW: So now you decided to stay in Peoria, then after the clerkship, why?

NEMENOFF: I did that because of the job I got at city hall.

LAW: Tell me about that, how did that come about?

NEMENOFF: I applied, I knew I could be done with the clerkship at the end of July. And there was an opening at city hall for an assistant city attorney. I applied, I didn't get it, but Teplitz, he was corporation counsel, he said, he was going to have two more openings in January and he wanted to offer me one of those, so stick in town 'til then, so I did. I just sort of did some work for lawyers on a case-by-case basis. He did offer me the job in January. Interestingly enough the fellow that took the job in April I went to law school with, and he has become one of my very closest friends in life. I presided over his second marriage and he presided over my second marriage.

LAW: Do you feel like your law school education prepared you to be a lawyer?

NEMENOFF: I do very much. It prepared me to start the process of being a lawyer. You don't really learn how to be a lawyer until you do it. And it takes years and years and years, and you are always learning something new. But I think it did give me the ability to start in the right direction.

LAW: Well sir that's all I have for you today. I think we will stop here.

NEMENOFF: Okay, I think it went all right.

LAW: Good, good.

[Total Running Time: 01:29:26]

**END OF INTERVIEW ONE**

## BEGINNING OF INTERVIEW TWO

LAW: This is an oral history interview with Judge Brian Nemenoff. Today's date is June 28<sup>th</sup>, 2016. We are in his law office here in Peoria, Illinois. It is our second interview and today we are going to talk about his legal career.

NEMENOFF: By the way for the record, it's Nemenoff with a soft "e". Looks like it should be a long "e" but it's not.

LAW: Judge Nemenoff, after clerking why did you decide to go into public service as a city attorney with the City of Peoria and then how did that come about?

NEMENOFF: What had happened was that I was done with Third District Appellate Court Judge Alloy in August of 1975 and I was looking for a job. Nothing particular came up, and in the meantime I went into the private practice of law by myself for about four or five months, made a little money. Jack Teplitz, who was corporation counsel for the city, and I had known each other, he had mentioned just to hang tight because in January he was going to have a couple openings and he hoped to hire me. That's how that came about.

LAW: Jack hired you, what was he having you work on initially?

NEMENOFF: I did a little prosecution of traffic court as in those days the city prosecuted traffic violations. And all new lawyers did that for a little while. I didn't do that for very long, but I did it for a little while. Then he had me help him on economic development issues in Peoria. Peoria, like all mid-sized cities, or larger Illinois cities, were having a

downtown that was becoming less and less of a retail center and more and more of a financial and government center as urban sprawl occurred and the malls opened on the suburban edges of town. There was an effort to revitalize downtown Peoria by our mayor and city council and Jack had me help him in that work. My first job was to - first real estate closing was the closing of the real estate transfer of land from the City of Peoria to the University of Illinois Medical School. That medical school stands there today and is a full-throated medical school that adds to this community as well as the State of Illinois and the Midwest as a whole. We're all very proud of that medical school. I had nothing to do with the substance of the medical school other than the redevelopment project. He also had me interestingly enough take an appeal of the Adult Use Ordinance. There had been a whole host of adult uses in downtown Peoria, adult use books, exotic dancing, things of that kind, and it was sort of overwhelming the downtown and that didn't work very well with the need to revitalize the commercial aspects of downtown. An effort was made to regulate that in a manner that would lessen the impact of adult uses, constitutionally protected adult uses in the downtown area, and we were successful on appeal in the Third District Appellate Court. It was upheld in the circuit court and then upheld in the Third District [Appellate Court]. And that law is still applicable today.

LAW: Help me understand what the composition of the local bar was at that time, in terms of race, ethnicity, gender and age?

NEMENOFF: Well I can't tell you about age. There were always new lawyers coming in. It was, I can't tell you for sure, we were just starting to get an influx of female lawyers. Just like when I was in law school in the early seventies, more and more women were in class and more and more African Americans as well as other minorities. There was the

old school lawyers. By old school I mean people who were practicing older, maybe into their fifties or sixties. All of whom are now retired or gone. I was at the bottom of this whole thing, I was new here and I didn't know much about the makeup of the remainder of the bar. I was closer to the people who were in their mid-twenties and mid-thirties. And there was a fair amount of young lawyers here and all the firms were hiring people, one or two people every year.

LAW: Were most attorneys general practice attorneys?

NEMENOFF: I would say that the bulk of them were. There were three or four firms of some size that would specialize in let's say personal injury on the plaintiff's side or civil defense. There were a couple of business firms. Davis & Morgan was as close to a silk-stocking law firm as we had, and they did a lot of high level commercial and corporate work, and many of those partners are still around in different firms. There were other firms, Heyl, Royster, Voelker & Allen which is one of the preeminent law firms in downstate Illinois. It has over a hundred lawyers now. Then, they only had thirteen or fourteen and maybe only had the Peoria office. Now they have offices in several cities and they are very well known and very well respected, both then and particularly now. And there are others. McConnell, Kennedy, Quinn & Johnston, whose name has changed many times. They did a lot of insurance defense as did Westervelt, Johnson, Nicoll & Keller. Those were four or five of the larger firms at the time and they were a little more specialized.

LAW: In Jack's office would it have just been him and you, or were there other attorneys?

NEMENOFF: We had, when I started, six lawyers, eventually got down to five, three of which have become judges. I was the first one to become a judge. Then Glen Collier, former football captain at Illinois in the early seventies. He was working there when I got there. He is a very close friend of mine now. He became a judge after I did. Helen Rosenberg or Helen Rosenberg Franks is an associate judge up in Lake County Illinois up by Waukegan and Mundelein, in that area. At one time we had five people in the office, three of them would become judges.

LAW: How was the work divided up in the office?

NEMENOFF: Well Jack assigned as cases as they came in or work needed to be done, Jack assigned it. Jack was a former Department of Justice lawyer who came to Peoria. He was from Chicago. He came to Peoria and he had some unique abilities for a local government lawyer. He was unlike most municipal lawyers in that he had a background in business development and finance and accounting. And he brought that perspective and it came at the right time with Peoria redevelopment. The City of Peoria owes a great deal of gratitude to him. He had me do a lot of the redevelopment work with him. Everybody had to do some traffic and code violation litigation. If lawsuits came in there were a couple assistants who sort of specialized in that. For a while one of our lawyers did the worker's comp cases and when he left to go into private practice, we put that out to contract employees and when labor law became important in the municipal function we hired local counsel for labor law.

LAW: Were there any well-known criminal attorneys?

NEMENOFF: Well the two, I don't know about well known, but the two most famous in the day would have been, in the beginning would have been Jack Brunnenmeyer, whose name is on one of those appeal cases you gave me earlier. And Bobby Jones, or Bob Jones, who did a lot of serious felony cases. And they led to people like Ron Hamm and Tim Penn who are now in their early seventies, I think Ron Hamm is pretty much retired, Penn still works. They were the next generation of great criminal defense lawyers. There were others, and I'm leaving some out and I don't mean to, but those are the names that pop into my head.

LAW: You mentioned one of the cases you had against Jack. This is *City of Peoria v. Lynn*.<sup>20</sup>  
Any memories of that particular case?

NEMENOFF: Is that the gambling? Is that the gambling raid case?

LAW: Yeah.

NEMENOFF: Early on, I did much of the appeal work for the city. Maybe because I worked for Judge Alloy they thought I would be good at it. This was not a huge case. There had been apparently an ongoing card game, private card game, for money at a lock shop in Peoria. I don't know if they are still in business, I won't mention their name. And they sent in some undercover police to participate or witness the game. And eventually the police came in and raided it and arrested everybody and charged them with city ordinance violations. The money and cards were seized. And they hired Brunnenmeyer and others who challenged the search as being, the search and seizure as being illegal. And the appellate court and the trial courts agreed with them. I do not believe that I tried that case

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<sup>20</sup> See, *City of Peoria v. Lynn*, 44 Ill. App. 3d 697 (1976).

in front of the circuit court. I tried to get it reversed on appeal. The money was returned to the people arrested.

LAW: You did some other appellate work?

NEMENOFF: I did a lot of appellate work. I did most of the serious appellate work for the city in the ten years that I was there. I liked doing that.

