

LAWTON M. CHILES CENTER FOR FLORIDA HISTORY ORAL HISTORY PROJECT

Interview with: Robert E. Puterbaugh

Interviewer: James M. Denham

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**Transcription: Isabelle Cyr with edits by James M. Denham
and Robert E. Puterbaugh**

Denham: Today on September 2 we are continuing our Oral History with Robert Puterbaugh, good morning.

Puterbaugh: Good morning on day 3.

Denham: I want to continue with one of your most memorable cases and that is the “Lady Di” case which involved a boat that was owned by your friend Charlie Rice. Can you talk a little bit about that case, the name of it and how it unfolded?

Puterbaugh: Well, that was a really interesting case, because as a litigator, many times you need to learn about things that you really don’t know much about and certainly I wasn’t a marine architect and I certainly was not an expert in admiralty law or federal maritime law, and I didn’t know anything about designing yachts and fishing boats. I had to learn all this in a short amount of time because the Rice family had purchased a yacht from Hatteras, which is a division of the Brunswick Corporation. It was a 64C yacht, which means it was 64 feet in length and the C means it is a convertible yacht which has the luxury amenities of a motor yacht but also can be a sport fishing boat. There were serious issues with that yacht from day one, so I had to learn a lot about how yachts are built and how marine engines are installed and so forth. It was a really interesting case because Hatteras is one of the foremost manufacturers of yachts and fishing boats in this country and they normally do a really good job in designing and building a beautiful and functional yacht. Hatteras had designed and built this 64C for the Rice family and the yacht was named *Lady Di* after Charlie Rice’s wife Diane. From day one, instead of operating as a yacht which would safely travel through rough seas in an ocean environment, it performed more

like a submarine, and it would plow through the water, proposing, and causing water to shoot over the fly bridge and into the yacht getting everything and everyone wet. As a result, large amounts of water would come into the cockpit, creating dangerous conditions in the cockpit, the flybridge and in the engine room. There were also other mechanical issues with the *Lady Di* which prevented its use as a sea going vessel. So, ultimately, I filed a lawsuit in federal court, and it was a yearlong battle with Hatteras.

I will say that almost all the individuals whose depositions I took at Hatteras were forthcoming and truthful and even Hatteras engineers recognized that there was a problem with this yacht. By the time I became involved, the Rice family had already endured a year-long saga with Hatteras trying to resolve the submarining issue, which, as I said, is very dangerous because the water pushed over the bow and coming into the cockpit can impede visibility and create other dangerous situations. Plus, it's incredibly uncomfortable because you're continuously soaked with water. It was what we and others called a miserable "wet boat". The interesting part about this is that no matter who operated the boat, whether it was Hatteras personnel or "The Lady Di Fishing Team", no one could operate it successfully. There were all manner of other problems with this yacht, which I don't need to go into, but the main problem was that it was a "wet boat" and acted more like a submarine than a yacht.. As I indicated, I had to file a lawsuit in the federal court in Jacksonville. The case was *Lady Di Fishing Team, LLC v. Brunswick Corporation*. It was a multi-million-dollar yacht, as I recall, so this was a significant lawsuit. After the lawsuit was filed, we obtained documents from Hatteras, through the discovery process, that established that Hatteras clearly knew that there was a design problem and that the 64C was overweight, causing the 64C to be a wet boat. The most significant, and even humorous, document we discovered was an internal Hatteras document that indicated Hatteras thought their 64C yachts needed to go on the *Jenny Craig* diet plan. Hatteras had even prepared an internal power point presentation, which we obtained, and which involved their "Weight Reduction Plan" for the 64C. As I recall, one slide in the internal power point presentation was titled "Weight Reduction For 64C, *Jenny Craig*" with an 800 number for Hatteras to call Jenny. One might term this document a "smoking gun" and it, along with other documents we obtained, clearly established that the overweight design of the 64C was the cause of the wet boat issues. Finally, in order to mitigate damages, and during the litigation and with Brunswick's permission, the Lady Di Fishing Team found a buyer for the yacht, and it was sold. It was still a wet boat when the yacht was sold, and all the issues were fully disclosed to the buyer. Not surprisingly, the buyer, continued to have problems with the yacht and as I recall used it as a party boat in Miami since it was hardly seaworthy.

That was such an interesting case because I had to work with a very fine naval architect and marine engineer named Robert Schofield. Of course, Hatteras had their own expert who was also a naval architect and at one point Hatteras even had contemplated going to the University of Michigan and having a wind tunnel test performed on the 64C. As I previously indicated, Hatteras builds good boats and they are a good company. This 64C was just a badly designed boat and almost every 64C that they produced in that series were wet boats. It was a year-long saga in federal court. There were issues of admiralty, there were issues involving naval

architecture and how to build yachts. There were sea trials. That's one of the things that is interesting over the years with the cases that I have litigated. Many times, you had to learn about issues and things you would never otherwise run into. You don't know a lot about the matter initially, maybe just enough to be dangerous, but you learn and by the end of the case, you know a lot more than when you started.

But that was my one foray into naval architecture and the designing of yachts and how admiralty law works.

Denham: Just so we get it on the record so it's a Lady Di fishing team who were the plaintiffs versus Brunswick Corporation correct?

Puterbaugh: That's correct, the plaintiff was Lady Di Fishing Team, LLC and it was filed in the federal court for the Middle District of Florida, Jacksonville division. The reason why it was filed in Jacksonville is that's where the Rice family lived and where the contract was entered into, so that was the proper venue for the lawsuit.

Denham: You ended up in mediation, right?

Puterbaugh: Ultimately the case was resolved after mediation, which was acceptable for all parties and like I indicated, every deposition I took, I recall for the most part, almost all the Hatteras employees were very honest and forthcoming about the problems, and we ultimately worked it out, but it was still a long and hard fought legal battle. There were a number of sea trials conducted, both before and after the lawsuit was filed, one off Longboat Key or Anna Maria as I recall, where one of the attorneys in my firm, now a Florida appellate judge, attended for me. I was out of state at that time, and our naval architect expert attended, and Hatteras's expert attended and there was a video taken during the sea trial, this was part of the litigation process, and the sea trial actually had to be cut short because everybody on board got soaked including the Hatteras expert and the Hatteras personnel on the yacht. One Hatteras engineer, who had led the design team for the 64C, was surprised by the amount of water coming into the yacht during this sea trial. This case was also memorable because of the numerous sea trials. It was an interesting saga, one of the more interesting cases that I have litigated because it involved an area of law I was not familiar with until I got into the case, and I think it was a very interesting case also for the federal judge because there were a lot of admiralty and other unique issues.

Denham: Do you remember who the judge was?

Puterbaugh: Judge Virginia Covington and she authored a very detailed nine-page or ten-page published opinion denying in full Hatteras's attempt to have the case dismissed. Her opinion would be a very interesting reading if you wanted to search the court file or go on West Law or Lexis and read her Order but it was a long detailed Order dealing with the application of

Admiralty law, privity of contract, and whether or not Lady Di Fishing Team could invoke and had certain warranties. I really think Judge Covington's initial Order denying Brunswick's Motion to Dismiss went a long way toward allowing us to ultimately resolve the case and the Order is an outstanding legal analysis of the issues in the case.

Denham: That's good. Now, what I'd like to do is move to your long-term activity as the counsel for the Lakeland hospital, the art museum and Florida Southern College. You could start with the hospital, what it means to be counsel for the Lakeland Regional Hospital?

