

Richard Ross: Today is March 23, 2026. I'm speaking to you from the Kansas Supreme Court conference room located in the Judicial Center across the street from the Kansas Capitol Building in Topeka. I'm very pleased today to interview a very good friend of mine, the Honorable Mary Beck Briscoe. I'd like to point out that the videographer today is the esteemed David Heinemann. He has videoed over 150 interviews for this oral history project. He is an attorney, a lobbyist, and a former speaker pro tem of the Kansas House of Representatives.

Today's interview is part of the Kansas Oral History Project to collect oral histories of Kansans who are intimately involved in shaping and implementing public policy. The project covers the three branches of government, but in the case of the judiciary, it is called the Kansas Courts and the Rule of Law.

Individuals and corporations privately fund the project. Recordings and transcripts of the oral history interviews are available free of charge to researchers, educators, and the public through the Kansas Historical Society, the State of Kansas Library, and the website, ksoralhistory.org.

Before I begin my interview with Judge Briscoe, I will present a very brief biography of her very extensive and impressive background that formed her highly regarded reputation as a judge on the state and federal appellate courts.

Judge Briscoe grew up near Council Grove on a farm at the edge of the Flint Hills, and in her words, her parents raised wheat, Hereford cattle, and three children. She graduated as valedictorian of Dwight Rural High School and graduated in 1969 with a dual major in German and International Relations/Political Science from Kansas University.

In 1973, she earned her juris doctorate from Kansas University. In 1990, she received her LLM from the University of Virginia. After law school¹, she was an attorney with the Interstate Commerce Commission in Washington, DC. She left that position for ten-plus years as an Assistant U.S. Attorney for the District of Kansas located in Topeka. I should note she was the first woman to serve in that role. She was appointed to the Kansas Court of Appeals in 1984, again the first woman to be appointed to that position. In 1990, the Supreme Court of Kansas appointed her as the Chief Judge of the Court of Appeals, once again the first woman to hold that position. She served on the Court of Appeals as Chief Judge until 1995, at which point President Bill Clinton appointed her, nominated her to serve as a judge on the Tenth Circuit Court of Appeals. The US Senate accepted that nomination, and she was sworn into that circuit court.

In 2010, she became the Chief Judge of the Tenth Circuit Court of Appeals, and she served in that capacity until 2015. She stepped down as the chief but remained as a judge on that court until 2021, when she semi-retired and became what is known as a senior judge, still active on the court, but on a limited scale. In September of 2024, she finally retired. That's fifty years serving as a judge on the state and federal courts, very impressive. She married a good friend of mine, Chuck Briscoe. They've been married for fifty-two years.

¹ I was employed by the ICC immediately after law school.

I'm so glad to be able to interview Judge Briscoe at this time.

I'd like to start out by maybe dividing this into three primary areas, and then we'll have some questions that maybe divert from those particular areas, but I want to talk about the Kansas Court of Appeals, the Tenth Circuit Court of Appeals, and then the comparisons of the two and things that are better for one or the other, and things that you learned through that. But I also want to give you the opportunity to make your comments, what you feel the public feels about the judiciary today, and issues that you wish that they would understand better than they do. That's a lot to talk about. So, let's get started.

When you went to law school at KU, there weren't a lot of women who were going into that profession. That's changed a lot today. I don't know about KU, but I know Washburn has more than 50 percent of its students are women.

Mary Beck Briscoe: Richard, there were only seven women in our class.

RR: So, what made you decide to go in that direction?

MBB: Well, after undergrad, I looked for work. I ended up in Michigan, living with my brother and his wife, and working at Georgia Pacific Paper, which was a clerical job, but it was a job and a start. I thought, "Well, okay, I'll try this, see how this goes." I noticed after being there maybe a month, a month and a half, I saw on the bulletin board they were having training for people who wanted to go into mid-management at Georgia Pacific Paper.

So, I went to talk to one of the vice presidents, making an appointment, of course, ahead of time, and asked about the opportunity that I could have if I could participate in that program. He looked at me, and he said, "Well, I appreciate your interest, but we did have a woman go through this program and training, which is quite extensive and costly to the company. We did have a woman go through, and she stayed with us a little bit after that, but then she got married, had children, and quit. And we're not going to spend that kind of money on a woman again." So, I said, "Thank you very much," and I left.