LAW: Another, I guess you would could call it a criminal case, is this *People v. Underwood*?<sup>21</sup>

NEMENOFF: *People v. Underwood* happened in the four or five months between my job with Judge Alloy, and the city I was working privately. A number of lawyers would send me appeals that I would do considerably cheaper than they had to do because I didn't have much in the way of overhead and was happy to get whatever business. I think his name was Steven? This was back in 1975. He had been involved in a scrap, it was a knife fight, and someone got stabbed. And Steve was a juvenile at the time but was prosecuted as an adult in Woodford County. He was convicted. His parents, before the sentencing, or maybe even after the sentencing, but somewhere before the case went up and before it was finalized in a trial court had seen another lawyer in town about representing them for post-trial motions. He was sentenced to four years in a penitentiary, a juvenile IDOC. But there were still post-trial motions that were pending. They wanted to hire a well-known criminal defense lawyer here in town, a fellow by the name of Jim Reynolds. Jim is no longer alive. Jim had sent me some case and I had some success with him. And so, he sent me this one because they couldn't afford him. I represented young Mr. Underwood and his family through the post-trial motions in

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<sup>21</sup> See, *People v. Underwood*, 72 Ill. 2d 124 (1978).



Woodford County. I appealed to the Fourth District Court of Appeals in Springfield and we got a new trial for him. But unfortunately for Steve the Supreme Court took it and reversed the appellate court and upheld his conviction. But that was pretty interesting, I was probably twenty-seven or eight years old and there I was in the Supreme Court in the State of Illinois.

[15:00]

LAW: Would that have been the first time you were at the Supreme Court?

NEMENOFF: Yes.

LAW: Maybe talk about that first experience more.

NEMENOFF: I was not certain what to expect. You sit in this little waiting room and your case gets called. But I had gone out earlier and watched maybe. I was maybe the third or fourth on the docket. I went out and watched the first one or two just to see how they acted. I wasn't quite as nervous as I thought I would be. The Justices on the Supreme Court were very polite. They asked the right questions of me and the attorney general that was representing the states attorney's side of the case. I was thrilled to have been that young and my mom and dad were proud. But you keep on picking these cases that I lost. Let's get one that I won.

LAW: Back to the appellate work that you had while you were with the city. Why don't we talk about some of the ones that had to deal with the redevelopment?

NEMENOFF: There were two cases that I had, well maybe three. There were two that went to the Illinois Supreme Court on municipal taxing. And while the municipal tax aspect is not directly related to redevelopment projects, it's the manner in which the city was able to finance these redevelopment projects without touching and raising the real estate tax. The City of Peoria is a home rule unit and home rule units have expanded powers including expanding taxing powers. The civic center, which was the centerpiece of municipal downtown development, which of course happened after the School of Medicine, was essentially financed by HUD, was already up and going and there was a need to increase the hospitality industry and then we had this facility and you could see it, you have driven through town, it's quite a facility. Other than McCormick Place there is no other facility in the Midwest like this. It's a three-part building; it has a sports' arena for ten to eleven thousand that holds minor league hockey as well as Bradley basketball and state basketball tournaments. It's got a sixty-five hundred square foot open area, exhibition hall with maybe twenty rooms for meetings that are very nice. A twenty-four hundred seat theatre for the performing arts with a lobby that you could have a prom or a wedding reception at. And it's all tied together, three separate buildings tied together with these magnificent glass arcades. Philip Johnson and John Burgee were the architects. Philip Johnson was hailed by *Time* magazine as America's greatest design architect.<sup>22</sup> His picture was on the front page of *Time* magazine. And I got to work with those people, that's you know, I got to work side by side with people like that. That's pretty good, a thrill for someone who was thirty years old. Jack and I did a lot of work of the financing the civic center. When he left, I became general counsel for the civic

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<sup>22</sup> January 8, 1979.

center. There were three taxes that supported the civic center. The city passed taxes on hotel, motels, restaurants and amusements; more particularly on the patrons of that, of those businesses. They were styled as taxes on the privilege of going to a restaurant, or the privilege of going to an amusement, or the privilege of staying in a hotel or motel. The tax was on the consumer, not on the occupation of the entrepreneurs. One of the companies that owned a series of movie theatres brought a case called *Kerasotes v. City of Peoria*, and they took the position that the taxes were an illegal occupation tax and the trial court agreed with them.<sup>23</sup> Interestingly enough the trial court judge was Judge Jim Heiple, a friend of mine, still is a friend of mine, who later would become Chief Justice of the Illinois Supreme Court. We appealed that case directly to the Supreme Court of Illinois. The Supreme Court took it and they upheld our position and upheld the validity of those taxes and made the financing of downtown development more sound. That was a big win for us.

LAW: I had a question about that particular case. I read in the opinion that while this was going on in the Supreme Court a new ordinance was passed that was not involved in the litigation.

NEMENOFF: That's right, the reason that then Judge Heiple ruled them to be illegal was essentially because he thought some of the exemptions that were made from the amusement tax were illegal. He said we had no power to require the school district on their amusements, to collect a tax for us, the park district to do that. There was a series of non-for-profit exemptions that he said were too haphazard and made no sense and

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<sup>23</sup> See, *Kerasotes v. City of Peoria*, 77 Ill. 2d 491 (1979).

therefore the exemptions were unreasonable, and the tax should fail. So, the city council, to protect its tax base, re-passed the amusement tax with no exceptions. So, every amusement operator had to collect a tax on behalf of the city from their patrons. And that became the basis of another lawsuit where some units of government were now complaining that the city could not impose regulations on the government since we were co-equal units of local government. So that came up, that case went up to the Supreme Court and the Supreme Court held that all units of local government with the exception of school districts can be regulated by home rule units like the City of Peoria in that regard. We can make them collect our taxes; we can make them account for it and we can make them submit those funds to us. That was the very first case that really held that a municipality, which is a more general jurisdiction of local government, could affect the affairs of other governments, except school districts which were given special constitutional protection. But then right about the same time the Illinois Supreme Court came down and said that our amusement tax in its original form was perfectly legal so those exemptions were put back into place and we never had the schools and the parks and any other unit of local government that had ran a restaurant or ran a golf course or had an amusement would have to collect those taxes for us because we were free to exempt them as we saw fit which was the whole reason for the tax. So we were upheld almost across the line on that.

The Civic Center was also granted twenty million dollars from the state. In those days interest rates exceeded fifteen percent. When you take twenty million dollars in a construction fund that takes two or three years to spend down the interest income on the unused bond proceeds were immense, three or four million dollars. There was a lawsuit

between the various civic center authorities in the State of Illinois as to who got the interest. Did the state get it to defray the cost of the bonds or did we get it to put into the project? We lost that case in the trial court but won it in the appellate and Supreme Court, so we got the money. I was not a prime lawyer in the case that went up to the Supreme Court because that was done out of Springfield. I did support work for them, I did memos on that. And the position that I had given them was the one they took as well and the one that prevailed in the Supreme Court. You were showing me earlier *Arends v. O'Connor*?<sup>24</sup>

LAW: *Town of City of Peoria v. O'Connor*.

NEMENOFF: That had to do with the collection of real estate taxes locally. And what happened to the interest on those proceeds from the time they were collected by township collectors in June and distributed in September. It was a lot of money. I represented the *Town of the City of Peoria*. The Supreme Court ruled that taxing bodies are allowed to keep our money on a pro rata basis. That case along with the civic center support bond case, are the two major cases that gave rise to the rules by which interest in which state and local monies were governed.

LAW: Just so I have these dates right, you started with Jack about 1976.

NEMENOFF: January 1976.

LAW: And then he left about...

NEMENOFF: I'm not sure, I could ask him, he is sitting in the office next door.

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<sup>24</sup> See, *Town of City of Peoria v. O'Connor*, 85 Ill. 2d 195 (1981).

LAW: When did you become corporation counsel?

NEMENOFF: I never became corporation counsel, when Jack left I became deputy corporation counsel and eventually was given the title of City Attorney, which is not the same as corporation counsel.

LAW: What's the distinction?

NEMENOFF: The distinction was that I represented not only the city, but I also represented the Peoria Civic Center Authority. And I was the only person ever to have that title because once I became a judge and I left the city the civic center hired private counsel.

LAW: Okay, so with these cases we've been discussing would that have been part of your work when you were the attorney for the civic center or was that different? Draw the distinction there.

NEMENOFF: The case with the municipal taxes I did that as city attorney or as deputy corporation counsel. But I was on the city side of that. On the money for *Town of City of Peoria*, I did it as township attorney. The *Town of the City of Peoria* has the same boundaries as the City of Peoria, so I represented the township as well as the city in that case. The case that had to do with the state bonds I represented both the city and the Civic Center Authority on that.