Puterbaugh: When I came to Lakeland to be part of the newly formed Peterson and Myers firm in approximately 1974-1975 time frame, my partner J. Hardin Peterson, Jr. had been counsel for Lakeland General Hospital for a long time. At that time, it was a municipal hospital, and it was part of the City of Lakeland. It was operated by what was called a Municipal Hospital Board and since it was part of the City of Lakeland it was in the sunshine and reporters from the *Lakeland Ledger* attended each and every board meeting. At that time the CEO of the hospital was a gentleman by the name of Sherwood Smith. When I came to Lakeland as part of the Peterson & Myers firm, Jay Peterson, who was the counsel for the hospital, asked me if I would like to take over the hospital representation and attend the monthly board meetings, which I did. So from the 1974-75 timeframe to 1983, I attended all board meetings of the Municipal Hospital Board. But it was very difficult for the hospital at that time to really operate in a business-like manner because you've got reporters sitting in your board meetings and all your discussions are in the sunshine. It's difficult to discuss strategic business issues and it was rather challenging to operate when everything you discuss you read about in the next morning's paper. Plus, when you start mixing politics with business decisions you are operating in a whole different world. Many times, members of the Municipal Hospital Board might be keeping one eye out for the political aspect of the decision as opposed to maybe something that's the best business decision.

So when Sherwood Smith announced his retirement in the early eighties, the Municipal Hospital Board hired at that time a young executive by the name of Jack Stephens to come in and become the CEO. When Jack arrived in 1983, I think he recognized that it would be very difficult to really do the things that the community needed from a health care standpoint while you're in the sunshine. So, I was very much involved in forming a private corporation named Lakeland Regional Medical Center Inc and forming its parent corporation, Lakeland Regional Health Systems, Inc We then negotiated a Lease and Transfer Agreement with the City of Lakeland so that the newly formed Lakeland Regional Medical Center, Inc could lease the hospital from the City of Lakeland. Mark Miller, a fine attorney, was the City Attorney for Lakeland during the negotiations, so it was about two years of negotiations between the newly formed corporations, Lakeland Regional Medical Center, Inc. and Lakeland Regional Health Systems Inc., to lease the hospital from the city and take it private where it would no longer be in the sunshine and therefore we could really expand and do all the things that we needed to do for the City of Lakeland. We accomplished that around 1985 and then Jack Stephens stayed as CEO for 25 years until he retired and then Elaine Thompson came in for ten years, and now we have

Danielle Drummond as the CEO. So in almost a fifty year plus period, I only really worked with four CEOs at the hospital, which is incredible, because statistically the CEO, in major hospital system only stays for around 7 years but here we had Sherwood Smith who had been a long-standing CEO, Jack Stephens for twenty-five years and then Elaine Thompson for ten years and now we have Danielle. By taking the hospital private and being able to do things that we could not have done as a municipal hospital, we were able to develop the Hollis Cancer Center, the new Carol Jenkins Barnett Pavilion for Women and Children and really expand the hospital, not only its footprint on its main campus but all over Polk County. So, during this almost fifty-year period of time, I was involved representing the hospital and I'm still involved representing the hospital in all manner of things because there's probably no more regulated entity on the face of the earth than hospitals. Everyone's got their fingers in the regulatory pot, so to speak in terms of regulation. You have the state regulatory bodies, the Agency for Healthcare Administration, you have various medical boards for physicians, nursing, other healthcare professionals, you have the Department of Justice, you have the OIG, IRS, CMS, I mean everyone's regulating hospital and healthcare. It's just amazing all the things that you handle when you're an attorney for a large hospital.

LRMC is today the fifth or sixth largest hospital in the state of Florida, over 8,000 employees and you can imagine all the issues with any organization that has over 8,000 employees. We have been for many years the busiest single-site emergency room in the United States. Every now and then the Parkland Hospital in Dallas will be number one and we would be number two and then the next year we would be number one and Parkland would be number two. Many people are surprised by that because, they think, how can an emergency room in Lakeland Polk County, Florida, be the busiest single-site emergency room in the United States? Why wouldn't it be somewhere in Miami and so forth? The reason is, in Miami you might have seven or eight different hospitals, seven or eight different emergency rooms or more, but here we have been the only Trauma Center emergency room between Tampa and Orlando. Now, a Level One Trauma Center and we receive emergency visits from multiple counties, Orange, Highlands, Hardee, Polk, Pasco, Hardee, etc. So, we're even busier than Tampa General or a lot of hospitals in major metropolitan areas where there might be numerous hospitals and emergency rooms.

So, it has been a great representation, the management of the hospital has been just outstanding over the years, we've never had a significant issue with the regulatory bodies. You know you read these reports of various state violations and the large dollar federal false claims cases that occur at hospitals from time to time. We've been able to avoid those because of the quality of our leadership at Lakeland Regional, so I'm very proud to have represented the hospital for over fifty years and certainly it's a totally different organization today than it was in 1974 when it was called Lakeland General Hospital and it was part of the City of Lakeland. That's been and continues to be one of my major clients over the years.

Denham: So obviously you go to board meetings every month. How much of your daily activity or your weekly hours would you say are devoted to representing the hospital?

Puterbaugh: During the earlier years, Jack Stephens was here twenty-five years and Elaine Thompson's years, probably half of my day was devoted to the hospital. In our firm during that time was a young lawyer named Jonn Hoppe and he worked with me on all manner of healthcare and hospital matters for many years and he ultimately became General Counsel at Lakeland Regional and the hospital's General Counsel and Chief Legal Officer, also an Executive Vice President of the hospital so Jonn has taken a lot of the load off me that I was involved in on a day-to-day basis.

Denham: So, I'd imagine you got calls all the time.

Puterbaugh: I used to get calls at 3:00 in the morning, you never knew what was going to happen. I'll get calls in the middle of the night and head over to the hospital in the middle of the night, of course I don't have to do that anymore because Jonn is the in-house counsel and that takes a lot of that burden off me. But I still have a lot of involvement in hospital matters, attending all Board meetings, and representation of the hospital in state and federal litigation matters. It is one of my favorite clients because it's such a wonderful organization and it has such interesting issues. You just never know what kind of issue you're going to run into. You've got over 8,000 employees that are direct employees, but you also have a medical staff, many of whom are not your employees, but they are at the hospital on a day-to-day basis utilizing the hospital and rendering great healthcare here in Polk County. So, I see a lot of issues, we have credentialing issues, we have regulatory issues, we have employment issues. You just never know what you're going to handle when you represent a hospital as large as LRMC. It's a great hospital and a great client.

Denham: Okay. One of the clients that you had for many years is the art museum which is now the AGB Museum. Can you just kind of summarize your involvement with the Art Museum and what it entails in a brief way since we did an extensive interview already.