Now, all of these things that happened to me as I'm going along in life, you could call them discrimination, but actually they push you forward because you know, "Okay, mid-management at Georgia Pacific Paper is out of the question." I knew that with an undergrad degree, all I was getting as far as people interested in me as an employee was the question then, it's a very dated question now, "Can you type?" That's what women did. I really wasn't a very good typist. I thought, "Well, this is a dead-end world for me."

I knew after that encounter at Georgia Pacific Paper that I had to do something to train myself. I'm sort of stewing on that, and at that time, unfortunately, my father died. This is February of 1970. So, I come back to the farm and sit and ponder my life and think, "Now what? I really don't want to go back to Georgia Pacific Paper." My mom is there. She's only fifty-one. My dad died when he was sixty-one. She said to me occasionally, "You can't sit here all your life." So, I knew I couldn't, and I didn't want to.

So, I thought, “Well, what should I do?” If I were going into medicine, I’d have to start all over again. So, maybe law, just a shot in the dark. The very last minute that I could take the LSAT, I took that test, and I got into KU Law School. That was an interesting situation because there were so few women.² It was also during the Vietnam War. Every Friday night, numbers were called. Every eligible male had a number, a draft number.

So, this was the world I was in. There was a lot of tension and a lot of resentment also toward the women in the class. In fact, it wasn’t unusual, it happened to me several times, you’d be sitting next to someone in class, and they’d say, “Why are you here? You’re not going to do anything with this. You’re taking the seat of a friend of mine who could have sat here, but now he has to go to war.” Law school was not fun. It was not fun at all. I just put my head down, did what I had to do, and left.

RR: That leads right into my next question. I know that you have been a major proponent of equalizing gender participation in the law and the judiciary. You’ve done many things over the last many years, decades, to try to make that happen. Can you educate us into some of those things that you have done?

MBB: Well, I think the most important thing you can do as a woman in the profession, whatever line of work you’re in, is do the very best you can because through that reputation as a woman, doing a good job, being there and being constant and paying attention to the work, just by your actions and by your professionalism, you’re helping other women who might be interested in those positions. A quote from Dean Emily Taylor who was our dean of women at KU and one of my heroes, she would tell us, “It’s fine if you’re the first to have the job as a woman, but don’t for sure be the last.” The whole point being just what I’ve explained, make it possible for other people to follow you. Be a good example. Don’t be someone [of whom it’s said], “Well, we tried that once, and it didn’t work. That was a failure.” You don’t want that kind of reputation.

RR: I think you were even appointed to serve on some, not panels, but projects that looked into this particular—

MBB: The Gender Bias Task Force. That was a product of the Kansas Bar Association, and at that time, you have to help me with the dates. I think we’re talking probably the eighties.³ [1989-1992.]

RR: I think so.

MBB: That was sort of the issue du jour. There were a lot of task forces across the country studying gender bias. So, it was not unusual really for the Kansas Bar to say, “Well, maybe we

² I was among the seven women who entered law school in the Fall of 1970 and we were also among the 156 students who ultimately graduated in 1973. Our entering class was quite large due to the ongoing military draft.

³ The KBA Gender Bias Task Force was created in 1989 and continued its work until the issuance of its report on 1992.

should look into this, too.” It was interesting the way it came to me because the powers that be in the Bar had already selected a large number of people to participate in this. I think there were like fifteen or eighteen names.

RR: And you were co-chairing.

MBB: I was co-chairing it. When I came into this group of people, most of the people there were women that were interested to serve on the task force. So, they asked if I would do it, if I would chair it, co-chair it with Jean Lamfers, who’s an attorney in Kansas City. I said, “I will, but if you’re planning on taking this seriously and having anyone give any credence to this report, we need a few good men.”

So, that’s what I did. I tried to solicit people who had credibility in the Bar statewide and bring them in and have them participate in our work. Our work was quite vast because we were interviewing people, law students, judges, people who were in the practice, people who wanted to be in the practice, just their experience as a woman and also interviewing men, what their interactions are with women and if they even had women appearing before them, and if there were different things that they did when that occurred.

RR: What was the result of all of that?

MBB: Well, as I’ve said, I didn’t think our issuing the report changed the world, but I do think [we had an effect] given the fact that Jean and I and several other people on the task force gave presentations all across the state and spoke with judges and bar associations and students and law professors, making the point, “Really, we’re in this together. We need to treat each other equally. If we treat each other with respect and act as professionals, we’ll all do a better job.” To have a judge when you’re in the middle of a trial call you “honey” is a little distracting, I must say. It’s happened to me. You really have to just sort of put your head down and say, “Okay, today I’m honey,” and move on.

