

Gates Public Service Law Speaker Series

HON. RICHARD PAEZ
U.S. COURT OF APPEALS FOR THE NINTH COURT

October 27, 2008

Michele Storms: Well, good afternoon, everyone. My name is Michele Storms. I'm the director of the Gates Public Service Law Program, and I'm so glad that so many of you were able to join us for our speakers series this afternoon. We are very pleased to be welcoming Judge Richard Paez from the Ninth Circuit in California, and I think we're going to have a really good time hearing about some of the really interesting and amazing things he's done over a very rich public service related career. But, I'm not the one doing the introduction, actually. As many of you know, I love connections, either to be able to help facilitate them or to just sort of celebrate them where they exist. And I first learned of Judge Paez through Sarah Dunne, who's the litigation director at the ACLU of Washington, because she clerked for him, and she told me about him, and then, as I learned more about his career, I was really interested in having him come to speak to our community.

So, since she is local, I am really happy to be able to introduce her. And she will introduce him.

So, just very briefly about Sarah: As I mentioned, she's the legal director of the ACLU of Washington Foundation. And she supervises a legal docket covering issues such as free speech, racial justice, religious freedom, criminal justice, privacy, reproductive and women's rights, immigrant rights, and gay rights. So, just a full panoply of those issues that are really right out there out front that call for some effort.

She did some private practice in Seattle before joining the ACLU of Washington, and also was a trial attorney at the Educational Opportunity section of the Civil Rights Division within the US Department of Justice.

As I mentioned, she began her career clerking for Judge Paez. And she's currently on the board of directors for New Futures, a nonprofit organization serving families and children in South King County, which is where she's from.

So, I'd like you to first welcome Sarah, who will help us to welcome Judge Paez. Thank you.

[applause]

Sarah Dunne: Good afternoon. And thank you, Michele, for that kind introduction. I am thrilled to be here and absolutely honored to have the privilege of introducing Judge Richard Paez to you all this afternoon. Given the judge's commitment to public-interest lawyering and his long career in public service, it's fitting and appropriate that he's here to talk as part of the Gates Scholars Speakers Series.

Judge Paez graduated from Brigham Young University back in 1969, and then went on to Boalt Law School, where he graduated in 1972. And at that time, he went to work immediately at California Rural Legal Assistance, which was founded in 1966. So, at that time, it had only been in existence

for six years. And CRLA is a nonprofit organization that's dedicated to providing free legal assistance and conducts community outreach to the rural poor in California.

And at the time, and when I asked Judge about it during my clerkship, that was just simply the place to be. He just didn't give it a second thought that of course he was going to go work there as a staff attorney. He left there and then became a staff attorney at the Western Center on Law and Poverty in Los Angeles, where he continued to advocate and litigate on behalf of the impoverished communities in Los Angeles.

In 1977, he became senior counsel at the Legal Aid Foundation of Los Angeles. And that foundation was actually formed in 1929. And the goal, or I should say the mission of that foundation, they've been a leader in bringing equal access to justice across Southern California, and of course provide legal assistance and community outreach to impoverished communities all across Southern California.

At the time, when he left the Legal Aid Foundation in 1981, he was director of litigation, and he was also the acting executive director of the foundation.

He left in 1981 because then-governor Jerry Brown appointed him to the municipal court in Los Angeles. And I won't go into the long, tortured history that is the Los Angeles court system - you can click on their website and see; they've got it all documented. But, for our purposes, for you to understand the equivalent, essentially he was a King County superior court judge, but in the second-largest city in the country.

He served on the municipal court for 13 years and was presiding judge in 1987, and during those 13 years he presided over many complex civil cases and criminal cases.

It was in 1994 when President Clinton tapped him for the federal district court, and Judge Paez became the first Mexican-American to sit on that bench. That bench is the United States District Court for the Central District of California, serving, essentially, the area of Los Angeles.

In 1996, President Clinton again tapped him, for the Ninth Circuit US Court of Appeals. He was nominated in 1996, and the Senate Judiciary Committee recommended him for confirmation in 1998. And despite that recommendation in 1998, the judge actually wasn't confirmed until March of 2000. He waited approximately 1506 days, which I think still stands, to this day, is the longest wait of any judicial nominee in the US history, I think in part based on his public-interest background.

And so, I'm actually not aware... I may be wrong. I'm not aware of any other federal judge that actually has the same public-interest background of Judge Paez. That, and for many other reasons as well, he has served as a role model for lawyers and law students for decades.

And for me, I had the opportunity and the great pleasure to spend a year clerking for Judge Paez in the Central District, where I witnessed firsthand his respect for the rule of law, the courtroom, and the legal profession. I like to say that he taught me my respect for the room. And also, I saw his belief put into practice of ensuring equal access to justice for all, regardless of an individual's economic status.

