

TRANSCRIPT: HON. J. RICH LEONARD

Interviewee: Hon. J. Rich Leonard, (Ret.) U.S. Bankruptcy Court for the Eastern District of North Carolina

Interviewer: Hon. Randy D. Doub, U.S. Bankruptcy Court for the Eastern District of North Carolina

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START OF INTERVIEW

Randy D. Doub: Well good morning. My name is Randy Doub. I presently serve as the chief bankruptcy judge for the U.S. Bankruptcy Court for the Eastern District of North Carolina, and this program today is part of our oral history project to preserve the history and heritage of the United States Bankruptcy Court. A copy of this program will be maintained by our court locally and a copy will also be deposited with the National Bankruptcy Archives at the Biddle School of Law at the University of Pennsylvania.

Our program today welcomes former bankruptcy judge J. Rich Leonard who served as a bankruptcy judge here in the Eastern District from 1992 to 2013. Judge

Leonard now serves as dean of the Norman Adrian Wiggins School of Law at Campbell University.

I practiced law for some 25 years, much in the bankruptcy court and was appointed as a judge back in 2006, so I had the great privilege to not only practice before Judge Leonard but also to serve with him on the bench. And I must say that in law practice I always admired Judge Leonard for his intellect, his preparation, and his well-reasoned decisions; and as a colleague I can tell you I was always very grateful for his institutional knowledge and good advice on important issues to our courts, so Dean Leonard, welcome. We're glad to have you.

J. Rich Leonard: Judge Doub. It's fun to be back in my old quarters.

RDD: Yeah, and we'll talk more about this office and some of the renovations that you spearheaded here at Century Station to preserve the history of this building, but you've now been a dean at Campbell I guess almost a year now.

JRL: Next week will be my one-year anniversary.

RDD: Alright, a big party planned I guess for that? (laughter)

JRL: I think we'll just let it go by silently.

RDD: Well how are things going?

JRL: I think things are going extraordinarily well. It's as steep a learning curve as I've had probably since 1992 when I walked on to this court without a lot of prior preparation, but it's a fabulous faculty, it's a great group of students, it's a

wonderful location, and we're being very successful with a lot of our programs.

And although these are not easy times for legal education and there will be some shakeout, I think at the end of the day we're going to grow and prosper.

RDD: Well Campbell has always had a reputation for emphasizing practical skills and trial advocacy and I know when I, well the year I first started practicing I think the first Campbell graduates came on to the scene. That was always sort of their reputation, they got out there, they were real go-getters.

JRL: We're not backing away from that a bit. We have the only required advocacy curriculum I think in the state and one of the few left in the country, but it pays off. We've been invited just this week to the two top trial competitions in America next year where only the top 16 advocacy schools get an invitation, so.

RDD: Well, great, congratulations. And I know since you've been dean you've instituted some special programs; I know you'll be having the new first-year students come visit our court, and other courts around here in the capital city of Raleigh.

JRL: We start orientation with something I label the Campbell Court Crawl, and we go from court to court all over downtown, both to acquaint our students with our neighbors and the system in which they hope to join but also to emphasize our location. We're literally the only law school that has the ability to do that, so. It

was a hugely popular piece of orientation last year and we're going to do it again on Friday the 15th and have everybody ready to go.

RDD: Well Campbell being located here in Raleigh provides such great opportunities for . . .

JRL: It does. This city is a laboratory for teaching young lawyers.

RDD: Yeah.

JRL: I mean the opportunities are just endless for the experiences that we can provide for them.

RDD: You've not only got the courts, you've got all the administrative agencies, the attorney general's office, the state government.

JRL: Legislative, the executive, and you've also got all the huge national and international corporations out at the Park. We put students in their general counsels' offices constantly.

RDD: Right. Well congratulations for not only serving as dean but all the good things you've got underway. I know you're going to do an outstanding job. Tell us a little about your growing up years and where you started. You know you were born in Davidson County; I was born over in Forsyth County so we had some commonality there.

JRL: Piedmont; boys of the piedmont. I'm a native of Davidson County, a little farm village called Welcome. I come from two big agricultural clans, the

Leonards of Davidson and the Bogers of Davie, both of whom trace their roots back to the 1750s, German immigrants coming down the Great Wagon Road to piedmont North Carolina which was then the wild frontier and we have literally been there ever since. Most of my family is still there, on both sides. That's still the home place, when I go home.

RDD: Right. And your wife is a professor at Peace?

JRL: My wife is a professor at William Peace University but she's actually changing careers. She is leaving academia and she is going to be a practicing psychologist. She's going to start working at Duke Cancer this fall in that capacity.

RDD: Good luck to her on that. And then you have a son that's in New York City?

JRL: My oldest son is a lawyer; he's in New York City. My second son is with a first-rate real estate development company in Chicago, and then I have three little ones who are nine, seven, and five. They are very much home (laughter).

RDD: So you're not only a busy dean but you're a busy dad, and a husband, and all that.

JRL: My children, and I might add, have gotten acclimated to the change, but it was hard. They were in my chambers here constantly and loved it. And when I, the week before I switched jobs was the Fourth of July, and it was a madhouse downtown. And we got to the blockade on Martin St. and I rolled down and I said

excuse me, I'm Judge Leonard, I need to get in the judge's parking lot, and they moved the blockade and let me right in and from the back seat I heard my nine-year-old say, so we don't get to do this anymore? (laughter) But I have a good office where we are now and they've acclimated.

RDD: Yeah. Well that's great. And you also have, how many grandchildren now?

JRL: Seven now.

RDD: Seven grandchildren. Wow.

JRL: I was just in Chicago with four of them, over the Fourth of July weekend, and the New York three will be here next week, so.

RDD: Well good. So the Leonard family is doing well.

JRL: We are multiplying. We've always been prolific and we continue to be.

RDD: Well, you grew up there in Welcome, there in Davidson County, and then off to Chapel Hill as a Morehead Scholar as I understand.

JRL: I was. It was I think the first from my high school, one of the first from my county; a shock to me. As a matter of fact I spent my whole first year at Carolina thinking it had to have been a mistake; the letter rescinding it was going to come any day, but it didn't, so. And I was at Carolina during very exciting times to be in college, looking back on it. There were, the Vietnam War was in its most

controversial phases at Carolina. There was a workers' strike my sophomore year that shut down the cafeterias and sent students to both sides in deciding what they thought about this.

I've shared this story with you, but I happened to be speaker of the student legislature at the time and I got a call from President Friday who was the president of the overall university; he needed to see me immediately. And I raced out to his office, and he said boy, I want you to go see the governor. And I said, really. And he said yes, he said he thinks things are getting out of control here,

RDD: And that would have been Governor Scott.

JRL: Governor Scott, yes. And I need to send some reasonable student over here to persuade him that the campus is lively but under control. And I said, when? And he said in half an hour. So I got in my car and drove to Raleigh and was immediately ushered in and sat really just like you and I are, just the governor and me, in his office. We talked for a half hour and I thought it had gone very well. And that night he declared a state of emergency and mobilized the National Guard (laughter) and took over the campus.

RDD: Gracious.

JRL: Next time I saw President Friday he grinned and said that didn't exactly go like I thought.

RDD: Well, that was still a great experience for you.

JRL: But it was a great experience.

RDD: A guy in college getting that kind of opportunity . . .

JRL: To go and do that, it was.

RDD: To go discuss a major issue.

JRL: And that was one of Friday's great strengths is that he would put you forward fairly quickly.

RDD: Right. Well, he's certainly left a great legacy here in North Carolina

JRL: He did. He's my hero.

RDD: So you were at Carolina and you got a master's degree there also.

JRL: I did, I did. And thought a career in education was what I wanted to do and loved getting a master's degree. I actually worked as a counselor at a little elementary school down in Cabarrus County. That was my internship for a year. But I quickly realized that the economics were not going to support the life I hoped to have some day and knew that I needed another degree and frankly didn't really want to go get a degree in education and looked around North Carolina; the people who were running the education system were all lawyers. President Friday, President Sanford, Chancellor Taylor — everybody had a law degree. So I thought well even if I want a career in education, getting a law degree might be the thing to do. So you know I applied to the best law school in the country and miraculously got in and headed to New Haven.