But talking to the judges after the fact and telling them how this affects you as you’re practicing law, I think it was an eye-opener. A lot of judges, particularly older judges, would just shake their heads. They’d say, “What am I supposed to call you?” I said, “Counsel. You don’t need to call me Ms. or Miss or Mrs. or by my first name or my last name. I’m Counsel. That’s what you’re calling my co-counsel. So, I’m Counsel, too. Don’t make this complicated.”

RR: Little things.

MBB: Little things make a big difference. A big difference.

RR: Let’s switch real quickly to your appointment to the Court of Appeals. What was that process?

MBB: It was the Supreme Court Nominating Commission in place then. We had interviews. I went around in fact even before the interview with the whole group and tried to talk to all of the

people that were on the commission. That commission was made up—half of attorneys and half laypeople. The laypeople were appointed on the staggered basis by the governor. You didn't have a big, heavy political hand in it as far as the governor was concerned, which was, I have to note, to the frustration of some governors that came in because they thought, "Well, okay. I'm going to take care of this Court of Appeals situation," and they quickly learned that this isn't how it worked. On the attorney side, the attorneys were nominated and voted on by district across the state. Then, of course, there was a chairperson.

RR: Since then, of course, the Court of Appeals makeup is statutory, and the legislature a few years ago changed that statute, and now the governor can select whomever, and the nomination needs to be approved by the Kansas Senate. I should note here that the legislature this session produced a constitutional amendment that will be voted on [in August.] This has to do with the Supreme Court selection, and you referenced the Nominating Commission. That's how the Supreme Court is currently selected, but the constitutional amendment would require that the public elect the justices on the Supreme Court.

So, we have these three different methods of selecting appellate judges. Do you have comments on what you think is the fairest way or the most nonpolitical way?

MBB: Well, I think you touch on it when you say "nonpolitical." I think baseline we have to remember constantly that the judiciary is a separate branch of government. If you're going to politicize the judiciary, I think I'd simply say, "All is lost" because you don't have then the checks and balances that you should have.

So, for me, it's an easy matter to say, "There should be merit selection." I think that's the best way to approach it because who better would know who is a good attorney than other attorneys? I know this is a hard sell to the general public because they all think, "I should have a voice in this. These are important positions," but I hope when people think about it and become more educated in the process that they appreciate that maybe they don't know everything they should know.

We don't vote on who our doctors should be. We look at other professionals and look at their view and take that and say, "Okay, they should know. They're in that line of work."

RR: When you were appointed by the Kansas Supreme Court to be Chief Judge of the Court of Appeals—chief judges are selected, appointed by the Supreme Court, what changes did you effect to make the court better, more transparent? What were your challenges at that time?

MBB: Our challenge remained, as it had been for several years, the case load. We were just drowning in work. I guess the simple thing for me at the time was to pick up the baton of Bob Abbott and try to continue on and stay ahead of the in-flow of cases. That in itself was quite a challenge.

I think it was important and remains important I'm sure for the court to try to maintain good morale among the judges. We were together here every day. We functioned I think very

differently from how the Kansas Court of Appeals functions now. We all were here every day working, and we communicated on our writing, on issues that we were having in our cases. This was B.C. before computers. I felt at the time, and I still feel that the product, being the opinion that we're producing, was much helped by that personal interaction. If I were reading an opinion that someone was circulating among the court members, and I'd have a question or an issue about what was said or why it was said, I'd simply walk down the hall and say, "Bob, I'm good as far as the first four issues, but you lost me on page 6."

That is such a productive way to handle case work because you are a [decisional] court of three people. It is the court's opinion. It isn't one person's opinion.⁴ So, to come together like that and to have that conversation is far superior to email.

RR: It's a direct communication [together].

MBB: It's a direct communication, and it's a friendly communication. I don't know if ever in my 29 years on the Circuit Court, given my personality, if I ever achieved a nice email approach to "Hey, I've got an issue with the opinion you're circulating." That's hard to do by email, particularly if you're questioning something that a colleague has written, or maybe if you flat-out disagree with what the colleague has said. It's just very difficult to work through that by email.

