

Interview of Jeffrey Feldman for Oral History Project – March 14, 2026 by Zoom

00:00:00 Russell Buhite (off record):

Good morning Professor Feldman, thank you for agreeing to meet with me to discuss your experiences as a member of the Alaska legal community over the years for purposes of the Alaska Bar Oral History Project. I'll be recording this interview and then it will be archived in both video form and transcription.

00:00:00 Jeff Feldman

What is the end result for this project?

00:00:04 Jeff Feldman

Are these going to be archived someplace or what's the point?

00:00:07 Russell Buhite

Yeah, archived University of Alaska at Fairbanks and it's a joint bar project.

00:00:17 Russell Buhite

And I think it'll be, you know, I don't know the extent of it so far, but I know there have been quite a few already done.

00:00:27 Russell Buhite

So it's neat.

00:00:29 Russell Buhite

You're recorded for posterity.

00:00:31 Jeff Feldman

All right.

00:00:33 Jeff Feldman

On we go.

00:00:34 Russell Buhite

Very good.

00:00:36 Russell Buhite

Well, thank you for joining me.

00:00:38 Russell Buhite

Do you go by Jeff?

00:00:40 Jeff Feldman

Yes.

00:00:40 Russell Buhite

Great.

00:00:42 Russell Buhite

Jeff, you were recommended to interview by our committee, and I can tell from reading you your background and biographical information online that you've had a pretty distinguished career, and I welcome you to give your insights.

00:00:59 Russell Buhite

Today, as I mentioned before, I'm doing this on behalf of the Historians Committee of the Alaska Bar for the Oral History Project.

00:01:09 Russell Buhite

And we're going to welcome you to this endeavor and thank you again for agreeing to join us.

00:01:16 Jeff Feldman

Happy to be here.

00:01:18 Russell Buhite

I have read your bio online and see where you're working now, but

00:01:24 Russell Buhite

Why don't you tell me a little bit about yourself in terms of where you grew up, where did you go to school?

00:01:31 Jeff Feldman

I grew up in New England, born and raised in Providence, Rhode Island.

00:01:36 Jeff Feldman

Went to school, both law school and undergraduate at Northeastern University in Boston, Massachusetts.

00:01:42 Jeff Feldman

And the law school had a program by which students spent four quarters of their legal education working in firms and organizations and government offices.

00:01:57 Jeff Feldman

So I spent one of those four quarters interning for the US Attorney's Office in Portland, Oregon.

00:02:03 Jeff Feldman

And it was the first time my wife and I had been to the West.

00:02:09 Jeff Feldman

We quickly became enamored of the Northwest.

00:02:12 Jeff Feldman

And I knew I wanted a clerk when I got out of law school.

00:02:14 Jeff Feldman

So I applied for clerkships in Oregon and Washington and Alaska because

00:02:21 Jeff Feldman

at that point in time, I thought Alaska was just the next state up the coast from Seattle.

00:02:26 Jeff Feldman

I had no idea where it was.

00:02:27 Jeff Feldman

How far it was.

00:02:28 Jeff Feldman

I had no Jack London fantasy.

00:02:32 Jeff Feldman

And the then Chief Justice of the Supreme Court, Jay Rabinowitz, came to Boston to interview for law clerks that year.

00:02:39 Jeff Feldman

He was kind enough to offer me a position.

00:02:41 Jeff Feldman

And my wife and I then made, as was true of a lot of people of our generation, made the long trek.

00:02:47 Jeff Feldman

-to Anchorage intending to stay for a year, but stayed for decades afterwards.

00:02:54 Jeff Feldman

This was 1975, and it was a very, very interesting time to be in Alaska.

00:03:00 Jeff Feldman

The pipeline was under construction.

00:03:03 Jeff Feldman

There was a tremendous amount of money being spent in the community.

00:03:06 Jeff Feldman

And just for reference, point as to what the state of the city was at that point in time.

00:03:13 Jeff Feldman

The summer that I arrived in Alaska, Tudor Road

00:03:17 Jeff Feldman

was being paved.

00:03:18 Jeff Feldman

We'd not spent too much time in Anchorage, but Tudor Road, which is now Midtown.

00:03:23 Jeff Feldman

But that was the last paved east-west St.

00:03:26 Jeff Feldman

in town at that point in time.