LAW: You're wearing a variety of hats, I suppose?

[30:00]

NEMENOFF: That's right, in those days the city and the civic center had very similar interests. And I did, you know, a lot of contract work for the civic center and its staff. I

represented them whenever they needed it. There was, there never really was a time where I had a conflict. I was with them when the civic center went into operation phase. It was in operation phase maybe for three years while I was still there. After the thing got a little more complicated it was probably a smart idea to have a lawyer for the city and a lawyer for the civic center; at least after I left that's what they did.

LAW: Another case from that period is that condemnation case, *City of Peoria v. Peoria Rental, Inc.*<sup>25</sup>

NEMENOFF: There was at that time a lot of HUD money available for redevelopment projects of blighted and undeveloped areas for housing. Not for business enterprises but for housing for economically deprived and elderly people. There would be a federal subsidy either in the construction contracts or in the rents. The city was involved. Our job would be the acquisition of the land, demolish the buildings, make it into a developable piece of property and then sell it to a developer so it could develop it into a federally approved or a state approved elderly or low-income housing project. And I think I worked on four or five of those. Every one of them is still in business. In fact, I am on the board of one of them strangely enough, at this point in time. And this case involved the last piece of property we needed to put together a square block. It's right by St. Mary's Cathedral and the Peoria First Station. I think it's called Hurlburt House. And we needed one more piece of property and this is the eminent domain case that we tried and that was challenged on appeal and the city was upheld on appeal. It had nothing to do with the civic center. But it had to do with a near downtown redevelopment. When

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<sup>25</sup> See, *City Of Peoria v. Peoria Rental, Inc.*, 61 Ill. App.3d 1 (Ill. App. Ct. 1978).

the city was redeveloping the core of downtown it did redevelopment on the periphery of downtown. It was an old neighborhood, with very bad and dilapidated commercial and residential structures that were cleared and put to better uses.

LAW: A number of judges are mentioned in this particular opinion. I did want to ask you about memories of some of these judges.

NEMENOFF: Fire away.

LAW: I guess we could start with the ones mentioned in this opinion. How about we start first with Judge Albert Pucci?

NEMENOFF: Judge Pucci was an older judge. He was probably in his upper sixties if not more when I first started in the practice. He was very, very bright. He would have made an excellent appellate court judge. Not everybody got along with him, but I did. He was a trial court judge and he was very nice to me. What had happened in this case was that the lawyers representing the land owners tried to get a last minute continuance from a different judge who obviously wouldn't do it because it was the day of the trial. After they did that they filed for a substitution of judge, and I objected to it. I thought there was no basis for it, and the appellate court upheld that. I got a nice letter from Judge Pucci after he retired that I stood up not only for him but for the dignity of the courts, and I thought that was pretty nice. He retired shortly after that.

LAW: The other judge, there's two others mentioned, but the next one is Judge Charles Iben?

NEMENOFF: Charles Iben was a circuit court judge. I don't recall that he was involved in that case. Charlie Iben was the first judge I ever tried a case in front of in 1975. The first



I was involved in what would now be called a class action, sounds a little silly now, but I represented renters of a big apartment complex that had a swimming pool and in the middle of the lease period added a fee for the use of the pool. It was only ten dollars, maybe ten dollars a month. But I thought it was illegal and the trial court held it was illegal and Charlie Iben was the judge who held it as illegal. It was the first time I ever appeared in front of a judge.

LAW: Iben was later not retained. I was just wondering what your thoughts were on that.

NEMENOFF: I liked Judge Iben and I don't know why he wasn't retained. I had nothing but good experiences.

LAW: Judge Pucci was also not retained, but by a much slimmer margin.

NEMENOFF: He didn't get along with some lawyers. I don't know what was going on and why it was he didn't retain. I don't really have an opinion on it. I was way too young, too inexperienced, to know what was going on.

LAW: Another judge, I was going to ask if you have any memories of, was Calvin Stone?

NEMENOFF: Calvin was one of the great judges. He was smart as a whip and he ran a good courtroom. He was smart both on the criminal side and on the civil side. You always knew whether you won or lost a ruling from him that he gave it his all. He lives down in Florida now. I visited him some time ago in Florida. I very much enjoyed practicing in front of Cal Stone. He is a good man.

LAW: Another would be Richard Eagleton?

NEMENOFF: Dick Eagleton is a good friend of mine. I played golf with him yesterday. He is in his mid-eighties now. I play with Dick twice a week and he is doing great. He was a fine judge. He was a former U.S. Attorney, went to Yale. Interestingly enough, his Spanish teacher when he was a freshman at Yale was Bill Buckley, the famous columnist who is no longer alive.

LAW: Judge Steven Covey?

NEMENOFF: Steve Covey's another golf buddy. I played golf with him a week ago. Steven is 87 ½. Steve is a character; he might have had the best sense of humor than anybody I knew. He used to organize our Saturday morning golf games back when I was twenty-six and twenty-seven. He now lives in Florida in the winter and is back home in the summer. He organizes our Monday-Thursday games and occasionally comes out to play with us and meets us afterwards for a beer or soda and popcorn or a sandwich and he comes out. He was also an excellent, excellent judge. He became a federal bankruptcy judge after he was a state circuit court judge. Good friend.

LAW: In Oklahoma, I think?

NEMENOFF: Tulsa, Oklahoma. Learned all about the oil business he said. He is a wonderful guy and I like him very, very much.

LAW: Robert Hunt?

NEMENOFF: Bob Hunt. He did a lot of probate work as a judge. I knew him fairly well. But he retired probably before I was thirty-two or thirty-three. He's no longer alive.

LAW: Okay, Robert Manning?

NEMENOFF: Bob Manning, once again, another golf buddy. Bob is now gone. He was chief judge for a while when I was judge. He had been an excellent criminal defense lawyer. He presided over any number of cases that I had, that I litigated. He was at one time a professional baseball player in the minor leagues. A good athlete, he died maybe a year or two ago.

LAW: You may not have had any cases in front of him I'm not sure, but Judge Ivan Yontz?

NEMENOFF: I did, I had one case in front Ivan Yontz and I got to know him fairly well; my early days in Peoria. Again, going back to that time when I had four or five months, again, Jim Reynolds the criminal defense lawyer passed a case on to me of a young man who had gotten involved in a car burglary. He had been in trouble in juvenile court and now he was eighteen or nineteen and he when got in trouble, wanted to get in the Navy and the Navy wouldn't let him in if he had, if it was a felony or he was on probation. If he was still on some sort of supervision, he couldn't enter the service. I was able to convince the state's attorney to reduce it to a misdemeanor and keep him off probation so he could join the Navy. And Judge Yontz was the judge that presided over that and he approved it. And the fellow made a career in the Navy and he really did turn his life around.

LAW: Now some associate judges. John D. Sullivan?

NEMENOFF: John Sullivan was a judge that I succeeded. John Sullivan was an old Irish man whose son Kevin is a good friend of mine. John Sullivan was known for his pen with green ink. He signed his orders in green ink. When I retired, I gave a pen with green ink to my successor as well. I have fond memories of John Sullivan. He was a

judge form when I first got here in town in 1974 and he retired the last day of July of 1986 and I took over the next day.

LAW: John Whitney?

NEMENOFF: John Whitney may have been the friendliest guy in the world. John Whitney is long gone now. He has the distinction of being one of the very few judges in this county that was upheld by the United States Supreme Court on a small little municipal code case, long before my time, that raised constitutional issues and got all the way to the Supreme Court of the United States and he was upheld.

LAW: S.P. Williamson?

NEMENOFF: S.P. Williamson was a former county board member who was only there for a year or two. I did not know him very well.

[45:00]

LAW: William Young?

NEMENOFF: Bill Young, and I know this sounds like a broken record, but his son was somebody I played golf with a lot. Bill Young was an associate judge and later became a circuit judge by appointment. He was there for any number of years that I was there, and we knew each other pretty well, interesting guy. He's not with us anymore. It's been a couple years.

LAW: Robert Coney?

NEMENOFF: Bob Coney, he was an associate judge. He retired before I became a judge.

He was the founder of the Bradley Traffic Conference. In the first Wednesday, Thursday and Friday in June, of every year, for fifty years, there was a traffic law conference at Bradley. It was for judges, it was for defense lawyers, it was for prosecutors, it was for clerks, it was for police officers, for anybody involved in traffic law. And it was the preeminent traffic law conference in Illinois. I was on the board, the executive board, for maybe the last twenty years. Bob Coney was the founder of it. Last year was the fiftieth year, 2015, was its fiftieth year. And it ended. Bob was the starter of that, the creator of that. It was a great, Bradley put up people free. It was a great thing and I'm sorry to see it gone.