RR: Well, you've kind of answered the next question I had, but maybe you can say a little bit more about it. Working with your colleagues, was it collegial?

MBB: They were Collegial with a capital C. These were my closest friends. It's just that simple.

RR: And your Court of Appeals had panels of three here in Western Kansas.

MBB: Yes.

RR: And you traveled.

MBB: Yes. A lot, [laughs] which tips me to a little list that I made. We were hearing so many cases and trying to get through them as quickly as we could. What was developed was called the Blitz Docket. In one year, this was 1989, and this was not atypical—here's the list of cities that we sat in as panels. This is a panel of three going out, and we usually sat every three weeks on fifteen cases. That was our diet. We gathered together fifteen cases in that area, looking at where the attorneys were from because sometimes the attorneys didn't really fit for where the case was filed. So, you looked where the attorneys were and set up panels and went to that locale.

In 1989, we sat in, of course, Topeka, Wichita, and Kansas City, which we sat in a lot. I'm sure the court presently does, too, because that's where the population is. That's where you have most

⁴ Both the Kansas Court of Appeals and the 10th Circuit Court of Appeals sit in panels of three to decide cases. Only when those courts sit *en banc* do all active members of the court sit to decide a case.

of your litigation. But we also sat in Dodge City, Girard, Paola, Fort Scott, Lindsborg, Hays, Garden City, El Dorado, Hiawatha, Leavenworth, Great Bend, and Salina.

RR: Oh, my gosh.

MBB: I was on the Lindsborg panel. I remember that because Bob Abbott, our chief at the time, he thought, "Well, that would be fun. Mary, being Swedish, we'll send her to Lindsborg." Okay. I'd love to sit in Lindsborg. But then I said, "Bob, that's all well and good, but Lindsborg is not the county seat. There's no courthouse in Lindsborg."

So, we did this often. We sat on the stage at the high school. They set up a table for us, and the three of us marched out in our robes and heard cases and had classes attending. It ended up being a lot of fun as those things always are. We were out and about. People knew the Kansas Court of Appeals. They knew we worked because they saw us.

RR: And all the cases that were being heard were open to the public

MBB: That's right.

RR: They're not closed at all.

MBB: No. And when you went to western Kansas, it was always—we were treated like kings and queens. It was like, "Oh, here's pastries. Here's coffee. What are you doing for lunch? You're going to talk to the Bar Association, aren't you?" "Of course. We're here, aren't we?" The way it ran when I was there and participating, you'd have five cases in the morning and five cases in the afternoon. Then you'd stay overnight and hear five more the next morning and then take out to drive home."

We had, as far as the court was concerned, a lot of time. And also historically with 40 years as a judge both on the Circuit and the Court of Appeals, I spent a lot of time in motel rooms, a pretty weird way to make a living.

RR: But with that travel, you mentioned it, you're with your colleagues in the car.

MBB: Yes.

RR: So, there's a lot of talking there. You get to know each other very well.

MBB: I think the line that's been quoted as mine is I've said that once you drive to Liberal and you're there for a day, a night, and a day hearing cases, you get in the car and drive home, yes, you know each other, and you get along. You have to. You have to get along. You have to find commonality. You have to find communication, and I think through that all, we became very close.

RR: That's great to hear that.

MBB: Yes, it was fun.

RR: I don't know that the public really realizes how that works. Let's switch a little bit to the Tenth Circuit Court of Appeals. How were you selected to the Tenth Circuit?

MBB: Well, that's sort of a secret thing. You never even know when actually there's an opening. There's no opening published. You just sort of hear by word of mouth. Judge Logan was thinking about retiring and taking senior status at least at that time. Other people that I knew through my work as an assistant US attorney in the federal system learned of that and told me about it, which was news, but it was not news that I took too seriously because I really didn't think I was qualified to sit on the 10th Circuit Court of Appeals. That's just what I thought at the time.

But I had friends—let's see. It's three judges and one clerk of the court on the federal side who just—I would say pestered me at least once a week. “Have you put your name in? Have you told anybody you're interested? You have to be interested in this.” And I said, “I am knee-deep in casework here. I really don't have time to politic about anything right now. If it happens, it happens.”