Puterbaugh: Another client and entity that I enjoyed representing over the years and enjoyed being involved with was the Polk Museum of Art, now the Ashley Gibson Barnett Museum of Art at Florida Southern College. I first became involved with the Museum about thirty-five years ago, around 1990. I've always been interested in art and love visiting museums and so I became involved with the then named Polk Museum of Art, as basically a pro bono client. Over the years I held various positions at the Museum including serving on the Board of Trustees, serving as President of the Museum, and now as counsel to Florida Southern and the Museum. But it's been also a delightful organization to represent not because they have a lot of legal problems, they don't, but it's been very fulfilling in trying to help this community establish a world class museum. Of course, in 2017 the then Polk Museum of Art became affiliated with Florida Southern College and approximately two years ago the Museum was renamed the Ashley Gibson Barnett Museum of Art at Florida Southern College. It is now part of Florida Southern College as an academic museum but also beneficial to the community at large and I think we're really on

our way to becoming a significant nationally known academic museum. So if I look back on my career and one of the things I'm most proud of, is the development of the Polk Museum of Art into an academic museum at Florida Southern College and then the rebranding and renaming of the Museum to honor one of the Lakeland's most prominent families, a family that has done so much for this community. I really take a lot of pride in having been involved in this process and I really think that twenty-three years from now the AGB Museum at Florida Southern College will be recognized as one of America's premier academic museums. Even now, we have hosted exhibits that would rival any museum in this country including the Smithsonian, the New York Metropolitan Museum of Art, or the Art Institute of Chicago. Our Rodin exhibit and our Toulouse-Lautrec exhibit, the largest Toulouse-Lautrec exhibit ever to travel to the United States and of course the new Anne Kerr Wing that we recently completed and which houses amazing art, are testament to the quality of our exhibits at the AGB. I think we now have nineteen galleries at the Museum, and we have artwork that, as I said, could be in any museum in this country or in any country, including in the d'Orsay or Louvre in Paris. We have in our collection or have exhibited many pieces that could be in any of those museums, and of course we are a Smithsonian Affiliate Museum which means that we, from time to time, borrow exhibits from the Smithsonian and exhibit them here in Lakeland, Florida, so that's been a very fulfilling representation, certainly not from a financial standpoint, because it's all been pro bono, but from a personal fulfillment standpoint. Representing the Museum, seeing it become a part of Florida Southern College and being named for a member of the Barnett family, that has been one of the most satisfying parts of my career.

Denham: Well another long-term commitment that you had is counsel for Florida Southern College. When did that begin? Can you go through some of the highlights of that service?

Puterbaugh: My representation came at the behest of President Anne Kerr shortly after the start of her Presidency at Florida Southern College. It's been approximately almost twenty years ago. I think from around 2006, shortly after Dr. Kerr became President of Florida Southern College. For some reason, I think someone suggested that she call me on a legal matter. So, she did and called me one day regarding a legal issue that she needed some help with at the College. It was the first time I'd ever talked to Dr. Kerr, and I think we resolved that issue pretty fast and favorably. Shortly thereafter she invited me to lunch at the Terrace Hotel, and she asked if I would be willing to come on the Board of Trustees at Florida Southern College. I'm just again estimating the 2006–2007 time frame when I came on the FSC board and I started again, as with the Museum, performing pro bono legal work for the College. The College really had not had a full-time dedicated counsel prior to that time. From time to time, they had one counsel handle one thing and another one handle other things but shortly thereafter I started doing just about all the legal work for the College.

One of the first projects that I worked on was to make sure all the College's logos or trademarks were properly registered and so forth like "Mocs" and "Moccasins" and "FSC", because they all had not been properly trademarked in the past. So, for the last fifteen or so

years, I have probably handled all the legal work for the College including litigation in state and federal courts. Some of the litigation was related to COVID issues, when many colleges and universities throughout the country were subject to lawsuits related to remote learning and the shutdown of campuses. Going back to the Museum, that was one of the undertakings in the 2016-2017 time frame, to affiliate the Polk Museum of Art with Florida Southern College, so that today the Ashley Gibson Barnett Museum of Art and Florida Southern College is basically one entity. Of course, Dr. Kerr's contributions to Florida Southern College go without saying. All we need to do is look at the beautiful buildings and beautiful campus it is today after her 20 year leadership as President of the College. One of the more interesting projects I was involved in at the College, was the construction of the Usonian House at Florida Southern College, which at the time was the only Frank Lloyd Wright structure to be built after his death, and built from the original plans he had designed for the College. So, in order to make sure Florida Southern College had the legal right to build the Usonian House, I spent four days in the archives at the College, from a Thursday to Sunday, examining all the documents, including contracts and correspondence between President Ludd Spivey and Frank Lloyd Wright, to make sure that Florida Southern College had the legal right to build a Frank Lloyd Wright structure. Since the College had purchased the plans for the Usonian House from Mr. Wright and owned the plans, I ultimately concluded that the College had the legal right to construct the Usonian House. Dr. Kerr wanted to make absolutely sure the College was on solid legal ground because the Frank Lloyd Wright Foundation carefully, and properly so, preserves Mr. Wright's legacy and makes sure that there's no violation of trademarks or copyrights and so forth. So while the Usonian House at Florida Southern College was not built during Mr. Wright's lifetime, it was built using his plans which the College had paid for and owned and therefore is a Frank Lloyd Wright structure. Of course, the College had to place some of the air conditioning and other utility related equipment underground, since at the time Mr. Wright designed the plans, air conditioning was not as important as it is today. The Usonian House as designed by Mr. Wright, was supposed to be affordable housing and I many times have joked that our Usonian House was the most expensive affordable house that was ever built anywhere in the world, because we had to deal with issues that Mr. Wright did not necessarily deal with in his designs, such as air conditioning and other issues.

Denham: So, if you go back to that decision, did you contact the Frank Lloyd Wright Foundation and say this is what we want. Do we have the right to do it?

Puterbaugh: We were always very respectful of the Frank Lloyd Wright Foundation because that is the organization that protects Mr. Wright's legacy, including trademarks, copyrights, plans, designs, etc. We would never have wanted to undertake anything that would place us in an adversarial relationship with the Foundation, and we respected that, and we wanted to make sure when we undertook the project that we weren't going to be faced with a copyright issue for building a Frank Lloyd Wright structure, using his designs.

So, we wanted to make sure we had all our ducks in a row, so to speak, before we undertook it and I had discussions with the Frank Lloyd Wright Foundation and in the end, we were able to establish that we owned the plans, that we purchased those plans from Mr. Wright and that we had the legal right to build the Usonian House. We were going to build a building that he designed and we were going to build it on the property where he intended it to be built. So, the Frank Lloyd Wright Foundation did not oppose us building the Usonian House on our campus.

Denham: Did they inquire about any licensing fee or any kind of remuneration?

Puterbaugh: I don't recall that there was any licensing fee or anything like that. It was basically that we had purchased the plans from Mr. Wright, we owned the architectural plans, and had the right to build the Usonian House. Let's say someone goes out and wants to build a new Wright designed structure using plans and specifications designed by Mr. Wright. Well, the Frank Lloyd Wright Foundation is not going to allow that because they own the rights to his plans, but we had actually bought the plans from Mr. Wright. When Frank Lloyd Wright designed the campus, he called it the Child of the Sun and when he designed the campus, he designed buildings for the campus, like the Usonian House, that, for a number of reasons, were not built during his lifetime. But he intended for them to be built, and he also designed structures for the campus, where engineering didn't exist to build, during his lifetime, like the Water Dome fountain, of course. When Mr. Wright designed the Water Dome, the engineering ability to shoot water into the sky at so high a level didn't exist but ultimately it did, and under Dr. Kerr's leadership the Water Dome fountain was completed as envisioned by Mr. Wright. We all know that Frank Lloyd Wright designed many structures that were way ahead of his time and he designed them when the engineering for building them didn't even exist.

Denham: Can you walk us through some of the litigation or some of the legal issues that you had to deal with as counsel to Florida Southern College?