LAW: A few more, Donald Courson?

NEMENOFF: I played golf with Don yesterday as well. We have a group of retired judges that play golf. Don has been a close friend of mine since about 1978 or '79. He was an associate judge, then a circuit judge then he was a chief judge. He was at one time a very top-flight golfer. Some of the people who play golf also bowl in the winter with our wives on Saturday morning. Don and I have been playing golf and socializing for years. He and his wife Mary Lou and my wife Kathy, and my first wife who passed away eleven years ago, we're social friends of theirs and have dinner often. I have lunch with Don once a month with Judge Ebel and Judge Collier and sometimes Judge Borden. Ebel doesn't play golf but the rest of us do.

LAW: Any memories of Judge Ebel?

NEMENOFF: Oh yeah, are you kidding me? Tons of them. He and I worked together for years. He was a very, very good prosecutor and was a good trial lawyer. He was a hard-working judge, did a lot of work but you never saw him because he was in juvenile abuse and neglect and juvenile delinquency court. I still see him at least two or three times a month. He lives right across the street from Courson.

LAW: Joe Billy McDade?

NEMENOFF: Joe Billy McDade, one of our great success stories. I was an associate judge when Joe was associate judge. After I became an associate judge, he became a circuit judge. I was there when he was elevated, and rightfully so, to the federal bench. I was proud to have been invited to the swearing in. His story is a great one. He came literally from the cotton fields of rural Houston to Bradley at a time when things were, you know, not so progressive at Bradley as they are now. He was one of the first great African American basketball players there and he won in the NIT when the NIT meant something. He still wears his watch. He is now retired. But is still a federal judge emeritus, I think he still works every day. A great story, a great success story.

LAW: Jackson Newlin?

NEMENOFF: Jack Newlin, a former neighbor of mine. He was a lawyer, more of a business lawyer and office lawyer. Very highly rated by the bar association, that's why I suppose he became an associate judge. He lived right on the corner from me where I lived before where I lived now. My son was his paper boy. He passed away a few years ago.

LAW: That is all of the Peoria judges I was going to ask you about. But I was curious in the early days if you may have gotten out of Peoria County to some of the more rural counties in the circuit. Did you ever practice over in Tazewell or Woodford?

NEMENOFF: Woodford County would have been the *Underwood* case. That was Woodford County. And that was quite an experience.

LAW: Do you remember who the judge was?

NEMENOFF: Yes, I do, Sam Harrod III. By the way, before I forget. I went to, I had that case in front of Judge Harrod. I was local counsel on a divorce case in Tazewell County in front of Judge Reardon, Bill Reardon. He's gone now too, interesting fellow. I did some judicial work. I was assigned to a case or two in Stark County and in Marshall County. I did get assigned a case in Knox County.

LAW: The ones in Stark and Marshall, do you know who the judges would have been over there?

NEMENOFF: I was the judge; I didn't try a case over there.

LAW: So, you wouldn't have any memories of Edward Haugen's?

NEMENOFF: Of course, I remember Ed Haugens. I tried a lot of cases in front of Ed Haugens. His daughter and son are a friend of mine, of course I remember Judge Haugens.

LAW: What about Charles Wilson?

NEMENOFF: I remember Charlie Wilson. He was a circuit court judge in the circuit when I was with the city. I tried a couple cases with him. The Riggins case you were asking about was his case.

LAW: Okay, let's talk about that one: *Riggins vs. the Board of Fire Police Commissioners*.<sup>26</sup>

NEMENOFF: There was, Officer Bill Riggins and some others were involved in a fundraising, I think a for-profit fundraising mechanism that looked like a pyramid scheme. They said it was more like the Amway system which is perfectly legal entrepreneurial work. The police chief objected to them wearing their uniforms or carrying a weapon when they tried to deal with this thing. There were several police officers involved in this and Riggins was one of them. Chief Al Andrews held a series of hearings, you know, his own hearings, because he was the first line of employer/employee hearings with the police department. He suspended some people, for two days or three days. Officer Riggins was the only one who was fired, and he challenged the firing in front of Judge Wilson. Judge Wilson upheld the firing as did the appellate court. I had a lot of admiration for Chief Andrews and his successor Chief Pazanno. Andrews is still alive, Chief Pazanno died very recently. Chief Andrews may be one of the smartest persons that I've ever met.

LAW: I think you were going to tell me about another case involving, I think it was a fireman but not...

NEMENOFF: There are these special rules that apply to municipal liability. There was this fellow who owned a house and a fire broke out in his house one evening and the fire

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<sup>26</sup> See, *Riggins v. BD. Of Fire Police Comm'rs*, 107 Ill. App.3d 126 (Ill. App. Ct. 1982).



department came and extinguished it. There wasn't much damage, a little damage, not a big deal. The owner put his hand up to the wall, the plaster wall and thought it was hot. He asked them to investigate. The commanding officer refused. Four hours later in the very the same spot, the fire renewed, his house was destroyed. He then sued the city of - first he sued the City of Peoria. And I was the deputy corporation counsel then and I raised the defense that the city was both immune under the Tort Immunity Act, and if we weren't immune, we had no duty to the individual homeowner. We had a duty to the public, generally, but not to any person individualized. And the trial court and the appellate court agreed so he was out of luck against the city. So, he brings the same case against the firefighter. I raised the same defenses, and the same result. Now mind you this guy did nothing, absolutely nothing wrong. He was in no way caused damage to his house. In fact, he did everything he could to try to get the firefighters to do something else that might have stopped it. So, then he brought a civil rights case against the city and the firefighters for deprivation of his property without due process of law. And the Seventh Circuit Court of Appeals ruled there was no constitutional right to fire protection; so, he had no civil rights case. He had no rights against the firefighter. He had no rights against the city and the state law. He had no rights against anybody in federal court. He was out of luck. Only thing he did wrong was have his house underinsured, I guess. That was

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a case of some unusual - the laws that apply to municipal governments and state governments that are different than those that apply to everyday people, or regular people. I'm not going to criticize it. I'm not going to support it. I'm just going to say

that's what it is. It was an interesting case, intellectually, and went up to three appellate courts. I like those kinds of cases, not because this poor guy didn't get his house rebuilt but because of the intellectual nature of some of the issues raised. That's why I did a lot of appellate work, I liked doing that stuff.

LAW: Another federal case was this *Heidelberg vs. Hammer et al.*<sup>27</sup> Any memories of that one?

NEMENOFF: Yes, that is an interesting story. In 1970 when I was still in law school, a county deputy by the name of Espinoza was investigating what had been called a robbery, an armed robbery, at the Peoria drive-in movie theater, outdoor movie theater. During the course of his investigation he was shot and killed by the person who was committing the robbery. A chase ensued, eventually Cleve Heidelberg Jr. was arrested and prosecuted and found guilty. His guilt has been affirmed on any number of levels, the state, appellate, Supreme and federal courts of habeas corpus. He filed a civil rights case pro se. By pro se of course I mean he didn't have a lawyer. A civil rights case against the arresting city officers for the use of unnecessary force and for the County of Peoria on irregularities that occurred at the county jail and perhaps during the prosecution. I have to be a little careful about what I'm saying here because, you will see why in a moment. I did not handle the initial pleading in Federal District Court. That case was dismissed by the Federal District Court judge at that time. He filed an appeal, he was then represented by a law professor from the University of Notre Dame and the case was reinstated. I decided to send the case back and I believe appoint him civil

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<sup>27</sup> See, *Heidelberg v. Hammer*, 577 F.2d 429 (1978).

counsel for the case. I owe you a little more of an explanation here because there is more to the story. And I normally wouldn't do this because you didn't ask it, but there is a reason, and that's why I'm treading a little carefully. He was appointed maybe the most preeminent law firm in Illinois, Jenner & Block. And they came down here, a couple of their young lawyers came down and represented Cleve against, represented the arresting officers and County official. The states attorney down here represented on the county side, the sheriff, some of the jailors and other people. They made an offer to me to settle it on the city side for a very little amount of money. Seven thousand dollars and that included Jenner & Blocks attorney's fees. If we had tried the case, even if there had been a small verdict, Jenner & Block's fees would have been eighty or ninety thousand dollars. If the civil rights plaintiff prevails, it's a law then and is a law now, it's a good law, the losing side has to pay all the attorney's fees. They wanted seven thousand dollars and that included, they didn't take any attorney's fees. That was pretty hard to turn down. So we settled it. I offer you no opinion whether or not there was liability or not; we never tried it. The county settled their aspect for more. And that was the end of it, case was dismissed and then years went by. About six months ago an effort was, began to be made on behalf of Mr. Heidelberg to get him a new trial. That effort is presently in court. So I'm not going to say anything about it, because there's a person in this office with whom I have no business relationship with, she is a friend who is a former police officer who is now a private detective who has been doing some of the legwork for it. The case is presently filed in the circuit court. I have nothing to do with the case. Interestingly enough all the people in the case are going to be in this office at four o'clock today. Strangely enough you are here today. They are supposed to be out there at one-thirty,

and they were going to be doing some videotaping of interviewing people and connections with that case. I can't go any further than that. I offer absolutely no opinion on the merits on any of this stuff. I really don't know, and if I did have a feeling, I probably wouldn't tell you here because the case is ongoing.