But I did put my name in, and I was fortunate I think at the time because the whole system at that point was not politicized⁵. I feel, and maybe falsely so. I think it was pretty much merit. I had the experience of being in the US Attorney's Office. I knew federal law. I knew federal practice. As an appellate judge, I knew appellate practice and what appellate judges should do and how they should do it and how they should not do it. That's sort of the convincing speech that I heard from my friends. They were pretty much closeted in Wichita.

RR: They were correct.

MBB: Blaring noise out of Wichita. So, those things were my selling points. I tried for the position and fortunately was appointed.

RR: Then in order to get appointed, you had to visit the U.S. senators. Is that correct?

MBB: Yes. Once you're nominated—the senators, of course, knew this was afoot because there was also then at that point other people who were interested. Their doors were being knocked down by a lot of folks. I was fortunate at that time that we had Bob Dole and Nancy Kassebaum as our senators, and they took these appointments very seriously, particularly I think I was impressed with Senator Dole because I'm a Democrat. He's a Republican. That did not faze him. His whole mission: “We need a judge from Kansas on the Tenth Circuit.” He was totally Kansas focused. “As Speaker of the House, this is my job. I'll get this done.” If you remember how Bob Dole worked, he got it done.

⁵ I was not politically active. When I was an AUSA, I was barred from political activity by the Hatch Act. As a judge on the Kansas Court of Appeals, I was barred from political activity by the code of judicial conduct.

It was fun when he introduced me to the Senate Judiciary Committee at my confirmation hearing. He had his little black folder. I had never met the man until I stood at that door with him; I'd met his staff and talked with them a lot and sent them a lot of paperwork, but I had never met him. So, we walk in together and sit down. He regales them with my history and does the best he can to try to make me sound a little Republican because—and he does it very cleverly because on my father's side, Elmer Beck was the banking commissioner here in Topeka, a very well-known Republican at the time. Clarence Beck, another cousin of my father's—Clarence and Elmer were brothers—he was the attorney general for the state of Kansas as a Republican. So, he marketed those points long and hard. It made it sound to the committee that we knew each other from long ago. It was quite impressive.

RR: The Tenth Circuit operates with panels also.

MBB: Correct.

RR: How does that work? Is it all in Denver? Do you travel with those panels?

MBB: It is mostly in Denver. That was our home office. The Tenth Circuit covers six states. To think about how you get to 12 judges, we have 12 acting judges on the circuit, each state has two judges except—there's always an except—Wyoming has only one. What we do to handle our cases; they are assigned by computer. We're always on a rotation, which is good because I have worked with judges from other appellate courts, both state and federal. State court panels at times, some of states have their cases set up so they have what's called a fixed panel. You're always sitting with those two people, which is I think, according to the folks who were telling the stories, not good. Not good. You need that change of person, change of thought. That's basically how the cases are set is by rotation.

But mainly we sit in Denver, and on occasion, sit other places. We'll send out a panel sitting at a law school. We sat at KU; we sat at Washburn; we sat in Laramie, Wyoming. We sat in Denver at DU. So, we've hit a lot of law schools, and that's our main stock in trade is to do something like that.

RR: How does it work, working with the judges on that panel? Is it similar to the Court of Appeals here? Is there that same collegiality?

MBB: Well, much has been said about the collegiality of the Tenth Circuit. Even books have been written, I think. I suppose that's all your perspective. When I first came to this circuit, I kept hearing this collegiality. It was almost like white noise. "We're so collegial. "I just finally said, "You all don't even know what collegial is." I said, "This is a drive-by shooting. I see you five times a year, and if I'm on a panel with you, I will see you then. It could be I won't see you five times a year. At that setting, I might not be on a panel with you. If we don't have an administrative meeting, I won't see you. If I don't reach out and walk down the hall and try to say hello, I won't see you."

I remember one of the judges on the court, David Ebel, who is a Topeka native, a wonderful judge, a really brilliant man. When I had my swearing-in in Kansas City, he came up to me and he said, "Mary, you'll find over time that your colleagues on the Tenth Circuit will be some of your closest friends." I said, "[David], how would that happen?" I knew how the Tenth Circuit worked. I argued before the Tenth Circuit for 10 years. I said, "I don't understand how this works, but we'll see how it goes."

Although we always get along and there is a level of kindness and consideration, it's not the same. It's not the same. Again, the closeness, the physical proximity and the constant togetherness that we had here on this court, it can't be matched with the kind of situation that you have in the circuits because you're each distant, and again you have that good old email communication, which is not always the best. So, sometimes things get a little sharp, and hence you have dissents and concurrences where if you could just walk down the hall, you might not have had that.