Puterbaugh: You always have FERPA (Family Educational Rights and Privacy Act) issues because you want to protect the privacy of students who are attending your school, so you want to make sure that you don't violate FERPA and that anyone who has access to a student's grades or other protected records is entitled to that access. You want to protect students' rights, issues of security and try to always be proactive in terms of the protection of your students as opposed to being reactive. Florida Southern College, in my opinion, has done an excellent job with its relationship with the City of Lakeland Police Department, having police officers 24/7 on campus. I have also been involved in negotiating contracts and certainly there's always issues of policies, there's always issues of handbooks. Florida Southern College has so many handbooks, faculty handbook, student handbook, academic catalogue, etc.

Denham: You have to get to all that stuff every year?

Puterbaugh: We are constantly staying on top of it and as various laws change because colleges are also regulated by the Department of Education and Office of Civil Rights. You always want to make sure that your handbooks and your catalogs comply with the current law. You also often have to address harassment issues.

Denham: One of the issues that probably went on your table was Dr. Kerr's decision to pursue tenure and tenure practices for faculty, and was in 2007, correct?

Puterbaugh: When I came on the Board of Trustees, Florida Southern did not have a tenure program and tenure allows you to recruit the best and the brightest because the best and the brightest want to be associated with a college or university that has a tenure program. There is not a cookie cutter tenure program. They're all certainly different but one of the first projects that I worked on as a member of the Academic Affairs Committee was to help develop the tenure program and it has been working very well since its adoption. Shortly after I joined the Board of Trustees, I became chair of the Academic Affairs Committee and each year we act on recommendations from the faculty and the administration regarding the awarding of tenure. I have really enjoyed my service on the Academic Affairs Committee because it allows the Committee members to interact with faculty and one of the most enjoyable and rewarding part of the Academic Affairs Committee is that for each meeting we invite certain departments to come in and make presentations and we can ask questions and learn about different departments of the College, for example, Biology, Chemistry, Business, Dance, Arts, Theater, Marine Biology, etc., so I always look forward to our Academic Affairs Committee meetings because we interact with the faculty, it's not just an abstract experience and I think the faculty enjoys that too.

Denham: They do. So, looking back on things, and also looking at the present, what are your current duties or relationships in that regard with the college? How would you summarize that?

Puterbaugh: I still serve on the Board of Trustees of the College. I also serve on the various committees, the Executive Committee, the Academic Affairs Committee, the Buildings and Grounds Committee and the Audit Committee and of course I represent the college from a legal standpoint, and I also serve as a corporate officer of the College, as Secretary of the College, so that's my current involvement. I anticipate continuing to serve the College and the Museum, certainly for the next few years. The College is in very good shape from an administrative standpoint and from a governance standpoint. We have a wonderful and engaged Board of Trustees, both individuals here in the community and throughout the United States. So, I'm very happy with where my clients are in terms of Lakeland Regional Medical Center, Florida Southern College and the AGB Museum of Art. They all well serve the community, and they are all great organizations.

Denham: I would like to change course in our discussions and talk about your memories of specific people that you confronted and your overall take on them. When you first joined the

firm, Lawton Chiles had been in the firm previously and three years previous to that he was elected to the United States Senate. Can you remember the first time you ever met Lawton Chiles and the circumstances

Puterbaugh: I did not know Lawton until I moved to Lakeland after the merger with the Peterson firm. I believe Lawton was already in the US Senate at the time and certainly I met him numerous times over the years so when he came back to Lakeland, whether in a social situation, or he would come by the law firm or maybe at Jay Peterson's house and so forth and I had a very comfortable relationship with Lawton. He was a wonderful individual and a great United States Senator, a great Governor. I wish we had more politicians like Lawton Chiles today.

Denham: Is it really true that he kind of lit up the room or did he not? What was his demeanor?

Puterbaugh: He did. He had a great sense of humor and he enjoyed, I don't want to say playing tricks, but he enjoyed camaraderie and I remember one time, I was in New Orleans, and Lawton found out I was in New Orleans, and his General Counsel Jay Peterson was also in New Orleans. So, Lawton called me on the phone in New Orleans very late on a Friday afternoon, and he told me he needed to find Peterson and it was really important. He told me he didn't know where Peterson was staying in New Orleans or where he was but it was very important that I locate Peterson for him and have him call him immediately. So, I went out walking through the French Quarter for hours trying to find Peterson. I finally found him and told him: "Lawton needs to talk to you right away" and Jay in his memorable way said and I'll clean this up, told me: "I don't have time for that right now, etc...". And I really cleaned that up. Finally, I convinced Jay to come back with me to the hotel where I was staying, and call Lawton, so he did. Then when Jay got Lawton on the phone, Lawton said: "I really don't need to talk to you Peterson, I just wanted to see if Bob could find you on a Friday afternoon in the French quarter in New Orleans".

Denham: That was just a practical joke!

Puterbaugh: Right, just a practical joke, he was just a very down-to-earth individual, Lawton was not cocky or egocentric in any way. He didn't have an ego, like some politicians. He was just a country boy from Lakeland, Polk County, Florida, known as Walkin' Lawton, and that's what he was. A great politician, and a wonderful person who could work across the aisle. And that was the thing about Lawton, I remember when he was Governor, he was able to work with the other political party. Lawton was a Democrat, but he worked along with Republicans and having Jay Peterson as his General Counsel, Jay also was able to work across the aisle in Tallahassee. We don't see that today.

Denham: The word that I heard described him, he was a raging non-partisan. In other words, it didn't matter what party you were in, again that proved true with his legislative ability. He could

pass laws. He could work across the aisle to compromise and figure out what the other side wanted and of course what he wanted and make it happen.

Puterbaugh: And he was respected by Republicans in the Senate in Washington and by Republicans in Tallahassee. He always was guided by what was best for the country or best for the State of Florida and not necessarily what was best for the party, and that's what set him apart from many politicians today, and for that, he was very well respected. I have occasionally talked to people in Washington about the fact that I knew Lawton and he had been at our firm and so forth. Everyone that I've ever talked to, expressed the highest regard for Lawton Chiles, he was just a fine individual, who loved this country and this State.

Denham: Now, I know you read the newspapers like everybody else, but as far as the issues go. Did he ever confide in you or share any frustrations or anything in terms of what he was doing at the time, or issues that he was confronted with at the time? Do you remember anything like that, that might have happened?

Puterbaugh: We talked about judicial nominations a lot because he and I were very much in favor of judges being appointed as opposed to being elected. For many years I served on the Tenth Judicial Circuit Nominating Committee. Governor Bob Graham appointed me to the Committee. I was very much involved in making sure that when we sent names to the Governor, we sent three names, any one of which could be an outstanding judge. Now there's always some politics in the selection, but as long as the Governor has three names of excellent candidates from the nominating committee, it doesn't really make that much difference which of the three the Governor chooses. He makes a final decision as to which nominee he appoints. So those were the kind of discussions I had and when Jay became Lawton's General Counsel, my service on the Tenth Judicial Nominating Committee had pretty much come to an end. I was very much interested in serving on the Second District Court of Appeal Nominating Committee and Lawton appointed me and I became chair of that committee for almost all of my entire tenure on that committee. We nominated outstanding individuals to the Second DCA, Judge Carolyn Fulmer, Judge Peggy Quice (who went on to be a Justice of the Florida Supreme Court), Judge Richard Lazarra (who went on to be a Federal District Judge) and others, many other fine judges. I'm very proud of the judges that we nominated and who Lawton appointed to the Second DCA. Lawton shared my philosophy that judges should be appointed and not elected and should be appointed based on their background and qualification, not for pure political reasons. So, during Lawton's tenure as Governor, Jay Peterson from time to time would call me and ask me about nominees for various judicial positions throughout the state and what I knew about them because Lawton was very, very careful to only appoint qualified individuals to the judiciary. As I have said, I've always thought that the appointment process is much preferable to the electoral process. While some people like the idea of the voters electing judges, I think that's a dangerous way to select a judge, and Lawton thought the same way. So those were mainly the things that I was interested in and discussing with Lawton, and of course much of my communication with

Lawton was through Jay during the time Jay was in Tallahassee as Lawton's General Counsel. Of course, all my involvement with Lawton Chiles was positive and I think he's one of the finest Senators Florida has ever had and one of the finest Governors Florida has ever had.