LAW: How did the work in the federal courts compare to the state courts?

NEMENOFF: It was more formal, there are more rules of procedure. If you go to trial in a federal court there were more schedules that needed to be met, more documents that had to be passed back and forth. It was considerably more formal in federal court than in state court. Not that state court was informal. I don't mean that at all. But this was my best remembrance of trying cases in federal court.

LAW: Generally, what would you say you learned about the criminal justice system by being an attorney?

NEMENOFF: I did not do a lot of criminal work as an attorney. You saw that case I took on, Underwood's case. What I raised in that case were two things. One, that I thought that Judge Harrod had been too quick to transfer him into, from juvenile court into adult court. I think he did it for bad reasons. I think he did it for reasons - bad reasons aren't what I mean; for reasons that weren't governed by the Juvenile Court Act. And I also then thought that there had been a mistake in the instructions of self-defense. And it was on that issue that the Fourth District Appellate Court gave him a new trial. And it was that issue that the appellate court reversed. The Supreme Court disagreed. I tried a Fourth Amendment case as a young lawyer, here, saying that there was no basis to suppress. I made a motion to suppress something, I don't even remember. Oh, I

remember what it was, I remember now. It was a fellow charged with a weapons charge, a misdemeanor weapons charge. And he told me he was a police officer for the city of Farmington. He worked for the post office at day and he was an undercover agent at night. Because they thought drugs were going someplace in one of the schools, I think it was Farmington. And he worked as a janitor there, but he was a part-time undercover officer and he was allowed to have a weapon. And that was the defense and we prevailed on that because the chief of police sent a letter for us that he was a peace officer for the city of Farmington. I didn't do much else, criminal stuff.

LAW: Let me rephrase it, what did you learn about the legal system, generally? Did it work? Was it effective?

NEMENOFF: For the most part it is. For the great majority of the time it is. The reason they call us judges is because they have to exercise judgment. There are two things that trial court judges do. And that's what the legal system is when you're a young lawyer; you're dealing with trial court. There are questions of law and there are questions of fact. You have no discretion on the questions of law. You just have to know what the rules are. And you have to apply them whether the rules come out with a good result or a fair result, or a just result, or a result that is a little iffy. Those are the rules. Those are the facts. The legislature has passed those rules for whatever reason and you have to apply it. Sometimes it wasn't a happy ending. Most of the time it was. But you had to follow the rules. You couldn't ignore a rule because you wanted to get a better result. But when it comes to issues of fact you have discretion to believe certain people and not believe others. As a trial court judge, both as a practitioner and as a judge, you did everything you could to find out the truth. To find out what the real facts were. Then you applied

the facts to the law or expected the trial court judge in front of whom you were appearing to find that. And that's where the judgment comes in, that's where the discretion comes in. You know sometimes you believe the wrong person or things aren't what they appear. That's just the nature of things. I find that the court system substantially reaches just decisions in most all of the cases. I think it's a very, very good system. It's the adversarial system, allows both sides to take, if you want to call it, not extreme views, but adversarial views that are opposed to one another. Do the very best for their client's interests and have someone in the middle who is absolutely neutral and absolutely objective, has no interest in seeing person A win or person B win. The judges just want to determine what the facts are, apply the facts to the rules and decide the case. Judges are required to follow the procedure. That the process that judges have to use, that the system we have to use, is as important if not more important than the result in a particular case. That sounds like I don't think the case ought to be decided right or justly or fairly, not what I mean, they ought to be and need to be. But the process needs to be followed. You cannot violate the process to get a better result. If following the process gets you a lesser result, then that's the result. That's why it's called due process of law, not due results of law. It's the process that judges have to abide.

LAW: So, let's get into the judging. First, how and why did you decide to be a judge?

NEMENOFF: When I was deputy corporation counsel the guy who was a good friend of mine was the corporation counsel. He had gotten a small amount of support the previous time through and so, he was a nice guy, would have made a great associate judge. And he had applied but he was not so eager to go over and try to talk to the judges about getting support as every other candidate did. So, I was trying to drum up support for him so he

could get that job and maybe I could become corporation counsel, a job that I would have liked to have. I got pulled aside by one of the judges you talked about earlier and he suggested that I should apply. He thought I would eventually get appointed.

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LAW: Tell me about that application process. What did you have to do? What was involved?

NEMENOFF: The process then and the process now is much different. Back then all you did was indicate to the chief judge that you were interested and he would certify your name to the Administrative Office of Illinois Courts and there would be a notice that was sent out and you had a certain time by which to file your intent. I think you just filed it with the chief judge at that time. I think you would just walk over and knock on the door and tell them or send them a letter, and then the ballots came out and that was it. There was no application that I can remember other than name, age and phone number. The judges voted and if there was no majority they voted again, and it kept on going until someone got six out of ten votes. For ten circuit judges, you're gonna get six of them. And that's what it was, and I won in a runoff.

LAW: His brother?

NEMENOFF: I was thirty-eight years old and I was called sometime in early June by Judge Palucci who was the chief judge at that time. And I left the city on the 31<sup>st</sup> of July, 1986, and was sworn in the next morning.

LAW: What was your first assignment?

NEMENOFF: My first assignment was traffic court. My first judicial duty was to do a wedding.

LAW: So, you are in traffic then?

NEMENOFF: A year-and-a-half.

LAW: First year-and-a-half. Then I went to, I believe divorce court, yeah divorce court. And then I went to cases under fifty thousand dollars.

LAW: When you first started how was the work divided up amongst the judges?

NEMENOFF: The chief judge assigned us to a special courtroom.

LAW: Before you continue, what do you mean an associate judge's court?

NEMENOFF: Mostly it was given to associate judges as opposed to circuit judges. Circuit judges would be doing the more complicated civil cases as well as the felony cases.

LAW: Was that tradition? Were there ever exceptions to that?

NEMENOFF: There was a time when I was in Tazewell County when DUI's, which were both misdemeanors and felonies and they were done in front of me, and I was an associate judge. And I was assigned an occasional felony case from time to time. But traffic, it's still largely an associate judge's court.

LAW: So back to how things were organized. The chief judge did the assignments, but were there - give me a better idea?



NEMENOFF: We had two of us in traffic court, one of us did the routine work, you plead guilty or not guilty, they plead guilty and you assess a fine. The other judge would do the trials, people were set for trial, police officer would go in the other courtroom and they would do the trials. Other judges did misdemeanor court. Always two domestic relations judges, there would be a couple civil judges, a probate judge, there'd be two felony judges and there would be two or three civil cases, bigger cases, over fifty thousand.

LAW: So, you start off in traffic and then you go to divorce court. Had you had much experience with divorce court?

NEMENOFF: A little bit, maybe six or seven cases I did privately.

LAW: I have been told that some lawyers, at least at that time, might not have handled divorces. They didn't want to touch them. Was that still the case?

NEMENOFF: Most of the general practitioners did a divorce here and a divorce there. But there were fifteen/twenty lawyers that did the bulk of divorces. I always liked doing divorce court and I will tell you why. These were regular people who reached a bump in the road that they had not intended to do, they had not committed crimes, they had paid their bills, they weren't in trouble, they were for the most part decent people, decent parents and their marriage had fallen apart. I enjoyed trying to find a way to bridge the gap between this part of their life and the next part of their life. And I liked that and that is why I am doing what I'm doing today, which is mediating family law cases.

LAW: About how long were you in divorce court?

NEMENOFF: Probably a year or two. We changed every year. They reassigned people every year but sometimes in those courts you were reassigned to the same court.