It was an important year for me in my development as a lawyer, and one from which I took many lessons. And we are honored here today to have Judge Paez to share some of those lessons with us. And so, without any further ado, please welcome Judge Paez.

[applause]

Honorable Judge Richard Paez: Thank you, Sarah, for those kind remarks. It's very nice of you. They're not all true, but I will gladly accept them. And Michelle, thank you for inviting me to participate in the Gates Public Service Speakers Series. It's a pleasure to be here. I do visit Seattle every now and then, as part of my role in the Ninth Circuit. We sit all over the western United States - in Alaska, Hawaii, Seattle, Portland, Pasadena, San Francisco. We have cases from Arizona, Nevada, Idaho, and Montana, not to mention Guam. So, we do get around. Also, my wife is from the Northwest, and so we've had quite a connection with the Seattle area. She's from about 100 miles north of Seattle, up in Lindal.

So, with that, I'm glad to be here. It's a pleasure to be here. And I admire the Gates Public Service Fellowship Program. It's terrific.

I know how difficult it is for young graduating law students who are interested in a career in public-interest law, or public law, to attain a position. I know firsthand, from just talking with my law clerks and my own family situation, that law students often leave law school with a very substantial debt, and it's difficult to pursue a public-interest career, where the salary, oftentimes, is less than inspiring. So, I do admire the program, and I think it's a wonderful opportunity that the Gates Foundation is providing.

With that, when I was asked to participate in this series, I wasn't quite sure I wanted to do it. It's difficult to find time to put together a lecture. And so when I said, "Michelle, I'm really not interested in doing any kind of lecture," she said, "Well, I really don't want you to do a lecture. That's really not what I'm interested in." She said, "I'd like you to talk about... I'd like you to share with the students a little bit about your career as a Public Interest Lawyer, a Public Service Lawyer, both prior to becoming a judge, and as a judge. Just to reflect on your experiences and to share them with would-be lawyers who have a similar interest."

And I told her again, I find it difficult to talk about my own personal experience, my own background - nobody likes to really. I don't really get a big kick out of tooting my own horn or anything like that. But, I did think, after thinking about it and having several conversations with her, I finally said, "OK. I'll do it." I do think that to the extent you can learn from my past experience, and it can be some prologue or some idea what the future might have for you, I'm happy to share my experience with you. And I'll leave it at that.

Now, the question, though, is... The issue for me was, well, how should one reflect back on their professional career? I don't consider my career over yet, so I've got a ways to go. I may be in my 6th decade, but I still have a ways to go and I plan on keeping busy for quite a long time. But, to this point, I'm happy to look back and see what I can share with you.

When I thought about what I might do this afternoon, I sat down with my clerks. I have four law clerks and I meet with them pretty regularly. I have lunch with them just about daily, and I have an ongoing dialogue with them throughout the day. And I told them what I wanted to do. I said, "Look, I'm about to meet with a group of students, and they would like to hear a little bit about my background. So, your task, I think, is to come up with a set of questions that you would like to ask me, as if you were interviewing me."

When I interview law clerks every September, I have an exchange with the law clerk applicant. Mainly I do all the questioning at first, and then I give the applicant a chance to ask me questions about my own professional experience, my own background. And Shawnt and Sarah can talk about that, or... I don't remember if I asked them any hard questions, or if they asked me hard questions. But, in any event, I did ask my law clerks to put together a set of questions.

So, what's going to follow, what I'm going to do is go through those questions with you. I think, that will touch fairly closely to what you might be interested in. And I'll see if my own personal experience might be of some help to you.

The typical question that I get, and it comes very frequent when I give remarks - I sometimes go to high schools and whatnot. The very first question I get is why did you want to be a judge. It's a very basic kind of question. For this group, I really can't answer that question without going back a few questions earlier that I'm often asked.

And the first one is why did you decide to go to Law School. Well, I don't come from a family of lawyers. Not at all. I'm the only lawyer in my family, and I come from a very large extended family. So, there was nothing in my family background that suggested a law career might be something I might want to pursue.

Growing up, we didn't have a lot, but we did have a television. And there were two programs that I found absolutely fascinating growing up as a kid. One, of course - I mean, I'm sure you've seen and watched many time on late-night TV, but "Perry Mason." Do you remember "Perry Mason?" Perry and Della and the DA and everybody. It's a terrific show, and I just loved watching Perry Mason work in the courtroom. And I just loved what he did. He saved... He always got his client off in the courtroom with just drama unfolding right in front of your eyes. In the courtroom, on the stands. It's a terrific show. I found it particularly interesting.

That show ran from about '57 to '66. And there was another program that was on about the same time, and many of you probably don't remember this program, but it was called "The Defenders." And it was a program that starred E. G. Marshall. And it was a story about two lawyers, a father and a son. And they took on all the difficult cases that you could possibly imagine, everything that was contemporary at the time - abortion, back-alley abortion, murders, every social issue of the day.