Denham: So, one of the people that was close to Lawton was in your law firm until he was appointed federal judge, and that was George Carr. So, if I have it correctly you were practicing with him for three years, correct?

Puterbaugh: Actually, I was coming to Lakeland as George was heading out to become a Federal District Judge.

Denham: Okay, so it would have been 1973 or 1974 that George was appointed. So, you really didn't have a chance to practice with him that much.

Puterbaugh: I didn't have a chance to practice with him, but I had the chance to interact with him, prior to George becoming a Federal District Judge. I had limited federal court experience at that time, some in the Army and some while in Lake Wales at the Woolfolk Myers firm. George was a County Attorney at one point in time and I don't think George had practiced a lot in federal court, so I remember, before he took the bench, talking to him about the Federal Rules of Civil and Criminal Procedure and federal court, and my thoughts about some of the judges and so forth, before he went on the bench. But I didn't really practice with George, overlap much, it was like I was coming and he was going. In the military, we had Hail and Farewell parties for the ones that were coming and the ones that were leaving, so I was coming to Lakeland to join his firm and he was leaving to become a Federal District Judge.

Denham: What was his demeanor like or his persona like?

Puterbaugh: He had the best demeanor, I mean, that was the one thing that every lawyer that I ever talked to that practiced before George. They would always talk about his demeanor, his professionalism, the way he treated the lawyers who appeared before him. For example: F. Lee Bailey had a case in front of George and you know, (we could go on and on about the pros and cons of F. Lee Bailey) but he was a very powerful and successful lawyer during that time frame and I remember having conversations with F. Lee Bailey about George and Bailey was so complimentary of George. He just thought that George was the epitome of a judge: fair, professional, courteous and knowledgeable. Every lawyer that I've ever talked to who practiced before George would always comment on his demeanor on the bench, plus he was brilliant. He was one of the finest federal judges we ever had in this District, and all the other judges also thought highly of him. Judge Terrell Hodges, who was also an outstanding judge, thought very highly of George. Unfortunately George's tenure on the bench was not that long because of his health issues and ultimate death, but during the time that he was on the federal bench he was the epitome of what a federal judge should be.

Denham: Now I'd like to get into some personal reflections of other individuals that you either practiced before or maybe lawyers that you knew. We talked a lot about Ben Krentzman in these hours but is there anything that you'd like to just make sure you got on the record about him.

Puterbaugh: When I started practicing in the U. S. Middle District of Florida in the 1970s, many times as co-counsel with Jack Edmund, there were two judges that I almost exclusively appeared before and it was Judge Ben Krentzman and Judge Terrell Hodges. There were many differences between both their ages. Judge Krentzman was elderly; I think everyone that practiced before Judge Krentzman certainly called him a crusty judge. He had his rules and you didn't challenge his rules but for some reason I had a really good relationship from day one with Judge Krentzman. I think that part of that was that he thought the world of Jack Edmund, and the fact that I was the young lawyer who was there with Jack Edmund, helped me with Judge Krentzman. Many times, Jack might be representing one client, and I might represent another client in the same case. A lot of Judge Krentzman's respect for Jack Edmund probably rubbed off a little on me and from day one I had a really good relationship with Judge Krentzman, and I really like him a lot. He certainly ruled against me on occasion, but he was always fair. Sometimes he ruled for me. Sometimes he sentenced my clients if they were convicted but I always felt that his sentences were fair. There are several instances with Judge Krentzman, I remember one. Jay Peterson and I were representing an individual, whose name I will not disclose, in a criminal tax evasion matter, and we had a CPA expert witness, who I will name, and that was Joe Tedder, Sr., the father of Joe Tedder, our current Tax Collector here in Polk County. Joe Tedder, Sr., who was a really well-respected CPA in this area. was our expert witness in this tax evasion case, and Joe Tedder was on the stand, and he was testifying as to his expert opinion as to various tax issues regarding our client. And I remember halfway through Joe's testimony, Judge Krentzman says, "Counsel, come to the bench.," Jay Peterson and I walked up to the bench for a side-bar, along with the U.S. Attorney, and Judge Krentzman turns to Jay and I and says: "You know, your witness can testify to all of this but if that jury believes his testimony, they ought to believe in the Tooth Fairy". And that's all he wanted to say, so we go back and sit down, and Joe Tedder continued to testify. Well, the jury acquitted our client, and I think because of Joe Tedder's testimony, which was very believable and Joe Tedder had such a nice manner and delivery on the witness stand.. Thereafter, and from that day forward until Joe Tedder's death, Jay and I called him and referred to him as "The Tooth Fairy".

Another interesting case with Judge Krentzman and I don't know if we talked about this or not is when I represented the Chalet Suzanne in a trademark case?

Well, I represented Chalet Suzanne which was a very high-end restaurant in Lake Wales, Florida and I filed a trademark infringement case against the Susse Chalet Motel Lodge. I filed that case in Federal District Court in Tampa in order to prevent the Susse Chalet Motor Lodge from using the name, Susse Chalet, because it was confusing, people who wanted to show up at the Chalet Suzanne would show up at the Susse Chalet and vice versa and it was causing all matter of confusion for the Chalet Suzanne. In trademark cases you many times have to inform the court,