Particularly not so much traffic or small claims, but divorce court because some of these cases took several months to finish and they didn't want to have to start a new judge in a case if they didn't have to. My recollection is usually two years in divorce court.

LAW: Then cases under fifty thousand?

NEMENOFF: Yes, which was mostly cases under five thousand. We did cases under fifty thousand, a lot of preliminary work, you didn't so much do the trial work. But cases under five thousand is what we call small claims court now, we did that regularly.

LAW: So that kind of rounded out your first four years?

NEMENOFF: Something like that.

LAW: I think I saw that you thought about running for the circuit court?

NEMENOFF: I did run, and I lost in the Republican primary.

LAW: Tell me about that experience.

NEMENOFF: You have to ask, huh? No, I ran against a friend of mine who was elected. He got more votes than I did. It was a fairly enjoyable process because you got to go around to all different groups of people and talk to them and try to convince them. I lost and never thought about running again.

LAW: Give me a sense of the politics of the local judiciary.

NEMENOFF: You can tell who the circuit court judges were because they run on a partisan ballot. I'm not so sure I could tell you the associate judges because that is a nonpartisan selection process. I'm not so sure what they all are, I have my guesses. But I think it's, if I had more time to think off camera, I could tell you what the split is now, it's probably pretty even.

LAW: Were there parts where the local parties agree on? Are there spots, associate judgeships for people of both parties?

NEMENOFF: When I was on the judiciary, I can say with complete confidence that the circuit judges did not let party affiliation enter their mind at all. But as a general matter, circuit judges that I served under were interested in one thing and one thing only, quality associate judges, and that was their only consideration.

LAW: So, second term as an associate judge, would you have been hearing the same types of cases?

NEMENOFF: I rotated throughout those years. I rotated between traffic court, misdemeanor courts and domestic relations courts. Probably did those three the most. I finished out my career in domestic violence court for the last two years, which is a specialized court for misdemeanor domestic violence, felony domestic violence and civil orders of protection. Sorry to move that far in advance.

LAW: That's fine. Give me an idea of what kind of cases you would have had in, first, misdemeanor court?

NEMENOFF: Misdemeanor court you would have cases such as theft, shoplifting, damage to property, batteries, bar fights, or any fights, trespass to property, those kinds of cases that could get you up to a year in local jail, not the penitentiary but the county jail. And it was a fairly high-volume court. The bulk of the people plead guilty through plea agreements. We had a public defender in the room the whole time.

LAW: Was there any dealing with these cases? Did it make any difference who the state's attorney was and how these cases were handled?

NEMENOFF: I'm going to give you the answer no. I don't think it made much difference. These were young states attorneys that were in there. The misdemeanor court in Peoria County also was the one where you did the felony bail hearings. When people were arrested and put in jail they would come, you had to come within forty-eight hours, and you have a bail hearing with them. Peoria County was the first county in the state, I believe, that had video hearings from the jail so you wouldn't have to bring the prisoners from the jail. The jail is out in the rural area here. You didn't have to drive them down here. You didn't have to worry about security issues. They go in through the library at the jail, they talked privately on closed circuit phones to their lawyers and then we have a video hearing. And I think I was first judge in the state ever to do that. That's what I was told, I don't know if it's true or not, but I think I was the first one. That's what misdemeanor court was, it would always be petitions to revoke your probation or your court supervision, we did those on Fridays. We did bench trials on Tuesdays and Thursdays. We did first appearances on Monday and jury trials on Wednesday.

LAW: So, you clearly had a schedule.

NEMENOFF: Yes.

LAW: You are taking them, each case as they come?

NEMENOFF: There was a docket. We always would schedule ten trials for the morning and ten trials for the afternoon on Tuesdays and Thursdays, something like that. Do one jury trial a week, whatever, however many petitions to revoke probation. We spent all day there.

LAW: Domestic relations, what would that have involved?

NEMENOFF: That would have involved the dissolution of marriage, parentage acts where people had children outside of marriage, child support issues, property issues, awarding of custody and visitation, division of property on dissolution of marriage, consideration of what they used to call alimony which is now called maintenance, parenting time with each parent, decision-making concerning the welfare of the child. Should the mother always make decisions, should father make the decisions? Should they have to talk about it before they make decisions? Should they go to court to make these decisions? Those are the kind of things you did.

LAW: I imagine those could be very emotional cases?

NEMENOFF: They could, I told you I said I enjoyed that kind of judging. Not that I enjoyed people's heartbreak, that's not what I meant. I enjoyed the process. It was a challenging process that I got deeply into and learned a lot about. I guess that's the best way to put it.

LAW: Help me understand how you kept your own emotions out of it, how you stayed objective.

NEMENOFF: You learn early on as a judge these are not your cases. That sounds a little cruel but if you took personally all the

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problems that came in front of you in a day you couldn't survive. You had to insulate yourself from that, or isolate yourself, whatever it is. Not that you didn't care about finding out what happened in a case, that's not what I mean. You had to deal with the case, and you decided the case and you put it aside. Every now and then there would be a case that got to you and bugged you and you thought about in the middle of the night. You just had to train yourself early on not to take too much of that home with you. Some of it you had to. Some of it was so horrible you had to. But you really had to train yourself to do that.

LAW: So, going with what you were just talking about, staying objective and not getting emotionally involved. My next question connected with that is, how were you able to stay patient with dealing with these very contentious issues and contentious parties?

NEMENOFF: If it got out of hand you had to put things in order. Things did get emotional, particularly in some family court. But I was pretty good at calming people down and letting them know everyone was going to be fair with them and that sort of thing. You just, some of these courts are so high volume that you just have to divorce yourself from the emotions of the case. You have to look at it objectively and you don't rule in favor of somebody 'cause that person's a nice person.

LAW: Did you ever have to hold anybody in contempt?

NEMENOFF: Three or four times, held one guy in contempt twice.

LAW: What would it have taken for you to have to do that?

NEMENOFF: If they got personal and nasty to the court, not to me, I'm just a representative of the court, to the system. A couple times I held someone in contempt for that.

Generally, you found them in contempt because they failed to abide by court orders. If a payer of child support who had the money but refused to pay, then you hold them in contempt and often put them in jail until they paid. You only put them in jail because they had as judges like to say, "They have the key to the jail," because if they owed five thousand dollars, they had five thousand dollars they could give, they had the five thousand dollars and they were just refusing to pay it. Most that I held in contempt and put them in jail to pay child support paid right away. Trying to explain to those people, "Why put everybody through this? Just pay when you are supposed to pay." And they had their reasons that had nothing to do with supporting their child. But they had their reasons and they are all different. But one guy I did twice.

LAW: Ever an attorney?

NEMENOFF: No.

LAW: Domestic relations then. That work would have been in the '90s?

NEMENOFF: I went to domestic relations courts every three or four years.

LAW: Okay, so you are rotating back misdemeanors, domestic relations, traffic, small claims, and then eventually domestic violence?

NEMENOFF: I ended up, we had a specialized court in domestic violence that they no longer have, I don't believe. They centralized all orders of protection, all misdemeanor criminal domestic abuse cases and all felony ones. So, they would have a public defender or two that specialized in defending those cases and a prosecutor or two that specialized in the trial work of prosecuting those cases. And interspersed among that was some child support issues that came up completely without regard to domestic violence. They needed somebody to take up some of the cases. It was in that court that I was actually threatened and had a police escort home.

LAW: What was that all about?

NEMENOFF: We had a fellow that was, I don't know the right word for him, he was a little unusual. We had him in court and on an order of protection case, that's all it was, an order of protection case. And he seemed to be rambling and you couldn't really talk to him, he didn't answer the questions you were asking him. And so, there was a continuance granted, or I guess I extended the order of protection for a couple of weeks until he could get a lawyer or something like that. And then we had a hearing a couple of weeks later on a Friday and he made a phone call to some office and he said some things about weapons and mentioned my name and said something about him being a CIA agent and he was just trying to protect everybody. Pretty obvious that he needed medical attention. But because they used the word "weapons" and he said I have a hearing in Judge Nemenoff's court, they arrested him. And later that day when bond was set at like five thousand dollars over the weekend, I think I'm thinking of the same guy, I'm pretty sure, he said that he couldn't raise the five thousand dollars but he could raise it in plastic explosives. I think that was the same guy. That was the next day, and when that



happened that's when the deputies escorted me home. And they took me home and they did not leave until the garage door was down. And they came around, they called me a couple times at night, and they patrolled my neighborhood; safest neighborhood in town that night, for the whole weekend. I don't think they ever charged this guy. I'm not sure. I think he got medical attention. Never saw him again the rest of my life.