And they always had difficult cases, and they lost many times. But nevertheless, I found that program particularly interesting and motivating. And I used to think, when I watched that program, boy, those lawyers really have an interesting job. It's really fascinating what they do. And they were helping the underdog. Always the loser they were helping.

And I was attracted to that. And I thought to myself, "Gosh. Some day I might like to be a lawyer." And that thought stayed with me all the way through high school. I left high school with the idea of pursuing a law career. Went to college, and in college I thought, "What am I going to do?" But, in the back of my mind, I always thought about a law career. Fortunately, when I applied to Law School, I did pretty well, and I got into Boalt, and I was very fortunate.

So, TV, for what it's worth - I know many of you don't like it, but I did find that very motivating in my own sort of world looking at things. And I thought a legal career would be it.

So, the question, then, is what does that have to do with being a judge? I never thought about being a judge when I was in high school. That was the furthest thing from my mind as possible. It was a lawyer, I wanted to be a lawyer. I wanted to work with people and I wanted to help people, and I wanted to do good things.

My interest in becoming a judge occurred while I was in Law School. Like many of you, I read the case books, and all these case books that are on the tables, here. I read all those cases with a those judges, their names in the case book. And I used to think to myself, as I just read endless cases, it was amazing. Who is that judge? Where does he come from? How did he get to this position? How did he get there? What makes him think?

At that time, it was a 'him.' There were no, probably very few, I don't know if there were any female judges at that time. This would have been in the early '70s, and we were reading cases that were ancient at that time. And I used to think who are these people? And in the back of my mind, I began to think, "Well, you know. Some day. Maybe at the end of my profession as a lawyer I might want to be a judge. That might be a good way to end my career." And I thought that it would be a very good way to participate in Public Service, and to do public good and to perform a vital role in our society.

But, in Law School, it was the furthest... It was way out there. I never really thought about it ever happening. I put it aside. And my goal then, was what am I going to do when I graduate from Law School. One of the questions that I always get is why did you choose a career in public service law, Public Interest law? And at that time, it wasn't called Public Interest law. We didn't... I never heard... Public Interest law sort of emerged over time. But in 1972, when I left Law School, there weren't many opportunities to pursue a Public Interest career. You sort of had to go with Legal Aid programs, which then became the Legal Services Corporation sponsored programs. And they still exist today. But, at that time, the ACLU, Legal Aid, Legal Services, a few other programs were about the only thing that was available.

And I thought after spending three years in Law School, and I was trying to figure out what to do after Law School. The only thing I really wanted to do was to pursue that idea that I had acquired early on in my desire to go to Law School that I wanted to do Public Service work. I sought out a position with California Rural Legal Assistance. If I were successful in getting it, it would allow me to take a job in rural California to with poor people in rural California, primarily farm workers, which is a group of individuals I was interested in working with at the time.

As luck would have it, I got an offer to work for CRLA. They have offices throughout the state of California from Marysville in the north to El Centro in the south - Delano, Madera, Santa Maria, and other places. And you get a choice. You could put in your bid for a particular office. They are staffed by four attorneys at the time, a couple of Community Workers. And I had a good friend who also wanted to work for CRLA, and we put in a bid, of all places, for Delano, California. Does anybody know where Delano, California is? There are a few people who know where Delano, California is.

The office is actually in McFarland, California, which is outside of Delano, California. This is in the San Joaquin Valley off Highway 99. There was nobody there. It was a very rural spot in California. And our office was, you opened the door and you went outside, and right across the road was a rose farm. Just have lots of rose farms in McFarland, California. It was amazing.

I started out in 1972 working in McFarland, California. It was a fascinating experience. There were four of us that worked there. We had a Directing Attorney and three Staff Attorneys. Our Directing Attorney had about two years experience. And somehow or other we struggled along, but we did some very interesting work. And I found the work very enjoyable. I had terrific clients, people who needed help. Who needed Legal Services, needed the assistance of a lawyer. They couldn't afford to pay for a lawyer at that time.

And Pro Bono, firm was not very extensive at the time. It existed, but it was not as organized as it is today. So, what we did was very important for a lot of people, and we helped a lot of people. I enjoyed the work very much, and I decided I was going to pursue it. So, I moved on after about two years, a little over two years, we moved on.

By that time I was married, and we moved on to Los Angeles, and I took a job with the Western

Center of Law and Poverty, which is a backup program providing Legal Services for what then we called impact cases. And I guess that term is still around today. I guess, you hear a lot of talk about law reform or impact litigation that took place. Western Center did a lot of that. They worked with Staff Attorneys in Field Programs, and worked on complicated cases and did a lot of Federal Court work and Appellate work, and that's where I got my taste for the Federal Courts, was working at the Western Center of Law and Poverty.