generally through answers to interrogatories, as to the locations that you are claiming your trademark, and so I indicated in my pleadings that I filed, that the Chalet Suzanne was claiming its trademark on the “Planet Earth, on the Moon and on that portion of the solar system between the Earth and the Moon.” I filed those and next time I had a hearing in front of Judge Krentzman, he asked me: “What’s this nonsense about the earth and the moon and the solar system?” I explained to Judge Krentzman that the Chalet Suzanne was a contractor to NASA and its soup had been consumed on the Apollo Soyuz Missions in Earth orbit and that Jim Irwin, who was one of the astronauts who walked on the moon, had asked that the Chalet Suzanne soup remain part of his Apollo 15 moon mission and that the astronauts on that mission had enjoyed Chalet Suzanne soups in Earth orbit, on the way to the Moon and on the Moon. Therefore, since Chalet Suzanne soups had been consumed on the planet Earth, on the Moon and during flight through the portion of the solar system between the Earth and the Moon, we were claiming that the Chalet Suzanne’s trademark was valid on all those places. Judge Krentzman looks at me and basically said, “Oh, now I understand” or words to that effect”. So rather than fuss with me about what he probably initially thought was a joking or flippant answer to an interrogatory, he understood my response had a real legal basis. Well, that case was ultimately resolved and Susse Chalet had to change their name in Florida to Susse Motel Lodge and removed the name Chalet. Fast forward about two years after that case, I had a Hearing over in Tampa before a federal United States Magistrate Judge and I walked in the courtroom about five minutes before court was to start, and the Magistrate Judge was already on the bench said, “Mr. Puterbaugh we’ve been waiting for you, you are not late, but Judge Krentzman has asked that you go see him immediately. Just walk into the back of his courtroom.” So, I went up to Judge Krentzman’s courtroom, and he was trying a major drug racketeering case, and I walked in the back of the courtroom and Judge Krentzman saw me and immediately said, “Court will be adjourned, I have an important discussion I need to have in my chambers”. I wondered what I had done to irritate Judge Krentzman, and he waives me back to his chambers. We get back in his chambers and he says: ” Bob, remember that case you had a couple years ago about the moon, the earth and the solar systems? Well, I’m organizing a conference for the Eleventh Circuit Judges, and can you get me reservations at the Chalet Suzanne for the Judges’ Conference?” I responded and said, “Of course I can, judge.” I was so relieved that it wasn't something he was upset about. He wanted me to help him organize a judges’ conference at the Chalet Suzanne and so I organized that and I still have to this day, in fact I was looking at it last week, a nice and kind letter from Judge Krentzman thanking me for helping with the judges’ conference at the Chalet Suzanne and how much they all enjoyed it. But it all stems from the pleading that I filed asserting that the Chalet Suzanne claimed trademarks on the planet Earth, the Moon and the portion of the solar system between the Earth and the Moon. This is the kind of thing I enjoyed with Judge Krentzman, and he was a great judge. The quality of our federal district judges when I started practicing in Tampa was incredible: Judge Terrell Hodges, Judge Ben Krentzman, Judge William Castagna, and Judge George Carr were all just the epitome of what you want federal district judges to be and we have great federal judges in the Middle District today.

Denham: Another federal judge in Tampa was Elizabeth Kovachevich. Did you ever have cases with her?

Puterbaugh: I did. I had a lot of cases with Judge Elizabeth Kovachevich. I liked trying cases before Judge Kovachevich because she gave you a lot of leeway, especially in a criminal case. She didn't interfere in your presentation of a criminal case as much as some federal district judges might and she was more inclined to overrule the government's objections and allow you to present evidence that other judges might have been less inclined to allow. I enjoyed Judge Kovachevich. She was a colorful judge too of course. She'll always be known for her comments about college dorms as taxpayer funded whore houses.

Denham: That was when she was serving on the Florida Board of Regents.

Puterbaugh: I always enjoyed Judge Kovachevich.

Denham: While we are on the subject of the federal courts, did you ever have any interaction with U.S Attorney Robert Merkle? Would you have tried any cases in federal court with him?

Puterbaugh: I certainly did. Bob Merkle was, as you know, a controversial US attorney in Tampa, known as "Mad Dog" Merkle. He certainly lived up to his reputation, very controversial US Attorney. I think probably defense attorneys in Hillsborough County and in Tampa might now look back on the Merkle era with nostalgia because he indicted so many people, he really helped provide the defense bar in Tampa with a lot of business. The indictments were coming down, right and left, he certainly allowed the defense bar in Tampa to flourish during his time.

Denham: So we're talking about 1981 to 85, the early breaking years, correct?

Puterbaugh: I don't remember the exact years, but I do remember having cases in front of him and I would say even earlier than that maybe. Who appointed Bob Merkle? Do you remember if it was President Reagan?

Denham: It was, because Senator Paula Hawkins was his real advocate.

Puterbaugh: That puts it more in a context of time for me because the cases I would have had in front of the Mad Dog would have been in the 1980s or even the early 1990ss. He set the record for the Middle District of Florida for the most indictments because he indicated everyone, whether they deserved it or not, they got indicted. I remember a case I had where he indicted two of my clients based on Grand Jury testimony of a company's in-house auditors. In the federal system, unlike the state system, unless you agree to waive an indictment and an Information can be filed, anyone charged in federal court has to be indicted by a Federal Grand Jury. So Merkel had a Grand Jury indict two of my clients and over about a 3-year period, I was able to establish

that they were wrongfully indicted because there had been testimony given to the Grand Jury by this auditor, that was just flat false and in fact the FBI agents who were assigned to investigate the case and prepare the case for trial for the Government, ultimately determined that my clients had been wrongfully indicted. Actually, towards the end of the case, the FBI was more operating as my investigators than for the government, and the ultimate result was the government totally dismissed the charges against my clients because the FBI and Merkle's Assistant U.S. Attorney, who was prosecuting the case, became convinced that my clients were innocent and wrongly indicted. I think I may be the only beneficiary of a dismissal like that during Merkle's tenure. But in any event, after his office dismissed the case, Merkle asked me to come over to Tampa to his office and he actually apologized for the indictment and indicated that if there was anything his office could do to rectify the wrongful indictment, he was willing to do it. I don't think that ever happened to any other defense lawyer during Merkle's tenure, at least if it did, I've never heard about it. Subsequently, I filed a racketeering lawsuit against the employer of the auditor who wrongfully testified before the Grand Jury and Merkle's office and the FBI were very cooperative in helping me in that civil RICO case and it was ultimately resolved very favorably to my client. The main story I had with Merkle that I remember so vividly was that one case where he actually apologized, and that generally wasn't Merkle's style. He was not one to apologize. Why did he do it? I want to think he did it because he really believed that his office was wrong and my clients had been mistreated by the indictment. I don't know but it was certainly out of character or at least out of character based on his reputation, for him to ever apologize for anything.

Denham: Now, one of his distinctive qualities and the memory of him is his crusading efforts against public officials, county commissioners, county prosecutors, just any manner of politically elected or maybe even appointed people, and like everybody else I'm sure you read the newspapers about it. Did you ever defend any of the people that he had accused, say public officials county commissioners or county prosecutors? He seems to have a sense that they were all corrupt.

Puterbaugh: Well, everyone was a criminal except Mad Dog Merkle and his office.

Denham: Hillsborough County, Orange County, Duval County I think every single county prosecutor in those three counties were prosecuted by Merkle, correct? In Tampa, in Jacksonville?

Puterbaugh: That's correct. No one was immune to Merkle's wrath during that period of time. Unfortunately, it wasn't just Merkle. That attitude that everyone politician was corrupt and every politician criminal was prevalent throughout his office and there was a lot of injustice that was done under Bob Merkle because of his attitude that every politician was corrupt. While I didn't represent any public officials or elected officials who were indicted by Merkle, I represented others who were the subject of his vindictiveness in terms of being or alleged to being corrupt or

who had allegedly committed fraud. One of the cases that I'm very proud of in federal court was a corruption case that I tried with Jack Edmund where Jack's client was convicted and mine was acquitted, which I never thought would happen, ever in my career because Jack was such a fine trial lawyer. But I also know that George Carr was the judge on some of the cases prosecuted by Merkle. I think it's fair to say that many of those cases were wrongly prosecuted by Merkle. Despite having been indicted by Merkle, the defendants received a fair trial because Judge George Carr (and other Middle District judges) did not cotton in any way to some of the Mad Dog's tactics. George Carr and the other judges, like Judge Terrell Hodges, certainly gave all those defendants a fair trial and some were convicted but many acquitted.

Denham: In fact almost all were acquitted.

Puterbaugh: I'd have to look at the record. Certainly, there were quite a few acquitted. Most US Attorneys have, as we've discussed, like a 95% to 98% conviction rate. I'm not sure Merkle's history as to that standard, but I am sure it was lower. "Mad Dog" was certainly an apt name for Merkle, but again he certainly was beneficial to the defense bar in Tampa. They made a lot of money thanks to Mad Dog. I bet if you ask any one of them today, they will say: "Bring back Mad Dog Merkle".