RDD: Right. And that was quite a trip, I understand.

JRL: It was quite a trip, I mean looking, of course when you go to law school you're just there with your classmates and you don't know, hindsight, what it's going to look like 20 years later, but you know looking back now I realize I was there with the Clintons and with Justice Thomas and Justice Alito.

RDD: So all these folks were in your class? Or there at the same time?

JRL: No, but we were all in New Haven. The Clintons were two years in front of me. Thomas and Alito were classmates.

RDD: How about that. I didn't realize that.

JRL: So we, yeah, looking back on it, it was a pretty extraordinary time to have gone to Yale.

RDD: Any fond remembrances of any of those folks while you were there?

JRL: You know, I remember, I will say this — I'm not surprised that Justice Thomas is quiet on the court, because he was equally quiet in law school. That's always been his persona. Alito, you would not recognize from law school because my recollection is he had a shaggy black mane about halfway down his back.
(laughter)

RDD: Well, I love that.

JRL: So, there are some differences.

RDD: Yeah. Okay. Well, you finished at Yale, and then I believe you pursued a clerkship.

JRL: I did. There really were no opportunities to get back to North Carolina from New Haven. You'd think there would have been, but North Carolina in the seventies was a much more parochial place. And even in applying for clerkships, one of the stories I've often told is I had a hard time getting folks to interview me. And I got a call that Chief Justice Susie Sharp wanted me to come for an interview. And I saved my toll money and got in my Volkswagen and drove from New Haven to Raleigh and was ushered into her chambers and we were having a very cordial interview; at about ten minutes in she looked up from my file with absolute horror on her face and said are you in law school at Yale? And I said yes ma'am. She said, I misread your file. I thought you'd gone to undergraduate at Yale and had the good sense to come home for law school. I do not hire law clerks from Yale. Good day.

RDD: Oh my. Well that is quite a story.

JRL: And I drove back to New Haven thinking, well I'm never going to get back to North Carolina because I have made a bad decision about where to go to school. But luckily, Frank Dupree, the legendary district judge down the block from the supreme court was a little more open-minded about law clerk selection

and he gave me a shot to work for him which was the door opener for me for a career in the federal courts.

RDD: What was a missed opportunity for Chief Justice Sharp became a great opportunity for Judge Dupree, and actually . . .

JRL: Well, and I'm a firm believer in the power of mentorship. I think it's critically important that you find folks who are in front of you or where you want to go who are willing to take you under their wing and explain things to you, and counsel you, and open doors for you. And goodness knows, he opened doors for me. Looking back, probably at way too young an age but I didn't know any better; he was willing to take a chance.

RDD: Tell us a little bit about your clerkship, were there any interesting cases during that time?

JRL: Well it was fascinating. I mean all of my buddies were going to Manhattan and Los Angeles to clerk for these high-powered judges and try these high-powered cases and I thought I'd just come back here and we'd try you know wrecks and bank robberies. Got back here and found out that Dupree had been designated to sit as a visiting judge in South Carolina in the largest antitrust patent case ever filed in the United States. It involved the entire textile industry and it involved the patents on all the machines that made polyester. So, what I thought

was going to be a fairly routine humdrum clerkship in Raleigh ended up being half my time in Rock Hill, South Carolina.

RDD: So y'all packed up and moved to South Carolina?

JRL: We actually rented an apartment in South Carolina; lived down there half the time and had the top lawyers in the country in front of Dupree in Rock Hill, South Carolina. So, it notched up a level from what I thought it was going to be in terms of clerking.

RDD: That's really one of the great aspects law clerks get is to be able to sit there and watch some of the greatest lawyers apply their trade.

JRL: You just never know. Well, I've always told this story, during closing arguments of that case. Now remember we rented our own apartment and we did our own cooking. And during closing arguments Simon Rifkind of Paul, Weiss, Rifkind, highest paid civil litigator in America, was arguing to Dupree. And in the middle of his argument Dupree held up his hand for him to stop and motioned for me to approach the bench. And I went up there and he said, "I didn't put enough water in those black-eyed peas. You better race back to the apartment or we're going to burn that place down." (laughter)

RDD: So he had left supper on the stove.

JRL: He had left supper in the crock pot.

RDD: Oh, me.

JRL: So I go tearing out of the courtroom, race back to the apartment, add water to the crock pot, race back, walk into the courtroom and give him a big okay signal. And I'm now revealing what I have never revealed, which was what he asked me, because that case ended up in about a \$60 million antitrust verdict. And lawyers that I have seen for thirty years have said what did he send you . . . we know that's when he made up his mind. What did he send you out to look up?

RDD: What a great story.

JRL: And I've just said, you know, law clerks can't talk about that stuff.

RDD: I was just envisioning in my mind the lawyer is sitting at the counsel table, is wondering, oh my gosh, what is, is he sending him out to find a particular case, or what? So at any rate. Well that's a great story.

JRL: But he was a wonderful man, and I loved every day of clerking for him.

RDD: Now were you a clerk for two years?

JRL: Two years.

RDD: So that was a two-year clerkship.

JRL: He kept all his clerks for two years, so he always had a senior and a junior clerk, so he always had somebody who'd been there a year and somebody else who was in their first year. And it's a good system I think.

RDD: So, after your clerkship you joined a Raleigh law firm.

JRL: I did, I looked around and decided where I wanted to go. And Sanford Adams, another one of — I guess my two heroes growing up in North Carolina were President Friday and Governor Sanford — and I at times had the chance to work with both of them. He had started a law firm after he was in the Senate right downtown and I decided that I would go over there and work. And I did. I worked there about a year, and Dupree became chief judge, as the seniority goes. Judge Larkins aged out and Dupree became the next chief judge. And I, charitably, the district court was in a shambles; it was just in a shambles. It was low morale; it was badly administered. There was no system for doing anything.

RDD: I guess at that point there was Judge Larkins and Judge Dupree?

JRL: And Judge Butler was still here as a senior judge.

RDD: And Judge Butler. Okay.

JRL: And so within a week of becoming chief judge he had replaced the clerk with me. It came about that quickly. He called me up and said, you were always messing around in other people's business when you were over here; you were always curious about how the place worked and trying to suggest ways it could work better and frankly do work-arounds for an office that didn't have many good systems. And he said, why don't you come over here for a year or two, get it straight, and then you can go back and practice law. And I thought why not. I've

always been in some ways an administrator at heart and enjoyed doing that, so at 29 I became . . .

RDD: Wow.

JRL: . . . what I'm still told is the youngest clerk of a district court ever named in the country, so.

RDD: So that would have been what, the late '70s?

JRL: That would have been '79, when I went back over to the district court to be the clerk.

RDD: Alright. And so you continued in that clerkship I guess until you became a magistrate judge.

JRL: I did. And that's an interesting story. I spent the first two years really just building systems from the ground up. And, particularly case management systems, which we didn't have any of. I mean one of the things I've always been most proud of in terms of accomplishment is that we went, in that two-year period, we went from seventy-fifth to first in dispositions per judge in the annual measure that the AO does in case disposition because we just built some very good systems and processes, many of which they're still using, to handle our caseload. But after two years I was beginning to think I'd done what I'd been asked to do. You know, the place was running well, it was running smoothly.

RDD: How many employees would the clerk's office have had back then?

JRL: I had about 35, because we had five divisional offices.

RDD: Main office in Raleigh, and Wilmington?

JRL: Raleigh; we had folks in Wilmington, New Bern, in Fayetteville, and in Wilson, right at the very, when I first started.

RDD: Because when I started practicing, we used the old district court building there in Wilson. That's where Judge Moore had located.