I also moved on from there on to the Legal Aid Foundation of Los Angeles. And again, we provided a lot of day to day service for a lot of people. By that time, I had moved into more of an administrative role, and had worked a lot, worked with younger lawyers helping them get started and handling their cases.

But, the sum and substance of all of it is that I started out with the idea that I wanted to do Legal Services work. I wasn't sure how I was going to like it, I wasn't sure how many years I would spend doing it, but it turned out that I found it quite rewarding on a personal level. And I can't imagine doing anything different than what I did. It was very interesting; it was very challenging, and very rewarding in a lot of ways. And I wanted to continue with that.

One of the other questions that comes up is after so many years working in a Legal Aid environment, essentially working as a poverty law lawyer for about eight and a half years, the question is why did you leave if you liked it so much. Why did you bail out, leave it behind? And this has to do a little with personal circumstances, and also with the fact that at that time Ronald Regan had become President of the United States.

Ronald Regan didn't like the Legal Services Corporation. And President Regan wanted to defund it. And we knew when President Regan took office, that there was going to be an effort to defund Legal Services. And sure enough, when President Regan took office, his recommendation was to cut the entire budget for the Legal Services Program.

At that time, I was the Acting Executive Director, and I didn't want to have any part in dismantling what we had built up. I had decided that it was time to let somebody else run the place, and I just did not want to participate in the difficult task of cutting back our regional offices, laying off lawyers and doing all that you have to do in order to meet your budget.

I wanted to continue on with a Public Service career, and I wanted to do something meaningful and helpful. There were several options that were available - 1) The Public Defender's office, 2) The DA's office, 3) The Attorney General's office, and 4) Judgeship.

The latter seemed the best opportunity for me, and the most interesting of all of them. I didn't really have much of a background in Criminal Law, I never had had any real - Other than watching "Perry Mason," I really had no experience with Criminal Law, didn't know quite what to happen. Just wasn't there.

The Judgeship sounded like a pretty interesting opportunity. You're going to find, when you leave Law School and you meet people along the way, you don't know. Later on in their career they may come back, either to help you, or make life difficult for you.

[laughter]

Judge Paez: Fortunately, I met a few good people who, when I thought it was time to leave Legal Services, I had some good friends who were willing to help me. They just happened to be in the right position at the right time. One was the Legal Affairs Secretary for then Governor Jerry Brown. When I made it known that I was interested in a Judgeship, it took a while, but eventually it

happened. So when I was 33, I was given an appointment to the Los Angeles Municipal Court. I consider myself very fortunate to have received that appointment, and as I said earlier, opportunity comes at different times in your life. And you have to decide are you going to take this opportunity or are you wait. Are you going to wait for a better opportunity? And for me, it was an opportunity that I really couldn't turn down because I had made a decision that I needed to leave. And it was something I had aspired to, but much later in my career. So I took it. And I've never looked back, really. It's been an opportunity to be part of the public service. I consider being a judge to be just part of that. It is to some extent, from my perspective after all these years, it's sort of like the quintessential part of performing public services.

Because, when you stop and think about the role of a judge, judge, especially at the trial court level, and especially at the level when I started out, you actually have the litigants right there in front of you. And they get your full attention for however much time it takes to resolve their case. And what a better form to resolve disputes, than to have people come into court and to have somebody who cares about them to deal with their problem and to resolve their problem right there in the courtroom.

So, I thought that would be... And I thought that I had the capability, and the interest, and the desire to be fair and impartial. So, I have not really looked back. And I've served as a state court judge for 13 years, doing everything that a state court judge does - preliminary hearings, or misdemeanor arraignments, superior court trials. I sat on assignment with the State Court of Appeal - was my first exposure to appellate court work.

And I remained on the state court bench for 13 years. I had a great time. It was a wonderful experience. I did trial, one trial after another, after another. That's all we did was trials. All right, one case, take it to jury, finish the case in a couple of days - three or four days - and put them in to deliberate. And they'd send you another trial. The same thing and it's just all you did in Los Angeles is one trial after another, after another.

And I had to start out doing criminal law. I had no experience doing criminal law. So, I had to learn criminal law. So, the whole experience getting started as a judge was very interesting, challenging, enlightening, never a dull day. And I thought it was terrific.

The question then becomes - Well, if you like being a state court judge so much, why did you leave the state court bench and move on to the federal court bench? Well, a lawyer - I thought that working at the federal court and watching the federal court judges work, was just absolutely fascinating. I couldn't get over the quality of the work produced by federal judges. I just thought it was amazing and how well prepared they were, when you appeared in front of a federal judge. [laughs] Little did I know - at that time, as a lawyer - little did I know what really went on in the back of the courtroom. I had no idea.