Denham: That would cover the federal side of things. Why don't we go back to the county circuit court that you practiced in for many years in and get some of your thoughts on some of the circuit court judges that you practiced before, Judge Clifton Kelly?

Puterbaugh: I enjoyed practicing in front of Judge Kelly. He was a fine Circuit Judge and his son-in-law. Claude Sweat, ultimately joined Peterson & Myers. I practiced before Judge Kelly for many years, fine judge. Judge John Dewell from Haines City, talking about a crusty judge. He could go from zero to 100% anger mode in seconds and then back to zero ten seconds later. I can recall, I'll use a non-legal term, he would go "nutso" on a lawyer, but it would be over in seconds and so you never knew when he was going to erupt, including at trial and even in front of a jury, but he was a great judge. I really enjoyed Judge Dewell. I had a lot of cases in front of him.

Denham: His demeanor was mercurial. He could go off and then he would calm down and then he would be animated.

Puterbaugh: He would do it in hearings and in the courtroom. The first time he would do it to a lawyer, the lawyer probably would be mortified and think: "Oh my God, am I going to jail for contempt" but this was just his nature and you got used to it and he didn't mean anything by it, but he could just fly off the handle, his demeanor was not always calm.

Denham: He presided over a lot of important cases.

Puterbaugh: He did. He had a background as a county attorney at one point, I believe, and his rulings were always fair whether he ruled against you or for you. He was a good, fair judge, he was stern in the courtroom and had his rules. He was a fine judge, but if you placed two judges at each end of a spectrum, you'd have Judge Dewell at one end and George Carr at the other, who had a very calm demeanor and Judge Dewell at the other end, maybe not quite as calm.

Denham: We've already talked a lot about Judge Oliver Green, and you've already stated a lot of things on the record and other places but are there just a few thoughts you might have on him?

Puterbaugh: Judge Green was in fact a pleasure to try a criminal case in front of because he almost always ruled in your favor on objections allowing you to present evidence because he knew in the end, he was probably going to get the last word by sending your client to prison. We talked about the psilocybin mushroom case that I had.

Denham: I think so.

Puterbaugh: I think I talked about that with Judge Green's daughter, who is also a judge. Judge Green was a great judge. We had so many great judges, Judge Dewell, Judge Kelly, Judge Love and then there was Judge Gunter Stephenson, who, in my opinion, was the epitome of what a circuit judge should be. He had a background in the FBI. and was an elderly judge at the time I started practicing. The main thing that I remember about Judge Stephenson that distinguishes him from a lot of judges today, was that if you filed a brief or a pleading or a deposition in the court file in a case and Judge Stephenson was presiding, he would have read every word of that entire document, pleading or deposition, by the time you got to the Hearing or Trial. If you file the deposition in support of a motion or judgment or whatever, and if you file the deposition with Judge Stephenson in a case he would be presiding over, he would have read that deposition in full. He was the most prepared judge that I ever have practiced before in the state judiciary.

Now, in federal court, judges are uniformly prepared because they have law clerks that help them prepare. The state court judge doesn't necessarily have a law clerk and certainly Judge Stephenson never had a law clerk but Judge Stephenson would read everything. Some lawyers, most likely the ones on the losing end of a case, would criticize Judge Stephenson by saying that he had made up his mind before the Hearing or trial. But I thought it was admirable because you knew if you filed a brief or motion or deposition, you knew that Judge Stephenson would read those documents. I recall a great saying from Judge Stephenson: "If you don't agree with me go tell the boys on the boulevard." (meaning the judges on the Second DCA, who sat on Memorial Boulevard here in Lakeland). He also used to say: "I may be wrong but I'm not in doubt."

I recall a case where Judge Stephenson had ruled in my favor at trial, my client's favor at trial and the other side appealed it to the Second District Court of Appeal. One of the points the attorney on appeal was asserting was that Judge Stephenson had not provided his client a fair

trial because he had made up his mind before the trial. So, we're over at the Second District Court of Appeal arguing before the three-judge panel and this lawyer from Orlando, as I recall, was up there ranting on how Judge Stephenson had made up his mind before the trial and had denied his client a fair trial because he had read all the depositions which had been taken in the case, etc., etc. Judge Stephen Grimes, who at that time was on the Second DCA, looks down at that lawyer and says: "Well wait a minute, what do you think a judge should do? Just sit up there like a bump on a log and not know what the case is all about?" Judge Grimes just raked that lawyer over the coals for criticizing Judge Stephenson for having done what a judge should do, and that is to really understand what the case is about.

That's one of the problems that I see today. Maybe part of that is that the judge's docket is so crowded that judges can't do it. I'll show up in a hearing and I may have filed a twenty-five or thirty page brief and several depositions laying out all the facts and issues for the upcoming hearing and you walk in and you sit down, and the judge will say: "I haven't had a chance to look over the court file, tell me what this case or hearing is all about." You just think of the days when the judges would actually read what you filed. Like I said, maybe because the dockets are overcrowded or they don't have time or whatever but you know, you would hope that when you put that much time and effort into providing the judge with the background information of what the case is about and your client's position, that they would actually read what you have filed and know what the case is about before they get to the Hearing, because the hearings now are fifteen to thirty minutes and it's over. Can you do your case justice in that short period of time that you have? That's why I love the federal system where you don't have hearings and judges rule based upon what you have filed. In other words, if I file a motion to dismiss in federal court, I have to file a memorandum and all the citations; we don't have a hearing on a motion to dismiss, very rarely. The judges and law clerks actually read what you file and understand what you are saying. In state court, the judge's ruling is many times based only on what happens during that fifteen or thirty minute hearing. It's just unfortunate. I really like the federal system much better in that regard. Now, I want to make clear there are still many state court judges who read what you have filed before the Hearing, but not all.

Denham: Can you comment on a couple of other court circuit people: judges, lawyers and prosecutors. Quillian Yancey prosecutor, for example?

Puterbaugh: We had great prosecutors here in the 10th Judicial Circuit. Quillian Yancey and Jerry Hill and now Brian Haas, we've been very fortunate with our prosecutors. I'll say we've never had, at least during my tenure, never had a "Mad Dog" Merkle.

Denham: Judge Susan Roberts?

Puterbaugh: Judge Roberts, the first female circuit judge in our circuit. Outstanding judge. Can't say enough about Judge Roberts. We just have had so many outstanding circuit and county judges here in the 10th Judicial Circuit.

Denham: What was her demeanor like in the courtroom?

Puterbaugh: She was a very no-nonsense judge. You never want a judge that is a tyrant in a courtroom, and you don't want a judge that just lets chaos happen. We once had a judge who was one of the nicest individuals in the world. Judge Richard Bronson, but in my opinion, he was sometimes too nice in the courtroom. He had been a probate judge and basically handled probate matters and around the 1973 timeframe, became a circuit judge. He was just the nicest individual, and I think he hated to rule against anybody and therefore it was sometimes hard to get him to rule on anything. And then I remember one case, he would ask both sides to submit a proposed order and that's fine because the judge can then consider both proposed orders and decide which order he or she wants to enter, but in this case Judge Bronson signed both orders! I also remember several times being at trial before Judge Bronson, nicest guy in the world, and an attorney or an attorney's client would act out and Judge Dewell or Judge Stephenson would have put them in jail for what they did, but Judge Bronson would just say: "Now, now". He was a very nice man but sometimes too nice.