JRL: Right. Yeah, that's right. And Dupree came to me and said — he was always looking for other ways that things could be done — and Dupree came to me and said you know I've figured out a way I think you can stay clerk and be a magistrate judge. He said there's this little-known provision in the code that says — and it really was designed for smaller courts, where you needed a little more judicial assistance but you couldn't justify a full-time position. And so, he worked it through the Fourth, the Judicial Council, and the Judicial Conference, and on the fifth anniversary of my bar membership, which is the earliest date you're permitted to get the job, I became a federal magistrate judge. And that was an exhilarating time. I mean I remember; I vividly recall getting, seeing a notice where Howard Manning and McNeill Smith had been set to come to argue a summary judgment to me, and I remember going in to Judge Dupree and saying, they're not coming (laughter). I mean, there is no way, I mean two senior litigators in North Carolina,

RDD: Some of the two top lawyers in North Carolina. (laughter)

JRL: There is no way that Howard Manning and McNeill Smith are going to come in here and argue something to me. And he said well, I believe they will. And they did and we had a rousing morning and they became two of my big friends and supporters after that.

RDD: Yeah, I remember McNeill Smith when I was in law school at Chapel Hill he was a candidate for the U.S. Senate.

JRL: He was.

RDD: Maybe in a primary. And they had a little debate over there, so he came over, so I remember.

JRL: He's a formidable, formidable lawyer.

RDD: Yeah, he was a very good speaker, I thought.

JRL: So we had a lot, we had all of the asbestos cases starting hitting the district court in 1981 right when I became a magistrate judge and I ended up picking up all of the pre-trial work in those. And I remember there was one three-day period where I heard 500 motions to compel in three days, ruling from the bench on each one as I went.

RDD: Would Ken McCotter, was he also a magistrate judge, also?

JRL: Ken was the only, when I started, he was the only full-time magistrate judge.

RDD: Because he was in New Bern.

JRL: He was in New Bern, and then Logan Howell came in Raleigh. And then later Alex Denson came, and Wally Dixon came, and we had a full bench; it went from a very small court to a very full court.

RDD: And then also during your tenure as clerk the district bench expanded quite a bit. You had Judge Britt.

JRL: Oh yeah. Judge Britt came right after I came. Two years later Judge Fox came. Then Judge Boyle came. Then Judge Howard came. So in the eighties we had, you know I picked up four new district judges and three new magistrate judges.

RDD: I guess they were filling positions; I guess Larkins became a senior judge, and Judge Butler became a senior judge, Judge Dupree became a senior.

JRL: Larkins, yeah. Then in '87 Judge Howard's was actually a created fourth judgeship.

RDD: That was a new judgeship.

JRL: That was a new judgeship.

RDD: So the folks you worked for expanded quite a bit.

JRL: Yeah. We went from essentially servicing a couple of folks to a very busy job.

RDD: I can only imagine. Any specific stories or memories about any of those judges? Or anything about their styles?

JRL: Oh, I could tell stories for the next three hours (laughter) about all of them individually, but in their own way they were all really strong and really able judges who cared a great deal about the court and what we did. I think we were lucky to have had all of them.

RDD: When I was in law school the Jeffrey McDonald trial occurred here in Raleigh and many of my classmates came over every day to watch the trial. You were clerk, I believe, while that trial . . .

JRL: I became, I actually became the clerk of court a week earlier than was planned so I would be in place on Monday to manage that trial.

RDD: Wow. So that was right at the very beginning of your term.

JRL: I got sworn in at five o'clock on a Friday afternoon and the McDonald trial started Monday morning. So, I was there all weekend trying to sort out what this new job entailed, but you know, trying to deal with the press requests for seating and priority seating, and just how we were going to work the crowds in and out. Security for everything was an issue. Yeah, it was quite a, but I have to say, I was so busy with the job I had taken on, I mean, you walk in, there wasn't a great deal of transition because my predecessor didn't leave under the happiest of circumstances. And you know you learn things like well there's \$40 million in the registry and you're now responsible for it. So it's like where is it?

RDD: What's a registry fund? (laughter)

JRL: What's a registry fund and where is it you know so that I could deal with that, so. (laughter) I was up to my eyeballs in just trying to figure out how to run a court, so I didn't spend much time in the courtroom. I didn't have time to just idly go sit in a courtroom to watch a trial.

RDD: Right. You were dealing with the mechanics of just making sure everything went smoothly.

JRL: But I was very involved on the outskirts of making it run.

RDD: Well that's something that's very neat about these jobs is that you get to participate in history, so to speak.

JRL: You do. And one of the things that really sort of anchored me in this business is that we were so far behind when I became clerk. At that point Dupree was one of three active judges with the seat filled; the other two seats were vacant. We just couldn't begin to keep up with the workload. And I went to the chief judge of the Fourth Circuit and said we've just got to have some help. You know these folks have sat down here and pretended that everything's great and it's not; it's a disaster. And Judge Haynsworth who was a courtly gentleman; we sat in his office in South Carolina, and he said boy I will send you a visiting judge every Monday for the next six months if you will have everything ready to try. So that's what I did early on in my clerkship. But it was great for me because I got to know all, many of them were still around, but the true legends of the federal bench. Virtually

every district judge in the circuit came through Raleigh during that six-month period and I worked with them, so a lot of them stayed lifelong friends.

RDD: Well that certainly was a great experience. Any particular cases that you presided over as a magistrate judge that come to mind?

JRL: I did. Yeah. I think there were two really where I cut my teeth. One was the asbestos cases. I did all the pretrial motion practice in the asbestos cases for 12 years and that was quite an enterprise. And then we had a massive securities fraud action that hit the court involving Conner bonds; when Conner Mobile Home and the bonds, the private bonds that the corporation had sold and the surrogate fraudulent statements that were developed to entice big lenders to buy these hundreds of millions of dollars of bonds. And I did all the pretrial motion practice on that. And there were at one time over 250 lawyers involved in that case. So I learned a great deal about managing high powered lawyers in that experience.

RDD: You know you and I are both big advocates of mediation and that started in the state courts to a great extent and it's now required of all superior court cases.

JRL: We were starting it then.

RDD: Did that kind of develop, or you saw it develop?

JRL: I saw it begin to develop. And in that case, for instance, Judge Howard and I were the trial team and Judge Britt and Judge Denson were the mediating

team. So the entire time that Judge Howard and I were pushing pell-mell to move all of these cases to disposition, they were meeting completely without any information going back and forth, they were meeting with Judge Denson and Judge Britt trying to settle it. So we had some settlements, some trials.

RDD: Well, you served in those positions; you were the magistrate judge and clerk, until 1992 and then a vacancy in the bankruptcy court became available; tell us about the bankruptcy [court].

JRL: Well, here's what happened. I had really been at a crossroads at that point because I loved my job but I couldn't do it all anymore. What had happened in court administration had been a fairly abrupt decentralization of so much authority from Washington to the local courts. So all of a sudden administering the local court was much more of day to day hands-on job. When I started it was such a hierarchical mother-may-I system out of Washington that there wasn't a lot of discretion to exercise locally. But that completely changed. So running the court had become a very different job; it was a much bigger court than the court of which I had become the clerk, and I was the most senior magistrate judge. So I was frankly pressured a good bit by the district judges whenever a new complicated case would come in, to be assigned to me do a lot of the pre-trial motion practice and management. And I had, I mean in the old days we really had secretaries and we dictated and I had three full-time secretaries at one time, but I kept going all

day long trying to keep the place running. But I had, in the early nineties I had pretty much realized I had to choose, I had to either pursue a full-time judgeship, I had to be a full-time court administrator, or I had to just give it up.

RDD: It was hard to do both.

JRL: I just couldn't do both, definitely. And I was, or I just had to go back to private practice and take a different tact. And then all a sudden there a vacancy develops on the bankruptcy bench with Judge Moore's sad and sudden death.

RDD: Well you mentioned having three secretaries and doing dictation. Let me just ask you, during your term as clerk how did you see technology advance as far as helping administer the courts?

JRL: Well, we, while I was clerk we got the first, I remember the first electronic typewriter that had memory. I mean I remember you know, because when I was a law clerk Ms. Alvis was Judge Dupree's very formidable secretary and she, you just didn't want her to be typing things (laughter). I mean, so you were very, very careful with anything you dictated or wrote because you really didn't want to go back to her after, you know, you didn't have the luxury of three or four drafts to mark up and give back to her. So we were so happy when she got her first memory typewriter. But it broke constantly, and it turned out she was much faster a typist than the designers of the typewriter had ever thought anybody could be. So she just crashed it constantly. But it still began to help.