00:03:29 Jeff Feldman

And so it was a smaller, Anchorage was half the size that it is now.

00:03:34 Jeff Feldman

It was a smaller and a little bit crazier place because it was being torn down and rebuilt every three or four weeks with the advent of the pipeline.

00:03:46 Jeff Feldman

So we stayed.

00:03:47 Jeff Feldman

I finished my clerkship.

00:03:48 Jeff Feldman

I clerked for Justice Ed Burke, who was wonderful to work for.

00:03:54 Jeff Feldman

And then I spent two years as a public defender.

00:03:59 Jeff Feldman

In those days, almost nobody stayed in the public defender office for a career or for a long time.

00:04:06 Jeff Feldman

The model was you went in, you did a couple of years, and you left.

00:04:09 Jeff Feldman

So I did a year of misdemeanors.

00:04:11 Jeff Feldman

I did a year of felonies, tried a bunch of cases, and then went into prior practice

00:04:16 Jeff Feldman

with my first partner, Jim Gilmore, who was a superb trial lawyer.

00:04:21 Jeff Feldman

And Jim and I worked together for 13 years, and then I moved over and formed a firm with my former co-clerk, Eric Sanders.

00:04:32 Russell Buhite

What kind of work did you do with Jim Gilmore?

00:04:35 Jeff Feldman

Well, you know, my practice has always been focused in the same way, which is to say, all I really knew was that I wanted to be a trial and an appellate lawyer.

00:04:44 Jeff Feldman

I never had

00:04:46 Jeff Feldman

any strong sense that it needed to be substantively one type of case or another.

00:04:52 Jeff Feldman

And I happened to be living in a place at a time, Anchorage in the 70s and 80s and 90s, I didn't need to specialize.

00:05:00 Jeff Feldman

So I was always curious about other areas of law.

00:05:03 Jeff Feldman

And the only thing that mattered to me was whether it was going to wind up in a courtroom one way or another.

00:05:08 Jeff Feldman

So it was very diverse.

00:05:09 Jeff Feldman

I did criminal work.

00:05:11 Jeff Feldman

I did civil work.

00:05:12 Jeff Feldman

I did big cases.

00:05:13 Jeff Feldman

I did little cases.

00:05:14 Jeff Feldman

I never felt that there was a case that somehow wasn't worthy of my attention.

00:05:19 Jeff Feldman

If somebody wandered into the office and needed a lawyer and I thought it was an interesting matter, I would take it on.

00:05:25 Jeff Feldman

And what did change over the years, the decades that went by, what changed was that the people that knocked on my door were different.

00:05:34 Jeff Feldman

So, clients would not have given me the time of day when I was 26.

00:05:39 Jeff Feldman

By the time I was 46, suddenly thought I was maybe worth calling up and retaining me.

00:05:45 Jeff Feldman

So increasingly, by the time I got to my 40s and 50s, the clients wound up being entities like BDP and Carr Gottstein and Providence Hospital.

00:05:55 Jeff Feldman

There were a lot more institutional clients than individual clients.

00:06:00 Jeff Feldman

But it was always a mixed practice.

00:06:02 Jeff Feldman

I tried antitrust cases.

00:06:04 Jeff Feldman

I handled securities cases, contract cases.

00:06:07 Jeff Feldman

I did an occasional divorce for a friend or someone who needed a lawyer that I cared about.

00:06:12 Russell Buhite

What was the size of the bar back then in 75 to 80 in Alaska?

00:06:17 Russell Buhite

It would have to have been very small.

00:06:19 Jeff Feldman

Yeah, so I'm, my memory is a little fuzzy about that, but I want to say it was a couple of 1000 statewide and half of the lawyers were in Anchorage.

00:06:30 Jeff Feldman

And there was a time, you know, I did a stint, I did two stints on the Board of Governors in one year as president. And I mean, there was a time where if I walked into a room with a bunch of lawyers at a bar convention or something, I could have named, you know, 60 or 70% of them by face name.

00:06:49 Jeff Feldman

So even though the numbers were a little large, you know, 1000 lawyers in Anchorage, we all knew each other. And I think it affected the style of practice. It's just harder to be a jerk to somebody that and like and you pass on 4th Avenue when you're having lunch.

00:07:07 Jeff Feldman

So it was a talented bar because without a law school in Alaska, all the lawyers came from someplace else.