RR: Were there any practices in the Tenth Circuit that you felt like the Kansas Court of Appeals could learn from?

MBB: I would go the other way. I thought the Kansas Court of Appeals had a very good rule, I don't know if it's written anywhere, it probably is, if you were going to publish an opinion, you had to have someone else on your panel agree that it should be published. Now, in the Tenth Circuit, if you want to publish an opinion, you publish the opinion. It doesn't matter. So, there you go. You have a lot of things that are out there that maybe if somebody else could have pulled the brake, it would have helped.

RR: I know that you've had some mentors in your career. Could you name some of them?

MBB: I have to start with—I had a couple of amazing high school teachers. Our high school was 52 kids in four grades. We had a couple of teachers who were also farmers, but had a higher education. In fact, one was a Phi Beta Kappa. The one Phi Beta Kappa individual [Richard Traskowsky], he taught world history, and he came before school started to teach me and my brother, two people. Then another teacher, Mr. Heubline, he taught college algebra and trig. Two of us, Terry Meyers and myself, out of my class of eight, we were hell-bent on going to college. He taught the two of us college algebra and trig, which is amazing when you look back on it, to give that time for just a couple of kids, fabulous.

RR: How about in the legal profession?

MBB: In the legal profession, you have to say Dick Foth and Bob Abbott. When I came to the court, Dick Foth was the Chief Judge. Unfortunately, he was only here when I was here for about a year and a half, when he suddenly died. He was so impressive. He had such ability to recall statutes, cases. He was like a walking digest of Kansas law, very serious, very bright, very impressive. You just wanted to be around him because you knew you could learn from him.

The other individual on the court at the time was Bob Abbott. These are polar opposites as far as personality. Bob is the Ever-Ready Bunny, always moving, always “You should do this. You should do that.” His big influence when I came to the court, he took me aside. He knew that I had been practicing in federal court. He figured—he was very suspicious. All of us that work in the state system know people don’t like the federal system, and those in the federal system sort of look askance at people in the state system. So, we had that going on.

Bob took me aside and said, “You know, you have to remember here as an appellate judge for this court and the caseload that we have, we don’t need long opinions. We don’t need that. We don’t need a treatise. People just want an answer.” So, that voice was in my head all the time that I was here and all the time I was on the circuit. I have been constantly concerned with delay, delay in appellate work. I look at case files as people. These things matter. People are waiting. People are waiting for decisions.

When I was in the U.S. Attorney’s Office, I had a case where I waited for a decision out of the Tenth Circuit for six years. This was a *Bivens* action where the defendants were sued in their individual capacities. These poor folks that I was defending in essence in this civil litigation would call, “Mary, have you heard? Have they said anything? I can’t sell my house.”

RR: They were tied up for six years.

MBB: Six years. I mean, when you have that kind of an experience, it’s a very live, real experience, you remember it, and you do not want to do that to anyone else. Move it along.

RR: I know when I was working with you, your opinions, I wouldn’t say they were short necessarily, but they were concise, and that’s hard to do.

MBB: Yes.

RR: That’s almost harder than lengthy opinions.

MBB: Edit, edit, edit, right?

RR: It takes more time, but you were known for that, and I know that you tried to work with your court on that. That was a good lesson from Justice Abbott.

RR: Yes, I hope so. I know it was.

RR: Speaking of Judge Foth’s [ability to] recall, do you have recall on some of your cases that you find are very significant cases, the hardest cases you worked on? Any one you want to speak about?

MBB: On the Kansas Court of Appeals, I always cite *Wichita Wire, Inc [v. Lennox, 11 Kan App. 2d 459, 726 P2d 287 (1986)]*. That case I had just come to the court, pretty fresh to the court, and that case involved the burden that an individual or an entity would have in order to obtain a

preliminary injunction, a permanent injunction or a temporary restraining order. The Kansas courts at that time were all over the place—what you have to do, what you don't have to do, there's a test, there's not a test, there's a balancing. Coming from the federal system, it was clearcut. This is the standard. Let's do that.

So, two guys agreed with me on the panel, and we published that. It was like the clouds parting to just establish such a basic standard for a very commonly used tool.

RR: And that became precedent.

MBB: Yes, definitely.