And then we actually got the first little automated case management systems, first computers, in the early nineties and began to actually put, you know do our docket sheets on the computers, now not, still had paper files, but our basic case records we were beginning to keep with the computer records, which was, and those programs, looking at how simple our programs are now, were so convoluted and so complex. I mean it, my staff, it was not unusual to see you know two-thirds of my staff at the courthouse on Saturday and Sunday mornings just trying to master what we were asking them to do and still get their work done.

RDD: But all that I guess was sort of the genesis . . .

JRL: It was the genesis, and I was, part of what had happened with me which turned out to be very beneficial is because I was so interested in case management and developing new systems I got to be a fairly frequent speaker at the Federal Judicial Center seminars for clerks and for judges, and for a number of folks and then when the Civil Justice Reform Act passed in 1990 that required all sorts of new systems to be implemented by every federal court I got asked to be the clerk who worked with the committee on court administration and case management to try to begin to implement some of these new systems. So that's really how I got to the national scene. And then went I went on the bankruptcy bench I had already worked with that committee and when the bankruptcy seat became open the next year, frankly jumped over a lot of people with a lot of

seniority who thought it was their turn because the judges on that committee wanted me on the committee as a full-fledged voting member because we had already spent so much time together.

RDD: So that was really sort of a natural transition.

JRL: It was a natural transition; it's frankly where I got to have such a say in so much of the national automation effort. For that committee, I was one of the four judges who were as we called it in those days the executive sponsors of CM/ECF. But we didn't really know what it was, but I was at the first tables when we sat around and began to spec out how all of this would work.

RDD: Sort of the early days of what would become electronic filing.

JRL: And I remember the first conversations of what is now this fabulous PACER system that we have where we began to wonder if we let people actually dial into our computers via modem which was before the internet, if anybody would do it and found out to our amazement there was this huge market for federal court data and that it was useful and lucrative for folks. That was again for me sort of a career long involvement in electronic access. I was on the oversight board for PACER for, I don't know, 14 years and saw it grow from generating a few thousand dollars a year with modem to the \$2 hundred million income stream it is today for the federal judiciary.

RDD: Well I salute you for all that work because it's just absolutely amazing what we all have access to today and how easy it is, really.

JRL: No it is. I agree with you. And it's really very frustrating to still have our state courts, sort of . . .

RDD: Yeah. Our appellate courts are moving in that direction.

JRL: They're moving in that direction but our state courts are where we were in the early nineties.

RDD: It's still going to be a while.

JRL: It's still going to be a while.

RDD: Well, the bankruptcy position came open, you applied, the Fourth Circuit appointed you, and your duty station was Wilson.

JRL: They did. Out of a fairly robust applicant pool, but you know and I was very candid that I'm not a bankruptcy specialist, you know. I know a lot about running courts, I know a lot about complex litigation. I'm very comfortable in the courtroom; I think I can learn it. But it was a steep, steep learning curve that first year or so. I go back and read some of the things I wrote that first year and they're really like letters to myself more than they are opinions as I tried to figure out all the nuances that I had to understand.

RDD: Well, you were based in Wilson.

JRL: I was, and that was a given. That was, the circuit would, sadly Judge Moore had spent so much time and energy on that courthouse and didn't get to enjoy it for very long but that said, the government had a long-term lease on that facility and there was just no give on that, that Wilson would be the duty station and it was my duty for 14 years.

RDD: Your colleague Tom Small was here in Raleigh.

JRL: He was here in Raleigh. It was just the two of us.

RDD: And then you . . .

JRL: We did largely a geographical split.

RDD: Right. You had the New Bern division I guess, and what was then the Elizabeth City division?

JRL: I took Wilson, New Bern, Elizabeth City, and Wilmington. And he took Raleigh and Fayetteville.

RDD: Was that pretty much an even split?

JRL: It stayed remarkably even over the years. The cases had a little different complexity. I mean he, in those days, not so much later, but our huge Chapter 11s mostly came out of here, so he got Rose's and Midway Airlines; I got the hog farms and the packing plants, the failed coastal developments.

RDD: As you mentioned before, your work with the developing technology with the courts and your work with the Administrative Office of the Courts, as you said, that continued after you became a bankruptcy judge.

JRL: It did. I stayed on CACM [Committee on Court Administration and Case Management] for eight years, so I was heavily involved at the highest levels; I was in one of the . . . two things that I have footprints all over that are still with us is that the privacy issues reared their heads once we began to put all these documents online, what are the privacy rules? And I was on the four-judge subcommittee that came up with the initial rules for redaction to protect private identifiers for a number of folks. Also when I was on CACM that was the first time there any serious talk about consolidation, of whether it would be efficient to have the district and bankruptcy courts consolidate at an administrative level and I drafted the consolidation guidelines that are still the black-letter law on the subject for the, that were approved by the Judicial Conference that candidly are very bankruptcy friendly because you can't consolidate without the consent of both courts.

RDD: Right. And that's statutorily fixed and of course that issue from time to time still comes up.

JRL: Rears its head. And I always point to folks, you know, until they were a bill, there's a set of really good guidelines, you know, that several of us worked very hard on to get through.

RDD: Well I know you also have been very involved as a presenter at seminars, in fact I recall my baby judges' school you were there on videotape with Professor Gibson.

JRL: I was there last week. Professor Gibson, Elizabeth Gibson is my long-term buddy who teaches over at Chapel Hill. She and I for years did the basic, organizational and structure of the bankruptcy courts, we do that presentation either live or on videotape for all the new judges and I've just carved out a variety of roles. I moderated the chief judges workshop for all the bankruptcy court chief judges two weeks ago in Washington.

RDD: Yeah. I saw you were on the program and one of our judges, Judge Humrickhouse was there; she'll be our new chief judge here in about three weeks, so she's getting her . . .

JRL: So I've kept my hands in that. I guess the other thing that's worth talking about is I spent a good bit of my time when I was on the bankruptcy court working abroad. And it came about as a fluke. I was . . .

RDD: That was with the State Department.

JRL: With the State Department, coupled with the United Nations, but mostly all with the State Department. But I was sitting in my office in 1994 in afternoon recess and this fellow called me out of the blue, said he was from the State Department, that the nation of Zambia had a new constitution; they'd modeled their judiciary largely after ours and they had asked if some American judges could come over and meet with them and did I want to go. And I said yes. And then I went home and did a little research and called back the next day and said, you know, I'm just not sure I'm the right match for this. And he said no they have specifically asked for a judge with an administrative background; they don't want to be lectured on separation of powers or theories of jurisprudence. They want somebody to come who could come help them work on the . . .

RDD: Nuts and bolts.

JRL: They want a nuts-and-bolts person. So I went for what I thought would be a one-time trip and because I did have a fairly pragmatic nuts-and-bolts approach and because that's what they so desperately needed, that first trip went into a series of projects that I thought we could work on that would make a real difference in their case management over there. So I began, for a decade, went two or three times a year to Africa. Started in Zambia, the chief justice of Tanzania, had a conversation with the chief justice of Zambia; next thing you know I'm invited to Tanzania. The Tanzanian chief justice was so proud after a couple of

years of what we'd done in his courts that he convened a conference of all the sub-Saharan chief justices in Dar es Salaam in 1998 and I spoke at that. But after that it was Katie bar the door; I could go anywhere I wanted really and I chose Namibia. It's a wonderful country and Southern Africa is the next place I wanted to work. So went there for two or three years on a couple of projects. So, it's been, that was just, changed my life. Some of the most fascinating people, most fascinating work that I've ever done.

RDD: See them really start from the beginning.

JRL: In some ways. And work under just, you know, unbelievable circumstances; physically, their courthouses, their courtrooms, their dockets, I mean I just, their lack of support. You know and just to do something that might help a little bit was really gratifying.

RDD: I recall from practicing from time to time these judges would come over and visit you and tour our courts.

JRL: I became a regular stop whenever African judges were coming to the country they would always, many of them would ask to come to Raleigh and visit me or have me come to Washington and be their host.