LAW: I believe the courthouse was expanded when you were a judge.

NEMENOFF: That's right, doubled in size.

LAW: Tell me about what it was like before that happened.

NEMENOFF: Before that happened the traffic court, the two divorce courts, and I believe the misdemeanor courts, were in a very small, all in one tiny area. The two divorce courts, each divorce court was about the size of this office if you could square it off or make it a rectangle. And people's lives were being immensely affected. They would be sitting about as far away from the judge as you are. The people in the hallways were shoulder to shoulder. They just needed more space. So, they expanded it down Jefferson Street and made a beautiful courthouse with nice courtrooms. There was no dignity to the courtrooms on the fourth floor at the old courthouse. There was no dignity. Second floor courtrooms were nice, but there was no dignity in these other places. It was just like your dean's office or principal's office at school. And they made courtrooms more modern, they weren't ornate particularly, but you felt like you were in a courtroom as opposed to a converted office. Everything is much more secure. Prior to expansion, judges went up the same elevators as litigants. There were no private elevators, no private stairwells, no private bathrooms for judges or prosecutors or police officers; on the third and fourth

floor in the old part of the wing. The Jefferson Street side, the three or four courtrooms there did have, they didn't have much in the way of security, but the judges had their own bathrooms, the chambers have their own bathrooms. And then when they built this, they built it in the fashion that no one in the public or no practicing attorney could get back into the judge's corridor. The judges had their own stairwells, and the clerks and court reporters were back there too. We had our own entrance that was key carded. We had our own elevators. We could go to work and leave work without ever having to mingle if we didn't want to. The closest you came was actually in the courtroom. If people wanted to come back, they had to get by an armed guard. They had to get permission of the judge and get by a deputy. So, security was excellent at that point in time. Then of course they put the TSA type things in the courthouse before you came in, so we had very little in the way of security problems. That was the biggest, the privacy back there, the only people in those back hallways were judges, clerks and court reporters and some of the lawyers. There was also now a secure way, we also had jail cells. First, second, third and fourth floors had two sets of cells and you got in, you drove in, you went in a sally port, the garage door came down and they let out the prisoners and the only place they could go was walk into an elevator and go up into the jails. Prisoners could be processed more safely. Lawyers in criminal cases could talk to their clients in a safer environment as opposed as out into the courtroom. They would come out into the courtroom and do whatever had to be done in open court. Those were the biggest changes.

LAW: Okay, now I just want to ask some philosophical questions. First one is what are your thoughts on cameras in the courtroom?

NEMENOFF: I have mixed feelings on it. I think courts are hugely misunderstood by the public. I'm sort of old school, I am not hugely in favor of cameras in the courtroom because they only are, generally are in there for the mega case, which is not anything like what normally happens in those courtrooms. No one would watch what happens day in and day out. It's generally pretty boring and routine. Trials are not boring, but they are not particularly noteworthy for the general public. So, you get them only in the O.J. type cases which is, are outlier cases. The temptations to act differently in front of a camera then you would normally is great though. That really turns out not to have been too much of a problem out of the things that I have seen. I'd like to find a way that people could be educated about the courts without doing that. I remember, I used to have relatives in Buffalo, New York, and there was this case, it was a reckless homicide case, a DUI death in a car and it was televised, but they only televised the prosecution's case, they didn't televise the defense, and when the guy was found not guilty there was outrage everywhere. That's because nobody saw the trial, nobody saw the defense side of the case. Apparently, it was a legitimate defense and there was arguable case for a not guilty. And that's what the jury found, because the jury saw everything. But the public at large didn't see everything

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I suppose, I don't know. For whatever reason, they did not televise the defense case or most of the defense case. So, the people who saw the case, because it was a big deal case at the time, only saw the prosecution's case. That's what bothers me about it sometimes.

LAW: How should the judiciary relate to the media and how should the media relate to the judiciary?

NEMENOFF: Well we have ethics that pretty much prohibit us from discussing any case with them. There may be matters of judicial protocol, judicial organization or things that are, that don't relate to any one particular case, and that is a function of the chief judge. I'm trying to remember if I ever talked formally to a member of the media in the twenty-one years I was there. I probably did but I don't remember it. If they were talking about one of my cases I wasn't interested in talking about it before it happened, while it was happening or after it happened, I just didn't discuss those cases. I don't think we could, we could be subject to reprimand by the Supreme Court if not worse. But I think the chief judge does have a public relations aspect of his office because he's dealing with the budget and with the county board and other things about how they organize the courts. And that of course is information for which the public at large needs to know. I think the media has every right to ask any question of anybody. If they can get a hold of a judge and get them on the phone or see them on the street and ask them a question about a case I think that's fair game for them to do it. That is their role in society. If the judge doesn't want to answer then just say they have, "No comment". But I don't begrudge a member of the media that asked the questions.

LAW: As a lawyer and as a judge, what are the best means to enhance the public's awareness of the judiciary and what the judiciary does?

NEMENOFF: Well, I really don't know. I hate to say it that way. It's a tough problem because the civil and criminal justice systems, the system by which litigation, whether

it's criminal or it's civil, resolves disputes is something that unless you are involved in it professionally is something that's very much misunderstood. If somebody personally has an interest, they should come to court and sit, there is plenty of room, sit there for two or three days and watch it. That may not be easy for most people to do because they have family and jobs, but that's the best way to see how the system works is to sit there for a few hours and watch it work.

LAW: Are you a member of any bar associations and what is the nature of the relationship between bar associations and the judiciary in your area?

NEMENOFF: I am a member of the Peoria County Bar.

LAW: Were you a member when you were a judge?

NEMENOFF: There is a necessary relationship between the bench and the bar. There needs to be. Both the bench and the bar need to be educated to the needs of the other. They need to be educated as to the substantive rules of law that each particular field of law has. Most state and local bars, as well as the American Bar Association and other groups, are very good at that. They're very good at providing continuing education to both bench and bar and to bench and bar relations. I have to say that the tenth circuit when I was a judge, the bench and bar relationships were excellent. People were very friendly and civil. It was very easy to be a lawyer, easy in the sense of dealing with other lawyers and dealing with judges from the lawyer's side. It was very easy to deal with lawyers from the judicial side, in the vast majority of cases.

LAW: What is the role of the judiciary in society and what is the role of a lawyer in society?

NEMENOFF: The role of the lawyer is to be an advocate for a person's position. It goes further than that. The role of a lawyer is to analyze the problem that his or her client has brought to them, and to advise them what their best route is. The role of the lawyer is sometimes to tell their client no, they can't get what they want; the law or the facts of the case don't allow it. So far as to have a triable case they are to do what they can, within the rules of ethics, to get the best result from the courts or from a settlement, whatever. A good lawyer needs to be a skillful negotiator, has to be a tireless preparer of their case. No one should go to trial unless they are – no good trial lawyer should ever be surprised at trial, in a major case. They may not like some of the things that arise in trial, but they shouldn't be too surprised. The role of the judiciary is different. The role of the judge is not adversarial, he has no adversarial position; a judge is not an advocate, that is the best way to put it. A judge has to be neutral and objective. The judge has to realize, as I said earlier, that there is a process to which we must be loyal to a fault. We must understand the process and people who litigate in front of us need to know that the process is of equal importance as the particular results of the case, because if the judge and the counsel follow the process with loyalty and are well prepared and provide the court or juries with evidence, the result generally is right. Not always, but generally. It sometimes is a difficult method by which disputes can be resolved and sometimes it's destructive, it's destructive of people's finances, it can be destructive of relationships. But it is a fair way to do it.

LAW: What are the benefits of doing pro bono work and have you been engaged with that and have you been engaged with any other kind of philanthropic work?

NEMENOFF: I didn't practice law until I was sixty, and I don't really practice law now. All I do is court ordered family law mediations. In the state and in the circuit any issue involving children such as parenting time decision making, what we used to call custody and visitation, and things related to that, first go to mediation in an attempt to resolve it inexpensively with as little stress as possible and as quickly as we can. Mediator of course has no right to compel a result like a judge does, and that's what I do now. We are all obligated to do at least two pro bono mediations. I do a lot of mediations, between two and three hundred a year. And there are probably fifty or sixty of them where I actually do for nothing, or for a substantially reduced fee. If someone asks me and they say, "I can't afford the fee for mediation." I just tell them to bring what they can and that's it. If legal aid has somebody, I sort of have an informal agreement with legal aide, Prairie State Legal Aid here, if they bring somebody and that person is unemployed, I won't charge them anything. If they qualify for legal aid, even if they are employed in a part-time job, I won't charge them. Nor do I seek to have the other side pay for both sides. I just do one part of it free. As for philanthropic organizations, I am on a couple of boards. I don't provide legal work for those boards.