RR: The Kansas Supreme Court did not review that?

MBB: The review was probably asked. I'm sure the losing party probably asked for a review, but they left it alone.

RR: That leads me to precedent. The Court of Appeals is generally not considered the court of precedents, but you do create a lot of precedents.

MBB: Push gets to shove, when you're handling the volume of cases that came to the court when I was here, you're handling over 90 percent of all of the appellate litigation in the state. It is inevitable that within those numbers, you will be setting precedent. There's no way around it.

The Supreme Court has limited jurisdiction. They're required by statute to take A felonies; cases that involve life sentences or death, depending on where we are. They also have to take cases where statutes were determined to be unconstitutional by the district courts. So, that leaves a lot of things for the Kansas Court of Appeals. All cases are appealable to the Kansas Court of Appeals. Isn't that a wonderful thing. Everything is appealable to the Kansas Court of Appeals.

And that was one of the things that drove the decision to create the court was to give the people, the litigants, the opportunity to appeal a case. It was really rather a narrow shot before that. So, the doors were opened, and we became what I always called us, the People's Court. People were here. They filed cases. We heard cases all over the state. They knew who we were. They counted on our work, and we tried to get the answer to them as quickly as we could. So, it worked, and I think we were a benefit to the state as a result.

RR: Can you comment on how you think the courts work with—this is on the state side, the Court of Appeals and the Supreme Court in Kansas, the judiciary working with the governor and the legislature?

MBB: My personal experience as Chief Judge, I had the responsibility to go to the legislature and ask for money, budget. I will never forget the first time I went across the street. I sort of started [at] Chapter 5, "This is what we need and why we need it," and I sort of just looked

around the room, and I was just seeing blank stares, sort of “Who are you? And where are you from?”

So, the next time I went, I started at the beginning. “These are the kinds of cases that we hear.” I tried to make them as connected as I possibly could to our work. “We handle divorces. We handle land disputes. We handle termination of parental rights. We are in your lives every day. Just watch us, read us. This is what we do.”

At that time, we did manage to get a little money from them. Somebody was convinced of something. That was an interesting encounter for me because you sit here, and you think everybody knows what you’re doing and how you’re doing it, but it was obvious at that time that the Appropriation Committee had no idea who the Kansas Court of Appeals was or what we did. Hopefully, that’s changed.

RR: It’s probably the same.

MBB: Probably the same?

RR: Any time you’re dealing with money and asking for money, I think you’ve got to sell it. There’s a limited amount.

MBB: Correct.

RR: We’ve covered a lot of territory here. I’m giving you an opportunity to make further comments on anything that you’d like to talk about that maybe I missed.

MBB: I have to say I think it’s pretty obvious, given from where I started, the kid out on the farm from a little school, I am very blessed to be here and to have had the opportunities that I’ve had. I really had no idea about going to law school or becoming a judge. All these things just happened as I’ve relayed, and I think perhaps that’s the way it is for a lot of folks. So, I just feel very fortunate that I’ve had those opportunities, and that I’ve had the encouragement along the way to just keep going and do what you’re interested in. That’s something my father always said when I tried to cajole him into having him tell me what I should take in college. He would always say, “Just take what you want to study. Take what you enjoy.”

So, I’m all over the map. That didn’t really help or narrow anything. But when you have that kind of encouragement and support, I think you just have to be very thankful that it all worked.

RR: Well, we are certainly thankful for you and all of the five decades of public service including 40 within the judiciary. Your reputation is very strong. I’ve never heard anyone dispute your work ethic, your brilliance, your ability to write, and as you stated earlier, your dedication to the law and wanting to make sure that opinions are delivered as quickly as you can. There’s a lot there, and I know you spent a lot of time, way past 8-5, that’s for sure. So, I want to thank you for this interview. It’s been a great pleasure of mine. I want to thank you on behalf of the citizens of Kansas for all that you’ve done.

MBB: And thank you, Richard, for being the Reporter of Decisions for the 11 years that I was on the Kansas Court of Appeals. I never could understand why some of my colleagues on the court would say, "Oh, I'm not going to change that. Richard said I should change that." "You're crazy. Richard knows. If you want things to read well and read smoothly, take his advice." So, thank you.

RR: Thank you. I enjoyed working with you, and of course, I enjoy being your good friend.

MBB: Thank you. Ditto.

[End of File]