RDD: I remember several times before court started you would introduce our guests from such and such a country.

JRL: I would, and those were always . .

RDD: All the bar would go up at recess and talk to them.

JRL: I so remember Matthew Ngulube, who was the chief justice of Zambia, got to be a fast friend, came over here and couldn't figure out at all what to eat. I mean our menu is very different. I took him to, I think it was Finch's, but one of the breakfast places around here, and I said get a big bowl of grits. And he said, what? I said it's nshima, which is their basic corn porridge that they live on. And he said really. I said yes. I said I promise you, it's nshima; it's what we call nshima. And he wolfed down his first bowl.

RDD: Some of the best nshima he'd ever had.

JRL: He was starving, I mean starving. He wolfed down his first bowl and asked for another, and so, then he wrote down "grit." And so he said anyplace I go from now on I'm going to ask for grit (laughter).

RDD: That's great. Well the last couple of years that you were a bankruptcy judge you were asked to head the next generation of CM/ECF committee. I know that took a great deal of work; you traveled all over the country, held public hearings.

JRL: We did, we did. And this was I think I very bold adventure of the federal courts to not be reactive but to step out front and say, where do we need to go next? I mean as you say, we're not in a bad place now. We have a great deal of information available to us but technology's moving along; how can we make it

better? And we had a couple of internal groups who were working on it from the court perspective. But I was asked to take on the job of going out to the external stakeholders and canvas with the incredibly talented group of folks, canvas their needs, what they wanted out of the system. It was fascinating. And I had no idea of some of the difficulties that our systems create for any number of people on the outside that we had unwittingly done in many ways. So we came up with what I thought was a comprehensive and important report and I tried to make the case for us at all of the senior level meetings about NextGen but I have to say I've left that and I hope that we were heard and I hope that some of what we wanted to have done will get incorporated but I'm not in any position to influence it anymore.

RDD: I believe during your tenure as chief judge of the bankruptcy court, that's when we went to electronic filing.

JRL: It is.

RDD: And I know there was a big build up to that. I was serving as a Chapter 7 trustee and it seems like for every three- or four-years electronic filing was coming; it would just have all the trustees, just oh no, here it comes.

JRL: Well, it was frustrating because it was advertised a long time before it got here. So frustrating that our very brilliant clerk then, Peggy Deans, decided we were going to make electronic case files ourselves. We couldn't, rather than wait on the bar to be able to file electronically she came in to see me one day and this

proposal to spend really an exorbitant amount of money in those days on these high-speed scanners so that we would, in-house, turn every document filed into an electronic file and only use those as our records. And I was skeptical about whether it was, frankly, whether we shouldn't just wait, whether it was worth the effort to do all that but she was right. We were, we had electronic files three or four years internally before we relied on the bar to file for us electronically and it was a time when our docket exploded. If we had not had those electronic files I don't know how we could possibly have kept up. I mean it took, when I would go hold court in the nineties, in Wilmington or New Bern, it would take a van to carry all the case files that were on the motion calendar. I mean literally just box after box after box after box. And of course by '96 or '97 that was all redundant. You know as long as I had access to a computer, I could get to any document, so. But then electronic, and I don't remember the exact year that we came to electronic filing.

RDD: Early 2000s, I think.

JRL: Early 2000s is my recollection. But you know it went down surprisingly easy here. The bar, it would have been harder earlier, but by the time we got to it most of the law firms were pretty proficient with technology. And you know filing in our courts is really no harder than booking an airline ticket or you know buying a book on Amazon in some ways. We made it a very straightforward process, so. There were a few outliers. We had, and I was ruthless. I was the chief

judge. And you know, I didn't give many excuses to folks who said they couldn't file electronically. And you know I'm not embarrassed to say this although others would be, but when people would file on a motion to be excused from electronic filing, we internally labeled those the "I'm too dumb" motion. And we would set all of the "I'm too dumb" motions at the head of my busiest calendar, so you could come in in front of all of your colleagues at the bar and explain why although they could all do it, you couldn't figure it out. And after two or three of those, I found . . .

RDD: I would think that would have had a certain incentive effect.

JRL: I think we got very few of those, you know, after folks had to stand up and hear everybody snickering behind them as they explained why they couldn't do this.

RDD: You know, I guess it was in 2005 Congress finally passed this BAPCA, or the Bankruptcy Abuse Prevention and Consumer Protection Act. There was a rush of filings right before the effective date of BAPCPA, and I recall you were in New Bern that day and I happened to be back in your chambers. We were talking about how, or you were telling us how seamless, because that last day up to midnight I mean there were just literally thousands of filings.

JRL: The system never hiccupped.

RDD: Right, it took . . .

JRL: It took very one of them without a single problem. Yeah, we were very proud of that.

RDD: And had we still been doing paper that would have been . . .

JRL: The line would have been three blocks down the street. That's exactly right.

RDD: You also have served the National Conference of Bankruptcy Judges in a number of ways. You've served as a governor, and . . .

JRL: I have. I was on the Board of Governors for two different terms. And I looked around in that organization early on and decided, sort of what is it about this organization that would really engage me. I was never particularly interested in a lot of the internal politics. I didn't want to be the president although it was offered to me a couple of times. But it was more the academic pieces of the organization that had a great deal of appeal, so I first started on the endowment. I was on it, then I chaired it, which is the grant-making body where you work with all the folks who want some money to do research on bankruptcy and insolvency and met some of the, they were then some of the youngest professors in the country; now they're some of the most distinguished. And you know gave some of them their start in terms of their research and writing. And then the pinnacle I think of the NCBJ is the *American Bankruptcy Law Journal*. It's the only judge-edited academic journal in the nation. It's the most cited journal in judicial opinions in the

country. So I served a term as an associate editor and then came back the last two and half years I was a judge as the editor-in-chief. And I truly loved that. It's an incredibly demanding job, but you are dealing with the brightest minds in our area of law across the country and world as you try to decide what to publish and how to edit it, and you know when you begin to tell people like Elizabeth Warren, Jay Westbrook, that you don't like their sentence, you better be ready . . .

RDD: Be ready to explain it.

JRL: You better be ready to explain it, so. It was really working at the highest levels of academia.

RDD: You also got to see the success of one of your former law clerks, Susan Hauser, who then went on to be a professor at North Carolina Central, and she wrote a very . . .

JRL: And wrote for the journal, got the award, the big editor's prize for the best article of the year. And I am proud to say I did not rig that, although others have accused me of it. No one on that group knew she had been my law clerk until after we voted. And then I said and by the way I do know her.

RDD: Of course she had been, she was with you as a permanent law clerk for quite a while – for nine or ten years?

JRL: Eleven or twelve. Well she got into teaching completely inadvertently because when I started going to Africa I was also teaching the bankruptcy course

over at North Carolina Central. And I said to Susan, you've got to go teach my class. And she said, no. I'm not a teacher, I'm not comfortable in front of crowds, and it's not anything I want to do. And I said no, you're going to go do it. We practiced and she got organized and it turned out she was surprisingly good at it. And that led to more teaching opportunities. Then she went half time with me so she could teach half time. Then she got her full appointment as a law professor.

RDD: I think you're right. My former partner, two of his sons went to Central and as I recall she was one of their favorite professors.

JRL: Yeah, she's won their Professor of the Year several times.

RDD: You know North Carolina and Alabama are unique as being the only states in the country or at least districts within those states that have the bankruptcy administrator system and that was kind of carved out by Congress when they set up the U.S. trustee system. What was your experience with the bankruptcy administrators system?

JRL: I always thought, now Ms. Lynch was our bankruptcy administrator the entire time I was a judge. She came in May and I came in June, so we've been in tandem ever since, so my view of it is really in so many ways based on her ability but I think she's a very able lady and I think the system has done us enormous good in much less expensive ways than this huge, monstrous U.S. trustee system.

RDD: The creation of, which I guess it's run out of the Department of Justice, the U.S. trustee system, has really created another federal bureaucracy.