But, I was ready for a change. I thought if I had a opportunity, I would try and go, move on to the federal bench. And again, as chance would have it, and as luck would have it, Senator Feinstein was elected in 1992 - I believe it was - a Democrat. And President Clinton was elected in 1994. And Senator Boxer was elected the same year in 1994.

So, they were very open to entertaining applications for people who are interested. And I had served 13 years as a state court judge. And again, you know, you need a few friends to help you out. And they came through for me, so that I got a recommendation from Senator Barbara Boxer to the President, President Clinton, for an appointment to the United States District Court in Los Angeles.

Sarah was correct. I was the first Mexican American appointed to that bench in all of its history,

which was a very significant honor for me. I served on the District Court for six years. And then along the way, I got a call from the President's office, and was asked if I'd be interested in serving on the United States Court of Appeals for the Ninth Circuit. And, as luck would have it, after four years - and that's a whole separate topic of what the nomination appointment process - I was finally confirmed in 2000.

The work as a circuit judge - one of the questions I often get, the list of questions that the clerks put together for me is, 'Well, how do you like working as an appellate court judge as opposed to a trial court judge?' - Because, I was basically a trial court judge for about 19 years - And it's different. [laughs] I don't see people anymore. It's very isolating. And my daily routine is I talk with my law clerks all day long. And we see lawyers once a month when we hear argument.

But nonetheless, the work that we do as appellate court judges is tremendously interesting. It's varied, never any dull moments with the cases. Every case is important. And, behind every case are real people with real problems that are looking for the courts to solve their problems for them. And so, it's an amazing opportunity to be part of that process and to be performing a truly vital function in our political scheme that we have.

The question that I get a lot is, 'Well, you were a legal services lawyer for all those years. How do you deal with instances where you have to reach a result in a case where you may disagree with it, maybe unhappy with the outcome?' That's a good question. And, it's... No. There's no question that many times we make a decision that we don't like. And you wish you could do something different.

In today's world, there are a lot of immigration cases that we see. The immigration law has taken a turn at this time where with the reforms that were instituted in 1996, the immigration format made really significant changes. And the government really... the Congress really cracked down on immigrants. And there's a big process that it's undertaken especially after 9/11 to move people out of the country.

In that process, though, in the government's desire to move a lot of people out, they overlook the fact that there are many people who are here who, you know, they came with their parents when they were little babies, the children were born here. And they moved the parents out and returned them back to their home country. And they break up families.

And it's very frustrating to see these cases. But, when you're dealing with... When you're reviewing administrative agency determinations, there's only a certain standard. There are very tight standard that you have to apply. So oftentimes, the result in these cases is not very satisfying.

But, nonetheless, when you take on a position like I have today, you take an oath to uphold the law and apply it. And you may not like what you have to do. But, oftentimes, it's something that, unfortunately, you just do what the law tells you, you have to do. And that's about it.

And I've learned to live with that over the years. I don't lose sleep over my cases. Work hard, try and read all the cases, trying to make sure I understand the legal principles that are involved, try to take the advice - the good advice - from my law clerks. I keep pointing over here to two, I should mention that Shawn Miller's here as well. He's one of my law clerks and now works up here in the Seattle area.

The law clerks provide a tremendous amount of ground work and advice that we are the beneficiaries of. Think about working with the law clerks gives you an opportunity to discuss the case and to think about all the issues that are involved. Make sure you haven't missed something, make sure that we've covered all the cases and we're on point and to try and reach a just result with

all of that information.

I'm pretty confident when we dispose of a case that we've considered everything and that we thought through all the ramifications of what we're doing, both legally and as it impacts the parties.

One other question that I often get is what are the most memorable or disappointing cases, outcomes that I've worked on; there are a couple. Today at lunch I talked about one case that stands out in my mind when I was a district court judge. A case called Doe versus Unical, which was an international human rights case involving The Alien Tort Claims Act, where we held that Burmese refugees who were in Thailand could bring a claim against Unical Corporation for its involvement in the construction of a pipeline across Burma from the Andaman Sea into Thailand.

The claim was that the consortium that was built, that was designed to build this pipeline included Slork, which was the governing Junta in Burma. Allegation was that the Juntas involvement was to basically remove the people who were in the path of the pipeline by destroying their villages, enslaving the local people to work on the pipeline. These lawyers brought this claim under the Alien Tort Claims Act and filed a case in Los Angeles because that was the headquarters of Unical.

I held in a motion, ruling on a motion to dismiss under 12B6 that the case could go forward. I had no idea at the time when I did that, when we handed down that ruling, that it would have such a tremendous impact in the business community. I just tried to do what I thought was the right thing. As it turned out, the academics who study international law and international human relations, human rights, just thought that was tremendous ruling because it imposed a certain ethic, a sense of ethics for American corporations working in foreign countries.