LAW: What kind of civic engagement have you been a part of?

NEMENOFF: Those are the boards I am talking about. I am on the board of CASA of Peoria County, which is Court Appointed Special Advocates which is a private non-for-profit group that provides juvenile abuse and neglect courts with help. I'm on the board of the B'nai B'rith Covenant House, which is a elderly or low income housing projects. I am on the steering committee for the Illinois High School Association Boys Basketball

Tournament. I've also worked the exhibit hall and I'm a team host, have been for seven or eight years.

LAW: Why? Why have you been involved in civic engagement?

NEMENOFF: You know what, Peoria has been good to me, life has been good to me, I have a beautiful family, my career went well, and I like Peoria. First of all, the CASA is right into my wheelhouse because I was a judge, and this is helping that board understand a little more about the judicial process. The B'nai B'rith Covenant House has a special warm spot in my heart because it was first run by a fellow named Sam Stone which was a friend of my Dad's. His son, Mike, asked me to do it, and I helped. The basketball thing is my love and joy. I have been watching state basketball tournaments since 1957, with my father. I'd take that weekend off for my family before I was involved. And now I get to be a juvenile again for the two weeks of the state tournament. I watch every game. I buy four tickets to every game and hand them out to all my friends. I get in free because I have a pass. I can give out tickets to people that want to go, people from these communities that bring their teams down. If I knew as much about law as I knew about high school basketball I would have been on the Supreme Court of the United States. I never made the Supreme Court of the United States. I just loved the high school basketball tournament.

LAW: What are the changes in the law that you have seen that we should definitely take note of? That you saw as a lawyer and as a judge? What are the great changes you have seen?

NEMENOFF: DUI's have gotten much more complicated. The evidence in all fields, in DUI and otherwise, science and technology has exploded. Not just a change in law but a



change in the way that facts are investigated. In DUI there is blood work, the blood, breathe and urine tests, the sophistication of the breathalyzers. I remember that when I first went to DUI court, which would have been the first day as a judge, first day of traffic court, I read the DUI statute the week before and it was about six pages long. It's got to be fifty to sixty pages thick of small type now. I may be exaggerating, but it's become hugely more complicated. Products liability, products have become so technologically sophisticated that lawyers who represent both sides of those kinds of cases have to be technologically sophisticated. Medical cases, medical malpractice claims, medicine has become so much more complicated and scientific. Lawyers who deal in this field have to understand that. The use of fax, texts, email, social media are so intertwined with all aspects of our lives that when there is a dispute that needs to be resolved through litigation or criminal prosecution, all these things come into play. I can't tell you the number of many times I sit here in meditation and they are talking about, the mother and father are talking about each other in not so great terms

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and one person will say something and the other will deny it and the other will pick up his or her phone and show me the text or the Facebook account that says that. There is so little privacy anymore and the law has to adapt to, particularly the laws of evidence, have to adapt to these things. What kind of foundation do you have to provide to get something in the internet into evidence; something that otherwise may have been hearsay before. It may still be hearsay but there may be different exceptions now. Telephone

intercepts test to what extent does privacy still count. There was, in the Fourth Amendment area, one of the rules are certain things need to occur when you have a reasonable expectation of privacy. If you have a reasonable expectation of privacy certain things cannot be put in evidence. But if you don't have a reasonable expectation of privacy, then things that you say can sometimes be used in evidence. Privacy is so different now. And those rules have to adapt, and the law always has to follow through them. By the time the law has figured out how to deal with things there is a whole new set of technologies that arise.

LAW: What about the field of domestic relations or domestic violence?

NEMENOFF: Both of those have become more intricate. The legislature every few years has major rewrites of some of those statutes. They just did that effective January 1<sup>st</sup>. No longer do people have legal custody and visitation. They have a parenting plan that gives them decision making authorities and parenting time. Now much of that is vocabulary but we really don't know. There may be a good deal of substantive law to that. On the financial and property distribution side, which is something I don't deal with very much but is much more detailed than it was in my day. It's much more specific what judges can do. Much of it just confirms what judges had been doing over the years, but now there is certainty you can do it. Whether this is good or bad, time will tell.

LAW: Out of all these cases are there any that you continue to struggle with? Or once it's over, it's over?

NEMENOFF: Are you talking about my mediation business or?

LAW: Dealing with your career.

NEMENOFF: My whole career. The case that I always come back to think about is the amusement tax case, the Kerasotes case, only because I'm so proud of how it turned out. We all have ego and maybe pride goes before the fall. Well I fell. Because winning that case was so important to me, personally and professionally. That case has always stuck with me. That to me is the highlight of my legal career. In terms of judging, you'll probably maybe get a chuckle out of this. I had a huge divorce case and it involved some children's issues but also involved a massive amount of money and a family business. I'm obviously not going to tell you any more than that. They both had high quality Chicago lawyers who didn't know me. I began the litigation and I got through some of the preliminary issues but did not have to try the case. I moved from there to criminal court. And both those lawyers wanted me to continue on that. They asked the chief judge to let me keep that case. For two lawyers of that quality to want me to stay with a case gave me some pride. When I was a lawyer, doing the redevelopment/financial work, municipal bond work, that sort of thing, I met some of the finest municipal finance lawyers, bond counsel planners and financial consultants. They always took my phone calls and they always gave me good advice. They taught me a lot of things. I was always very fortunate. I didn't have any background in the stuff I did for the city until they trained me how to do it. And they gave me the best, they were terrific, and they always were terrific if I had a question to answer it. They would help me through things I wasn't comfortable with. I always appreciated that. It made me a much better lawyer. What I do now, your eyeball to eyeball, this table we are sitting at, this is for the mother, the father and I, and it gets intense because you are dealing with children. It gets intense because there are less than friendly feelings between the two of them. And you think

about some of those people for a little while but then you move on to the next. Those are people you keep a little longer because you really get involved into the nitty gritty of what their cases are about. I had kids, I had step kids. I had two spouses that were divorced. I never was divorced. It means a little more personally to you. It doesn't stay with me more than a day or two sometimes. It doesn't really stay with me. I think about them from time to time. Sometimes I remember, I see in the daily records the divorce had occurred six or eight months later and I think about the case.

LAW: What does the future of the profession hold? And attached to this is, is it more of a business now and less of a profession, or still a profession?

NEMENOFF: I think it's always going to be a profession; it is a professional business. If you are going to be a good lawyer, you are going to be a learned person, a person with a high degree of intelligence, a high degree of self-drive, a high degree of organization. People come to you with serious problems, some not so serious, but mostly serious problems. You are simply not a negotiator or someone who listens to problems like a counselor does. You are a professional in the sense that you understand the rules of your niche of the law, you understand them intensely, and you can counsel people through their legal issues. The whole idea of an estate planner is to do it in a way that will be easily administered when people die. Not everybody can do that, only a professional in that field can do that. Same with domestic relations law, the professionals at it can probably tell you not too far into the proceedings about where this thing is going to end up. Those are the real good professionals. Some things have to be tried. I understand that. But they're called attorneys and counselors. But there's a reason they're called attorneys and counselors. They give you advice to help solve your problem to the greatest degree in

your favor with the least amount of difficulty. So yes, it's a profession, and it's a business because that's how people make their living.

LAW: If you had to do it all over again would you do anything differently? This is in regards to your legal career.

NEMENOFF: I don't think so. Look, I told you before, the ball has bounced real well for me my entire professional career. Wouldn't have it any other way, wouldn't want to do it any differently than it happened to me.

LAW: What do you want to be remembered for? What is your legacy?

NEMENOFF: I don't know if I have a legacy. I would hope that people thought I was a nice guy, that I was fair. That I listened, that I tried my best to get decisions correct. I hope that they thought I knew what I was talking about. I hope they would respect me as a parent and a spouse and as a member of the greater Peoria society. That's all.

LAW: Well sir, that's all I have for you today unless there is anything else you would like to add?

NEMENOFF: No thank you. It's been a pleasure. Will there be any more of this?

LAW: This will be it.

[Total Running Time: 02:11:05]

**END OF INTERVIEW TWO**

**END OF ORAL HISTORY**