JRL: A whole other new federal bureaucracy with all sorts of, frankly, patronage appointments and this is not that. And you know there are those folks outside North Carolina and Alabama who think that they're not sufficiently independent; that they kowtow too much to the local judges but I never found that to be the case. I never certainly dictated any position they should take and I found them pretty fearless.

RDD: I would agree with you. They've always been fierce advocates when they needed to.

JRL: Yeah. I think that's right. And I think it's important to note that they, I mean Ms. Lynch really works for the Fourth Circuit. I mean she doesn't work for us.

RDD: That's correct; that's correct. Well you became chief judge of the bankruptcy court in 1999.

JRL: I did.

RDD: You were sort of the creator or innovator of this program to put the hearings on the docket. Tell us a little history about that, and how that developed, and now moved through the country.

JRL: Well I'm very proud of that because I think it's really going to change the judicial process around the country. I remember you know, it's funny, I said to somebody I don't want to be like Al Gore inventing the internet, except that I was the guy who set it up. I mean I remember being at a meeting of the working group that oversaw Pacer, you know in the early 2000s when we began to get all this enormous revenue from these electronic paper — what had been paper — records. And I said you know, why can't we, you know, I think it was in 2001, 2002, the Judicial Conference approved digital recording as a third method of taking the record in federal courts. And I said you know, aren't these digital files just bits and bytes like paper? You know, why can't we figure out some way to put them on the docket sheet and make them remotely accessible? And the first pushback was they'll be way too big, and it'll be too cumbersome, and we don't have enough bandwidth to do all that. So I came back home but didn't let it drop and talked with Jeff Elmore who was our IT director at the time and said Jeff, let's just, let's do some data collection. I mean let's look at some of these digital files and figure out how big they really are and what obstacles there are to moving them electronically. Turned out the concerns were wildly exaggerated; that in most instances these files were not huge and there's no reason that couldn't be done. And by this point I'd done enough pilot projects to know how to structure one. So rather than just doing it I went right to Jack Tunheim, who was the chair of CACM, and said I want

authorization from CACM to run a national pilot with a representative group of courts who are interested in this, district and bankruptcy, in the pilot. I want to immediately instruct the Federal Judicial Center to do an evaluation so that we don't wait two years and then we go to try to get it approved they say well no, it hasn't been evaluated. And I said I want to build in the evaluative piece from the very beginning as we go, and I want to try it and see what happens. And after a two-year pilot we were wildly successful. The bar was as enthusiastic about this as anything I've ever seen. And we were given a green light to go nationally. And again, I'm sort of out of the administration of it now, but it was expanding dramatically when . . .

RDD: I think we're now in at least 50 bankruptcy courts.

JRL: I think that's right; I think it's in over half of the bankruptcy courts and it's beginning to make more inroads in the district courts.

RDD: Yeah, and what they first envisioned as a complicated process though, when you really sit down and think about it, it's really quite simple. It's almost like downloading a song from iTunes.

JRL: That's exactly right. I mean we developed a piece of software that we gave the presiding judge, and part of the way we were able to sell this is to say, as the judge, you still have control of your record. And so you're going to be able to decide which of your hearings you post. The official record is still the digital

recording held at your court. But if you want to post a copy for the convenience of the parties and the public, you decide that you're going to do that. And that assuaged a lot of concern among judges that you now they were going to have some say if something embarrassing or untoward happened in a case and you didn't want to further publicize it you could keep it from being publicized.

RDD: And as I recall one of the premier uses of it was when GM filed their large Chapter 11 in New York, because some of our team went up there, as I recall.

JRL: We sent – I talked with Judge Gonzalez, who had the case up there, and said you know this, you're taking, they were taking a great deal of pressure because the case had been filed in New York, whereas all the people impacted by the case were in Michigan, or most of them. And I said one of the ways you can mitigate this is let us put this CourtSpeak product up so people can actually, you know within 24 hours, listen to the hearings in New York and he was enthused. And we sent two of our programmers up there who worked 24 hours a day for about a week and by the second week of the GM case they had all the hearings were streaming out across the world.

RDD: Right. Well that was quite an accomplishment that should be saluted and hopefully it will continue to expand.

JRL: I don't think that one will go away.

RDD: Of course just as you became chief judge Eastern North Carolina suffered I guess what was probably one of the biggest natural disasters when Hurricane Floyd and Hurricane Dennis and Hurricane Dennis 2 hit Eastern North Carolina.

JRL: Yeah, '99. Eastern North Carolina essentially went underwater.

RDD: And that had a significant impact on court hearings and that kind of thing.

JRL: It did. A lot of law firms flooded, lost their offices, lost their connections, lost their computers. So we actually came up very quickly with a set of emergency local rules that went into place and we kept them for about 90 days, that softened some filing requirements, went back to paper, tried to make these things work as easy as we could. And we got through it fairly quickly.

RDD: Well 2006 came along and fortunately I was appointed judge.

JRL: Fortunately.

RDD: And your duty station was moved here to Raleigh and you began at that time a great effort to see through some renovations to Century Station. You and your staff did a great deal of research on the history of the building and we're sitting here today in what was your former office, now occupied by Judge Warren.

JRL: And would have, if you'd seen it in 2005 you would have been disbelieving that this could ever be what it is today. Well I always loved this

building but it had been taken, it had been tended very poorly by the General Services Administration. They had always intended to sell it and they never had enough real usage of it to justify keeping it in their inventory, but when we needed another chambers, courtroom, that changed the calculus for them because there was enough agency interest in renting space here that they could actually turn it into a productive building. And I had always known there was this third floor up here but it was really pretty nondescript and it was all divided into catacombs; some of it hadn't been occupied since the court left in the sixties. The ceilings had fallen in, there was termite damage. There was water damage, the roof leaked. I mean it was a mess. But, began to get interested in what this building had been, you know. I mean it's the oldest federal courthouse in the state. It was the center of the federal courts for most of its life. And found out that there were, I think 86, 87 boxes of construction documents in the National Archives in Washington about this four years it took to construct this building. And I and a law clerk who was such a good historian that they offered her a job, got just engrossed in the history of it and looked through a lot of that material and found the blueprints and realized that the third floor had actually been where the federal court started. And the space we now know as the federal courts, on the second floor, which everyone thought was always the court, was actually the 1915 addition. But when the building

opened in 1876 we were right smack in the middle of what had been the first federal judges' chambers ever built.

RDD: How about that.

JRL: And that's when we began to get flashlights and ladders and poke out bad ceilings and find this gorgeous crown molding that's still – 150 years old – intact, fireboxes in the walls.

RDD: The vault?

JRL: The vault coming with the 1874 manufacture date on the hinges. So we began to realize we had something, we really had something. And some very nice things came together. We had some money because . . .

RDD: With the new judgeship as I recall.

JRL: With the new judgeship.

RDD: And that was BAPCPA money as I recall.

JRL: It was BAPCPA money that we could pour into another chambers and courtroom. And we finally got on the radar of the history office for GSA in Atlanta; made the case to them that this was one of the last few Alfred Mullett buildings remaining in the federal court inventory and that it would be a shame to let it just decay past being able to be rehabilitated. And they chipped in about \$5 million for infrastructure repairs because it needed a roof, it needed heating and cooling systems, it needed asbestos to be abated. So between all of that effort and a

really good architect and a fabulous contractor who was very sensitive to the historical aura of this place, and frankly, my obsession. I know I drove everyone berserk with getting it right. It turned out to be just a showpiece. Not just the third floor, but we also stretched the money to re-do the second floor courtroom that Judge Small and now Judge Humrickhouse uses to get it back in its mint condition and we redid the post office lobby you know with some of the money; and you know I know interfered with them to insist that the lobby be done also so the whole building could be done as a piece. But I think we've, you know obviously I didn't do it for myself since I finished and abandoned it but I wasn't ever doing it for myself.

RDD: Well it's preserved for posterity and history and heritage.

JRL: I was doing it because, you know you can argue next to the capitol it's the most important historical building in this city; it's one of the most important in the state; it's certainly critical to the life of the federal courts in this state and it needed to be done. And I'm elated that we've done it in a way that it's got another hundred years of service I think in it without a doubt.