Denham: Okay, I'd like to change the topic again before concluding your interview. Can you talk about your service at the National Legal Center for Public Interest? Can you tell us about what the Center does and how you became involved in it and were you appointed to that position?

Puterbaugh: Yes, I was involved for over twenty years with the National Legal Center for the Public Interest, which was a non-profit organization headquartered in Washington D.C. The mission of the National Legal Center was to foster knowledge about law and the administration of justice in a society committed to the rights of individuals, free enterprise, private ownership of property, balanced use of private and public resources, limited government and a fair and efficient judiciary. One of the things that the National Legal Center for the Public Interest did was to recommend individuals who might be appointed to the federal judiciary, including to the United States Supreme Court. My firm, Peterson & Myers, and I were annual sponsors of the Gauer Distinguished Lectures in Law and Public Policy. The Gauer Lectures were held in New York, generally at a dinner at the Waldorf Hotel or the Pierre Hotel. Lecturers that we sponsored over the years included those by President Ronald Reagan, President George H.W. Bush, British Prime Minister Margaret Thatcher, General Colin Powell, Supreme Court Justices William Rehnquist, Sandra Day O'Connor, Stephen Breyer, Anthony Kennedy, and many others. It was a very high-level organization and when we would have these events, virtually all members of the United States Supreme Court would attend. I remember Byron "Whizzer" White attending, who was appointed to the United States Supreme Court by President John Kennedy in 1962. Certainly, my involvement with the National Legal Center for Public Interest allowed me to meet a lot of individuals who I would otherwise never have been able to meet. I was even able to take my daughter, Nikki, to Moscow, for a conference, and we had a dinner in the Kremlin with

President Mikhail Gorbachev. And there is an interesting story from that conference. One day during the conference I met with the Minister of the Interior of the Soviet Union, Victor Barannikov. I had an all-day meeting with Minister Barannikov and his staff. At the end of the day, he invited me (and indicated I could bring my daughter) to have dinner at his dacha outside of Moscow. Well, my daughter didn't want to go so she stayed back at the Ukraine Hotel, where we were staying. So, I spent the evening until the wee hours of the morning with Minister Barannikov at his dacha and then later, after I returned to the United States from Moscow and after the fall of the Soviet Union, Boris Yeltsin appointed Minister Barannikov to the same position, Minister of the Interior, in his government. So, I wrote him a note to congratulate him and sent him a copy of an article in the *New York Times* about his appointment and thanked him for his hospitality in Moscow. I thought nothing more about it, and months later I am going to the office very very early in the morning and I hear the fax machine running, and I am wondering who is faxing this early and it was from Minister Barannikov, responding to my note. I have it framed in my office, talking about our experiences in Moscow and thanking me for my letter and so forth.

So my involvement with the National Legal Center allowed me to meet and interact with people that I would not have otherwise been able to meet; William Webster who was the Director of both the FBI and CIA, just an outstanding person, Griffin Bell, Dick Cheney, General Colin Powell. I always thought Colin Powell would have made a wonderful president. And of course it was a great honor to host Presidents Reagan and Bush at the Gauer lectures in New York.

Because the National Legal Center was bi-partisan, there were Republicans and Democrats involved, such as Griffin Bell, who had been Attorney General under President Carter.. During the first Bush administration, we had many dinners in the Diplomatic Reception Rooms at the State Department in Washington D.C. and it was there that I first met Dick Cheney. There were beautiful rooms that contain thousands of historical pieces of furniture and artifacts, including the desk that Thomas Jefferson used and the desk used to sign the Treaty of Paris in 1783. For a historical buff, dinners in those rooms were a chance to re-live history. After President Bush left office, President Clinton continued to let us to use the diplomatic rooms at the State Department for various events. So, the National Legal Center wasn't necessarily a partisan organization, but one very much dedicated to our free enterprise way of life.

Denham: So would you say that one of the real missions of that organization is to celebrate the rules of free enterprise and the rule of law?

Puterbaugh: Free enterprise, the rule of law and capitalism. It was totally like the Barney Barnett School of Business and Free Enterprise here at Florida Southern, to celebrate our form of government and to make sure we only have people with the highest quality on the federal judiciary and I really believe that certainly under Presidents Reagan, Bush and Clinton, the quality of the appointments to the federal Judiciary were all top notch and many of those appointments were as a result of recommendations that were made by the National Legal Center for the Public Interest. As I indicated almost all the Supreme Court Justices, Justice Anthony

Kennedy, Justice Antonin Scalia, Justice Sandra Day O' Connor, Justice Byron "Whizzer" White, Justice Stephen Breyer, all were involved our events, and I was able to meet and interact with them. I had dinner with Justice Antonin Scalia in the Supreme Court one night because of my involvement with the National Legal Center. And then of course the clerk of the United States Supreme Court, Bill Suter, who we previously discussed, was very much involved with the National Legal Center. After the *Pacific Harbor* case in Fort Myers, which we earlier talked about, my partner Steve Senn and I wrote a monograph for the National Legal Center titled *The Statute of Limitations Under RICO: Rotella and Beyond* regarding a Supreme Court case and how it affected our *Pacific Harbor* case. The National Legal Center from time to time published monographs on various areas of law that might be important to businesses and free enterprise in this country. So, these are some of the things that I've been able to do throughout my career, that being a lawyer has allowed me to experience. My involvement with the National Legal Center allowed me to meet and interact with individuals I never would have been able to meet under other circumstances. I would have never been able to have dinner with President Gorbachev in the Kremlin or to accompany Attorney General Meese to have dinner with the Minister of Justice of the People's Republic of China at The Great Hall of the People in Beijing, and all the others things we have talked about were it not for the career in law that I chose, almost 60 years ago, back in 1966 when I started out at Stetson College of Law. I've been able to have these opportunities because I became a lawyer, so I have had a very wonderful and fulfilling career and life, met a lot of great people, great judges, great clients, great politicians like Lawton Chiles, Bob Graham, and Jeb Bush, another great Governor of Florida and along the way, I met with some people that weren't so great like "Mad Dog" Merkle. But that's what life is about--you don't always get to meet and deal with nice people.

Denham: Well, I think that's a really good way to wrap things up. Bob, it has been a very interesting three days. I think we've covered a lot of ground. This is the end of the interview on September 2nd and unless you have any other comments that you'd like to make.

Puterbaugh: These discussions were very enjoyable. They have caused me to think about cases and people that perhaps I haven't thought about for many years. I can't tell you how many times I'll meet someone and they'll say: "Twenty years ago you represented me" and so forth, and many times I don't remember the matter until they start telling me the details and then it comes back to me. The fact that I have dealt with generations of great families in my legal work, for example, when I first started representing the hospital: Jack Harrell, Sr. was on the hospital board, and then later on his son, Jack Harrell, Jr. served on the hospital board and now today, his son Jack Harrell, III serves on the hospital board. So I have worked with multiple generations over the years, you know I worked with Mark Hollis and Clayton Hollis. It's amazing the changes that I've seen in Polk County and in Lakeland, for the most part all for the better. We have a wonderful health care system here in Polk County, we have a great museum. We have great educational institutions. Florida Southern College has undergone a lot of changes. I appreciate everything you've done, and I hope this has been halfway interesting.

Denham: Well, we're running right at the end of the tape, so this is coming out right at right as they say.