On the other hand, the American business community thought it was outrageous because I had handed down a decision that said an American company doing work in a foreign country could be held liable by people in the foreign country in an American court in the United States.

That case came, later on became one of the issues in my nomination confirmation process as I tried to move up to the Ninth Circuit.

Another case that I consider to be one of my disappointments, and that's not so much what we did, I think we did the right thing and I still believe that to this day, but it was a case called Andradi versus Lockear. Now it was better known today as Lockear versus Andradi, which was, and you may have some exposure to this case if you're in fed courts or habeas law or criminal sentencing I guess. It's a case where the Supreme Court held that a sentence, Mr. Andradi received a sentence of 50 years under California's three strikes law.

He had stolen, he had had two prior serious felonies under California law, he then obtained two misdemeanors convictions and he also had a prior misdemeanor conviction. Under California law, they could elevate those two misdemeanors with prior convictions into felonies. They became the third strikes, the third and fourth strikes.

The superior court judge in Los Angeles - no, I think it was in San Bernardino County, imposed a 50 year sentence on Mr. Andradi who at the time was about 37 or 38 something like that.

We held that that sentence was cruel and unusual under the eighth amendment. That it was extremely disproportionate. The trouble is we were operating under the AEDPA, the Anti Terrorism Effective Death Penalty Act, which imposed a new standard of review for habeas proceedings. The case went to the United States Supreme Court.

We were reversed five/four to my disappointment, but the Supreme Court has the final say and we

need to accept what they say. Doesn't mean I can't believe, continue to believe that we were right. The Supreme Court does have the last word and that's the law.

They said that, the Supreme Court as I recall, basically said that under AEDPA the law of eighth amendment disproportionality analysis was not clearing established therefore, because it was not clearly established at the time the state court upheld Mr. Andradi's sentence, we had no business stepping in under Anti Terrorism Death Penalty Act and setting aside that sentence.

That was one that was a disappointment, but all my cases are important. I just mention those two, two that stand out and I'm often asked about those two cases.

Another question that I often get is about law clerks. I talked a little bit this, I had some lunch this afternoon with law clerks and I'm very fortunate to have two of my law clerks here today. Working with law clerks has been one of the beneficial things about being a federal judge.

I had no idea what law clerks at the time I became a federal judge. I knew, I had heard about them. When I mentioned earlier that I was always very impressed with what the work of the federal district court judge is. I didn't really know that they had this team of law clerks back in chambers who really helped them pump out all that work that they do and really help look very good when they come out there on the bench.

Though I have four law clerks, they do a lot of the prep work. They do bench memorandum, they work up the cases for me, they provide, they gather, they go through all the material, they call it out, they present it to me in an easy way to read. All the cases, relevant cases are digested and put together for me.

I have the opportunity to sit and talk with them about [laughs] their case. They do workups on the draft opinions, the draft memos and am able to do so much with the help of the law clerks. It's amazing and I'm amazed at the amount of work that they put in and the hours that they devote to it. I'm told that the benefits are invaluable at the end of that year.

My clerks are only with me for a year. Every September, I go through the process all over again of hiring and training, especially in the fall. Four new law clerks, it's a fabulous... I find it to be a very interesting experience. A real side benefit to being a federal judge.

The last question that I often get, and this mainly comes from law clerks who are with me throughout the year and the lunch sessions that I have with them. We talk about their careers and their futures. I often get calls from them about what they should do, what they might do. Thinking about doing this, they thinking about doing that, do I have any advice?

The question that my law clerks posed to me to try and answer for you is, "What advice might I give to law student who's interested in pursuing a public service career?" I might say this - I certainly don't think that my own career is any model for anybody, I never really thought of myself of being a role model to anybody.

But, based on my own experience, I would just offer this:

- 1) Don't be discouraged; there are opportunities out there. Be open and think about it broadly. If you think about you only want to work in one place, one organization in one city, it might be a little tough. You have to be willing to think about broader opportunities, and be creative.
- 2) Talk to people. There are a lot of people that have been through this and have learned from their own experience about what works and what might not work.

3) If you find yourself having to go to a law firm, there certainly is nothing wrong with that, because many students leave law school these days with a tremendous debt, and yet they still want to do some public interest, public service work. Many firms today - and I'm certainly no expert in the firm line, because I've never participated in a firm, and I'm not quite sure how they all do this.

But, my understanding, from what I'm told, from the law clerks and from other people, is that there is a great deal of interest these days by especially the big firms, to devote time and resources to Pro Bono work.

And so, if you find yourselves in a law firm, I would say this: Hold their feet to the fire. If they offered you the opportunity to do Pro Bono work, make sure they give you that opportunity. Take advantage of it. You can do a lot of good in a firm. They have tremendous resources and they're willing to spend it. And they're willing to help people in need.