RDD: And now today primarily it's the bankruptcy court building.

JRL: It is. Absolutely.

RDD: Our main headquarters is now located here; we're renovating the fourth floor where the clerk will soon occupy, so.

JRL: Two of the three judges and most of the staff will be here.

RDD: Yeah. The large majority of this building is now occupied by the United States Bankruptcy Court.

JRL: So it's really back to what it was intended to be. And here's the great irony of, one of the things I got very curious about was well what did the judges who were in here do. And there actually is a Westlaw database where you can go back through and pull out a lot of the opinions. Well, they're actually, one of the intervals in which there was a federal bankruptcy law was right after the Civil War. And they heard hundreds of bankruptcy cases.

RDD: How about that.

JRL: The district judges were up, because it was a poor man's, you know, the war had decimated this area and they were up to their elbows in bankruptcy cases. So it's not so odd that we're back here doing bankruptcy.

RDD: How about that. So we always belonged here.

JRL: So we always belonged here.

RDD: Well that's great. Well I know you did a great deal of work in trying to get the original color schemes and that kind of thing.

JRL: We did, we went through all those boxes and for some things, like the light fixtures, we had exact drawings of what they were, so we now have electric where there were gas but they're right. There were pictures of the mantles, so we

had the mantles rebuilt. Other areas we didn't have quite as much detail but luckily Mullett did a lot of buildings at the same time and he tended to replicate features.

RDD: Isn't there a similar building in Tennessee, to this building?

JRL: Yeah, Knoxville. He did the building in Knoxville and the building in Columbia, South Carolina within the same two-year period as this one, so you know I went to both of those and talked to their archivists and the work they had done, and so when we couldn't tell from our blueprints what he'd done here we would cross reference to one of those buildings. For instance the post office lobby is painted the Knoxville blue. Because our paint analyst was not specific but they could tell it was some pastel paint, but they couldn't quite tell us, couldn't get enough of a flake to tell us what exactly it was. But the Knoxville folks had absolutely nailed it, that that was the color the lobby was painted when it opened and that's probably what he used here, so they let us use the Knoxville blue to paint the ceiling of the lobby.

RDD: When we conclude our interview today, we're going to walk down to the courtroom that you helped design and we'll get a few pictures of that and you can tell us a little bit about how that whole process developed. But before we do that, you know being a bankruptcy judge is kind of a unique position. You have people come before you that certainly would rather be anywhere else than be in bankruptcy court. What have you seen as far as culturally or in our society about

the acceptance of people that go through the bankruptcy process or any of those kinds of experiences that you've known serving as a judge?

JRL: I think over the twenty years the stigma lessened. I think that there was more sophisticated understanding that lots of people get in financial trouble for all sorts of reasons that aren't within their control and they need some help. I think there's always going to be a group who think it's a bunch of deadbeats and scofflaws who come through bankruptcy to abuse folks but I think anybody who's ever been a judge here knows that couldn't be further from the truth.

RDD: Right.

JRL: Ninety-eight percent of the people who appear before you are the last place they ever wanted to be or expected to be and have sometimes the saddest stories you've ever heard about how their life took a turn that put them there. And I think there's been a much more – I think at the consumer level that's true – and I think there's been a much more sophisticated understanding and acceptance at the corporate level as you have GM and Chrysler and now Birmingham and Detroit and you have major economic entities using the bankruptcy process to survive, and restructure and rehabilitate. That there's much more sophistication and acceptance of that as a permissible remedy. Certainly in eastern North Carolina. You know without Chapter 11 our coastal economy would have been decimated. I mean you

know we had hundreds of those cases after 2008 and there're so many businesses that would have just lost everything if they hadn't resolved it.

RDD: We saw such a dramatic decrease in the property values.

JRL: That's right, that's right.

RDD: And then banks just, when the note came due, it came due, and left a lot of people hanging. But you know bankruptcy really is a central portion of a capitalistic system. I mean we want to encourage people to take risks, reasonable risks, and try to build businesses and create jobs and that kind of thing and we don't want to punish folks that you know, for one reason or another don't make it; the 2007-2008 recession.

JRL: I don't disagree. And I think one of the things I always loved about being on this court myself and my colleagues, is frankly how nimble we were and how expeditious we were, realizing that in a lot of these cases you can't take six months to make up your mind because in that six months the decision's been made. The business can't survive; the people can't hold on. So right or wrong, you have got to walk in the courtroom prepared, and paying attention, and giving it all you've got and sort it through and coming to an answer very expeditiously. And I mean I think that's the thing that marked us, frankly, in distinction from a lot of other courts that have made it so effective.

RDD: Yeah. And I think one thing that you and I would agree upon too, we have a great bankruptcy bar. The people that are involved in the bankruptcy bar and just in the whole bankruptcy system in the eastern district, they litigate hard but they work well together.

JRL: They do. They're a throwback to the old days of cordiality, where lawyers respected each other. I think because it's a relatively small bar if you really take advantage of someone because you can in a case, it's going to come back around with that same lawyer at some point where he or she has the upper hand, so.

RDD: Right. And we've had good people in the bar, and then we've had great people that worked here for the court. Peggy worked, you worked with Peggy Deans; you mentioned her earlier.

JRL: I did.

RDD: And now Stephanie Edmondson is our clerk. They have tremendous staff that help them.

JRL: No I agree with that, you know I was an old clerk so I think I've always been . . .

RDD: You can give a greater appreciation for that kind of work.

JRL: Well I've always been one of the ones here who always gave the clerk great deference and insisted that her role be respected and that you know she be

given all the autonomy and authority that she needed to run her shop with the judges really sitting as sort of a board of directors but you know not daily managers.

RDD: Well I can truthfully say our clerks have been very busy and especially during your tenure and now in the year since you've left with our relocation to Raleigh and to Greenville and all the construction and all, and hopefully all that will be finalized in the very near future. But again talking about the people you've worked with, you had over the course of your career, 40, 50 law clerks?

JRL: I did. I think 44 in this job, is the final total that we came up with. And then I had another set over at the district court when I was a magistrate judge and that probably is where I have the warmest memories of judging. And probably what propelled me to this new job. Because I started looking around, if I was ever going to do something else, what about this job really gave me the most satisfaction and it was working with all these young lawyers at the very start of their careers and going to the law school in some ways is just an expansion of that. But yeah I never, even when I had career law clerks I always had term law clerks too so, I always had somebody coming in every fall, green as grass, eager to go. And now to watch them be out there, you know 21 years from my first set, at the very pinnacle of the profession.

RDD: And many of your law clerks are as you say out in the bar now and doing very well.

JRL: And just, you know, the head of insolvency section for one of the big firms or competing for judgeships. I've just hired one of my first law clerks to come back to the law school and teach for me, to teach the bankruptcy survey course. And I have three or four I tapped to coach moot court teams last year, that take some of my kids all over the country. It's been, you know, I'm participating in the wedding of one of them; I've married several of them. I'm getting ready to do the homily at the wedding for one of my last ones next Saturday. So you know you never lose them. Partly I think because we rode circuit. You're always close to your law clerks but I think because we always were off — we're going to New Bern, we're going to Wilmington — and we were in hotels, eating together and going to the gym together. We would just develop these very close relationships that have never, I mean I could just about go down the list of all 44 and tell you where every one of them is and what they're doing and when's the last time I talked to them. Because it's a rare life decision any of them make that I don't get brought into.

RDD: As I recall you try to have an annual get together with the law clerks.

JRL: I didn't last fall and they mentioned it (laughter).

RDD: They enjoyed that.

JRL: But I just had too much to do. But I'll get back to that. Yeah, always, always had a big annual, we called it Comers and Goers. It was ostensibly in honor of the ones leaving and the ones coming, but it was for everybody.

RDD: I agree with you; it's really a special relationship a judge can develop with these law clerks and it's not only fun but it's rewarding to see them grow, and these young folks that are coming out of law school and they're so smart, and they're so good.

JRL: They are. And of course we are you know a buyer's market. I think the last time I picked a clerk I had 500 applicants for one spot, so.

RDD: Well continuing to talk about some of the people, the eastern district is a bit unique, having started I think 37 years ago the Eastern Bankruptcy Institute which is sort of an educational entity that holds an annual seminar and invites the judges down to have a presentation every year.

JRL: I do think that has tied this bar together in ways that a lot of bars aren't when you talk about it, because everyone goes, it's not just the lawyers. It's their staffs, it's their appraisers, it's the bankers, it's essentially everybody who touches the bankruptcy process in eastern North Carolina shows up at that seminar and it's always been enough of a great mix of substantive and social to both get the word out as to what you're actually doing and what lawyers need to know and also a chance to just get acquainted and have fun.

RDD: Yeah. On a social basis also.

JRL: And you know for years we had that legendary, we started it with this legendary softball game where Judge Small had a team and I had a team primarily composed of the trustees and their staffs who worked, appeared before each of us, and those were . . .

RDD: Highly competitive.

JRL: Highly. Got more and more so. To the point that I think he and I both, I think it was the year where more people went to Urgent Care than went back to the hotel that we decided that somebody's going to get really hurt out here, we perhaps ought to do something else.

RDD: Now I'm going to brag on you a little bit because as I recall the last game we had, I was a trustee, I was one of your trustees, and we beat Judge Small's teams 24-23.

JRL: We did.

RDD: And as I recall, you hit four homeruns.

JRL: Well I think I did. (laughter)

RDD: And I'll have to brag a little bit, I've never hit a homerun but I hit one in that game. And it was just a lot of fun.

JRL: Yeah, I think that last one hit the pond, so. I think that might have been the last year; I thought I'm going out on this.

RDD: I think it was; yeah we're going out on top.

JRL: I'm going out on top.

RDD: Yeah, that was a great time, and a great socializing. I can recall as an attorney going to the Eastern Bankruptcy Institute. We had an opportunity not only to develop relationships and keep the lines of communication going but you could also settle some cases while you were down there and you know make things productive.

JRL: And frankly it was always a marker for me for my growing level of comfort in this job and with this bar. I mean I was not a member of this bar when I came to the bench. And frankly the first EBI was right, I guess two weeks before I was sworn in. I knew almost no one and they didn't know me and there was enormous sadness because of Judge Moore's recent demise and the first time they'd ever had this meeting without him and I left that meeting pretty unsettled, like is this, how is this going to work itself out. And you know leaving down there last summer was my swan song and realizing you know fortunately every person in the room was a friend and colleague and you know I could go around the room and recite an experience with virtually every person there.

RDD: Yeah. It certainly makes it special and of course, I guess the chairman of the board of the Eastern Bankruptcy Institute, Buzzy Stubbs. He's of course one

of the preeminent Chapter 11 lawyers in our district and he sort of headed that up but he's helping you now at Campbell develop a clinic.

JRL: Well he is. We, there is no bankruptcy clinic at any of the law schools in North Carolina and that's something that I've been trying to get started for 20 years and now I'm in a position to do it. So we have raised almost a quarter of a million dollars this spring to start the Stubbs clinic next spring, which we hope will be a vital way we train the next group of lawyers in bankruptcy practice. It's going to be a bona fide clinic where students take pro bono referrals from legal aid and from the court and learn through representation under the supervision of a qualified lawyer how to practice bankruptcy law at the highest level.

RDD: Well that's a great tribute not only to him but to you for having the vision for that.

JRL: Well, he's somebody that I thought ought to be — he's done so much quietly for so many of us in the background over the years — I thought it was time to bring it to the forefront and honor him and I'll have to say, because of him, it hasn't been that difficult. There're lot of people who share what I just said. They feel like it's time that he got recognized in a major way and they've been happy to help me make it happen.

RDD: Well we'll look forward to seeing that program develop. I know it's going to be successful.

JRL: I think it's going to be great.

RDD: Well, Rich, you've just had just such a wonderful career, just full of great challenges, great accomplishments. As you look back on your career, any regrets about anything, or anything you would do differently if you had the chance?

JRL: Not really. You know I loved every day of it. I mean friends would talk about burning out in law practice, and you know dreading Sunday nights because they had to go back and face it on Monday morning. And you know I like my weekends but I was always eager for Monday to roll back around and I was ready to go at it. You know I worked with fabulous people, great staff, interesting issues, you know trying, at the top of my intellectual ability, trying to sort through some of these massive complicated cases we had and I just can't think of, you know the only thing as I've told folks I just would like to have parallel lives. I mean I would have loved to have kept doing this job because there was nothing about it I didn't adore. But I'd always you know from a very early age toyed with academia and the idea of going into academia. So when the search committee, I mean as you know I didn't apply for this job. The search committee came calling after the deadline had passed to solicit my interest and it took a little while for me to get my hands around the fact that this might be a good thing to do. And it has been. So I guess that's my only regret. I would have been perfectly happy to have

been able to do them both but they're both more than full-time jobs, so that's not plausible but I just feel like we have all been enriched by the people that have come to our court and I don't regret a bit of it. You know I had some other, what I thought were, I had a couple of failed nominations in the 1990s where I had a chance to go on other courts and those were painful at the time but in retrospect I think it probably turned out better. I think I probably was ultimately happier and where I needed to be.

RDD: Right. Well I can tell you you're highly regarded across the nation and you're well respected by all the bar here and your colleagues and it's just, you're a fantastic judge. You've heard me say it before but it was always, I argued many cases before you as an attorney.

JRL: You did. You were one of the best.

RDD: And I knew from time to time when I didn't end up on the winning side but I understood you know because you always were a fair judge and let us present a case.

JRL: Well I learned a lot of things about judging from Frank Dupree from working with him. But one of the things that he told me that I used every day was he said if you prepare and if you pay attention and if you have mastery of the substantive law there will come a point in every trial or hearing where you just know what the result ought to be.

RDD: Yeah. Know where it ought to come out.

JRL: And he said the art of judging is to trust that instinct and go with it. And it's not cavalier at all. It's not intuition. It's a judgment arrived at after careful reflection and thought but arrived at in the process. And I have to say, not always, but 95 percent of the time I was up there, there would be a point where I would just say, all right, I know where this is going, I know what needs to happen here.

RDD: That's why they call it the art of judging.

JRL: It is. It is an art. But I sincerely believe that that was part of my success.

RDD: Well, is there any particular advice that you would leave with your fellow clerks of court, the judges, attorneys?

JRL: I wouldn't. There is one, if, and it's not a regret but in terms of things I would do different. I probably in my early career tolerated sloppy lawyering too much. And the longer I was here, the more clearly I saw the harm done to clients and to the system by inept or unprepared lawyers. And I began to be much sterner and much harsher. But I wasn't in my early days and I think you know there were some lawyers that I should have had a come to Jesus meeting with much sooner than I ultimately did, but you know I was respectful of the process and their license and the licensure requirements and you know didn't want to hurt them in their economic life but. And I don't mean, be arbitrary. But I think that's probably the

one thing if we were doing it over, when I began to see that sort of pattern with a lawyer in a number of cases I think in my early days I would have intervened as vigorously as I did in my later days. And that can be a lot of ways. It doesn't have to be a formal sanction. I find a little chat in chambers can be very effective. You know if you call a lawyer, and I have three or four times, I would have folks in here or in my prior office and I would say this is your last private reprimand. We've talked about this, and from this point forward you either get it correct or this isn't going to be a gentle off-the-record chat at my office. It's going to be, you know I'm going to formal process at this point, so. And you can pull people, good people in line.

RDD: I know what you're saying because when you see sloppy pleadings you're going to start to think well there's sloppy legal work behind it, or you know, not showing up in court and that kind of thing. And you know many times that is indicative of other problems. I think that's excellent advice. Well Judge Leonard thank you again for your service to our court and to our nation's courts and God bless you in this new career. I know you're just doing a fantastic job and Campbell has got great things ahead of it.

JRL: Thank you.

RDD: And we're going to retire down to your courtroom and let you talk about it a bit.

JRL: That would be fun.

RDD: Okay.

END OF INTERVIEW

Transcriber: Catherine G. OBrion, Archivist, Fourth Circuit Library

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