There are many different programs you can take advantage of through Pro Bono efforts in the firms. In our own court, we are always looking for Pro Bono lawyers to handle cases for us, especially habeas cases, immigration cases, and civil rights cases. And what we do is for the lawyer who litigates the case in front of us, we guarantee them an opportunity to have an oral argument in front of the 9th Circuit Panel. We do not submit the case. Through a Pro bono effort, if you take on the case, you're guaranteed an oral argument in the 9th Circuit. And it's our way of encouraging the firms to let their young lawyers, young associates, do Pro Bono work, and at the same time, get some very good experience both in doing the briefing and in appearing in front of the court.

So, with that, I wanted to leave some time for questions. There's about 10 minutes left and I just kind of want to make sure that you have a chance to ask me anything you want that I haven't covered. I talked to some students from lunch, and they may have some questions they would like to ask me. But, with that, let's see. We've got a few questions. Yes?

Audience Member: Yeah. I have two questions. What's an impact case? And solutions...

Judge Paez: [laughs] Well, it's a very... The first question, what's an impact case. Back when I was working in legal services, we referred to that, generally, as Class Action Litigation. There were a number of cases that were litigated, and still litigated today, where you bring a case on behalf of a number of people who are affected in the same way. So, you bring a Class Action and you attempt to correct the problem that you believe exists, that will have the benefit on number of people. So, that's what I meant by impact litigation. The social problems in Los Angeles haven't... I'm certainly in no position to offer any solution to what goes on in Los Angeles. It's a diverse community, it's a wonderful community. There are all kinds of problems in Los Angeles, but it's home, and it's a good place.

Any other questions? Now's your chance. It can't be very often that you get a Federal Judge here to visit with you. Ask anything.

Audience Member: [off-mic question]

Judge Paez: Sure. Michelle.

Michelle: [off-mic question]

Judge Paez: Yes. In fact, it was my one... It was an immigration case, an alien rights case. It was a case of a young fellow, he was an immigrant, a lawful resident alien in Los Angeles, and he had applied for a position as a Probation Officer with the LA County Probation Department. His name

was Chavez, his name was Jose Chavez Soledo. And he was turned down because, as a Probation Officer, you had to be a United States citizen, and he didn't think that was fair. He didn't think that was right because he had attended school in Los Angeles, he had a degree from one of the local colleges. He didn't understand why he should be disqualified from serving as a Probation Officer in the Los Angeles court system. It turned out he wasn't the only one, there were others. So, back in, I forget when it was, I was at the Western Center on Law and Poverty, and we filed a law suit in Federal District Court. And at that time, there were what we called Three-Judge District Courts. There was a Circuit Judge, and then two District Court Judges. They did away with the Three-Judge Courts years ago. They convened a Three-Judge District Court if you were challenging a state statute, and it turned out Mr. Chavez Soledo's exclusion from the Probation Department was based on the state statute.

So, we filed a case in District Court in Los Angeles, and drew a Three-Judge Panel, and the claim was that to deny him a position as a Probation Officer on the ground that he was an alien, was a violation of his equal protection rights. We took that case through the Three-Judge Panel and we prevailed. It went to the Supreme Court and it was reversed and remanded back in light of a decision the court had made in a case out of New York, I forget, involving Social Workers, I think. Came back to the Three-Judge Panel, we prevailed again, two to one that time.

And Mr. Chavez Soledo was with us this whole way, sort of participating in all the proceedings and watching with great fascination his case work its way through the Federal Court System. The second time we prevailed before the Three-Judge Court, it was again appealed to the US Supreme Court on direct review. In those days, you had a direct review from the Three-Judge Panel. Went to the Supreme Court, and about that same time I got my appointment to the mini court bench, so I had to pass the case off to another lawyer from the Western Center.

I think, unfortunately, there was a change in the Court. Justice O'Connor took the bench. And we thought, at the time, when the case first went to the Supreme Court that we would prevail. But, it turned out that when Justice O'Connor got there, we lost 5-4, with Justice O'Connor making the vote. I was extremely disappointed to tell Mr. Chavez Soledo that all his willingness to stand up and be counted, and to stick with the case all the way through the court system, all the way to the US Supreme Court, that he couldn't, at least, until he became a citizen, couldn't be a County Probation Officer.

I don't know if any of you know what a County Probation Officer does. But, I don't know, I still don't know why you have to be a citizen to be a probation officer. The theory is that it's, their central functions, the court functions of a probation officer really can't be performed by anybody unless they have attained US citizenship status. I leave that with you as a thought.

Any other questions? Yes?

Audience Member: [off-mic question]

Judge Paez: Well, there are several things. The nature of the work is such that it tends to be self-selecting, because there is so much research and writing that usually students who have that kind of interest are the ones that apply for the job. So, we look for academic performance, and usually you get students with that kind of background, who have an interest in the academic side of the law. And who, maybe, have some journal work. They don't have to have Law Review work, but at least have worked with the Blue Book and know how to Blue Book and understand all the citations rules and all of that. Have good experience. Done some writing, doesn't necessarily have to be a Law Review article, but have had an opportunity to do some heavy thinking and writing. And then, I look for students that I think I might like to work with, and students who might have kind of

a broader perspective on the world. And who might be interested in pursuing many different things, other than just heading to the law firms. Certainly not a requirement, and I have many law clerks today, former law clerks today who are in part of the firms. But, I also have many others who are doing different things.

I kind of look for a broad variety of young people, who are going to pursue different things. When I was going through the nomination process, I was labeled at some point, somebody labeled me a non-traditional judge. So, in some sense, I'm looking for non-traditional law clerks. Any other questions?

Audience Member: [off-mic question]

Judge Paez: Yes, I do.

Audience Member: [off-mic question]

Judge Paez: Yeah. I really can't answer that directly. I do know they have the same problems. There's greater community, there's greater stability in some of the communities, so they're more focused. They're focused a lot on the local communities, in helping the family settle, and take educational opportunities and whatnot. There's less the itinerant stream that used to come all the way up here to Washington. But, I'm not really in tune with what are their primary issues at CLRA these days. Yes?

Audience Member: [off-mic question]

Judge Paez: Terrific.

Audience Member: It's great, yeah.

Judge Paez: [laughs]

Audience Member: [off-mic question]

Judge Paez: I don't have much direct contact with immigration judges. I've met them and I know a few in Los Angeles. But I have very little contact with them. In the court, after a Three-Judge Panel opinion is issued, there's a process called the Unbound Process where an off-panel judge can take issue with the opinion of the panel. And it's a way in which we vet the case internally among ourselves, and there's an exchange of memos and views about the Three-Judge Panel's opinion. And there is a lot of debate on key issues that arise. For example, we had a series of cases after ARRIVA was passed in order to settle some of the key issues that were involved in ARRIVA. ARRIVA was a jurisdictional stripping statute. It took away a lot of our jurisdictional authority to review certain cases from the BIA. But, there is a healthy debate. There is. The biggest problem with the immigration field right now, and we're sort of working our way through all these cases.

Under the Attorney General before Attorney General Gonzales, Ashcroft - Ashcroft essentially did away with the BIA, the Board of Immigration Appeals by downsizing it from about 21 to about 11 BIA Judges when they had just a ton of cases. And they took all these cases, and what they said, we need to move them through the system. We're going to chop off about 10 or so BIA, Board of Immigration Appeal Judges, and we're going to allow you to issue single decisions.

There's a term for it, I forget. It's slipping my mind right now. But, one judge on the BIA could affirm the IJA's decision. So, the result of that was that they just passed through a ton of cases through the BIA, and they gave virtually no filtering culling out the important issues. And they just

passed them on to the Ninth Circuit and other Courts of Appeals around the country. And our docket of immigration appeals just went through the roof.

And we're coming out of that now, and one of the things Attorney General Gonzales did was to bring some stability. He added a few more immigration judges to the Board of Immigration Appeals. He hired more immigration judges around the country. But, there is a real need to take a hard look at the immigration system, and to figure out a way to make it a much more neutral court and a more thorough process for vetting the cases before they get to us. Yes?

Audience Member: [off-mic question]

Judge Paez: [laughs] We just slot whatever case comes. And then if the outcome of that case is one that's questionable, that some off-panel judge or judges think is questionable, then we invoke the unbound process. And then, we have what's called a limited unbound, where eleven judges will then take a look at that case, and try to come up with a decision that ideally or theoretically is representative of the whole court. So, that's how that works. There was another question.

Audience Member: [off-mic question]

Judge Paez: Well, yes and no. He added positions, and I gather that some of these people who were put through that process were part of that. That's what I've read in the paper. I have no idea. When he added positions to the BIA, they just took existing immigration judges and elevated them. I think, he added about three or four to the BIA, because the BIA couldn't function. They had so many cases, they have so many cases to move through the system. They can't, they just needed more resources. It's a terrible situation. Any other?

Audience Member: [off-mic question]

Judge Paez: Well, look. It was great to be here. Thank you so much for inviting me. I do hope that some of you who might be interested in a Public Service Career. And I think of public service as more than just working for the Legal Aid Foundation of Los Angeles or the Northwest Immigrant Right Project here in Seattle. They're a terrific organization, by the way. They've appeared in front of us a number of times. It's a good thing. It's good work. There's good work out there, Public Interest, Public Service. Public Defender, DA, US Attorney, Federal Public Defenders, County Council, State Attorney General. The US Department of Justice back in DC. A large, large, there are many opportunities out there, and you just have to think creatively for what you want to do. Find something you'll be passionate about, and have fun. You're in for a good ride.

Thank you.

[applause]

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