00:07:15 Jeff Feldman

So it was an unusually and unexpectedly well-trained bar, drawing mostly from the East and West Coast. But it was friendly.

00:07:24 Jeff Feldman

It didn't have the sharp edge and the elbows that sometimes you bumped into in bigger cities.

00:07:29 Russell Buhite

Yeah, and I imagine Jim Gilmore and other more veteran lawyers there were good role models for you and introducing you to Alaska law and practice.

00:07:41 Jeff Feldman

Jim was in particular, you know, I learned a lot from him.

00:07:43 Jeff Feldman

He was a really, really talented lawyer.

00:07:46 Jeff Feldman

I have lots of Jim Gilmore stories, actually, as do a lot of people in that era.

00:07:51 Jeff Feldman

But when I left the public defender, I didn't want to, I had in mind that I wanted to form a small litigation firm, what became known as litigation boutiques eventually.

00:08:01 Jeff Feldman

But I knew that's what I wanted to do.

00:08:04 Jeff Feldman

And so I didn't chase down the job with one of the firms in town, but I didn't want to just hang out a shingle and do it by myself because at that age, I think I knew that it would be good to be attached to somebody that was ahead of me.

00:08:17 Jeff Feldman

Jim was 10 years older than me.

00:08:20 Russell Buhite

And you worked there for 13 years, you said?

00:08:22 Jeff Feldman

Yeah.

00:08:24 Jeff Feldman

And I, it was a great run.

00:08:28 Jeff Feldman

We had, we had, the practice of law with Jim was always joyful, even if the cases were sometimes depressing, but the experience of working with him was always joyful.

00:08:41 Russell Buhite

How many attorneys were in that office?

00:08:43 Jeff Feldman

I think eventually we grew to five or so.

00:08:46 Jeff Feldman

What's interesting is that I hired a lot of lawyers over the years, both at that firm and at the successor firm that I formed with Eric Sanders.

00:08:55 Jeff Feldman

I think that firm grew up to be 7 or 8 lawyers at one point. But what intrigues me is that when I look back, a surprising number of the people that we hired wound up being judges.

00:09:06 Jeff Feldman

So, Tim Burgess, who became a federal district court judge, started his career as an intern for me. Stephanie Rhodes, who became a state district court judge, started as an intern for me. And it always pleased me that our younger lawyers made their way out to the bench that way.

00:09:26 Russell Buhite

Yeah, that's remarkable. And it always is to me too. I've been impressed with a lot of lawyers I've worked with over my long career - the ones that went on to become judges, and they were some of the smartest people I knew in practice and well-deserving of those appointments.

00:09:51 Russell Buhite

I think it shows a degree of seriousness in learning the law and practicing that you want to do that because it really is a public service.

00:10:02 Russell Buhite

Were you ever tempted to do that?

00:10:04 Jeff Feldman

I was.

00:10:05 Jeff Feldman

I mean, there was, I was. Tony Knowles, former governor of the state, and I had been good friends, still have very good friends, and he had been a client as well. So when he became governor, it was the first time that there was someone sitting in the governor's mansion that might have actually thought that appointing me to something would be a good idea.

00:10:22 Jeff Feldman

The politics in Alaska were such that very few of the other political leaders in Alaska would have been willing to even make me dog catcher, to be honest with you. But Tony might have been willing to do that.

00:10:32 Jeff Feldman

And I thought about it when a vacancy on the court and the Supreme Court came up during his tenure.

00:10:37 Jeff Feldman

But I was very, very happy practicing law.

00:10:41 Jeff Feldman

And what I thought was going to happen in my career was that I had practiced for 20 years, I'd get burned out as a lawyer, and I'd spend the next 20 years on the bench.

00:10:49 Jeff Feldman

And I always felt that to be appointed to the bench would obviously be the ultimate honor for a lawyer.

00:10:56 Jeff Feldman

But the problem was I never burned out. That was a surprise to me. Not only did I not burn out, but as I got older and I got a little more skillful as a lawyer and the work became increasingly more interesting because different work came my way as I got older. Not only did I not burn out, but by the time I got to the age where I would have been suitable for appointment to the bench, I was actually happier than I'd ever been. And I just felt that I had been, I managed somehow to land where I belonged and I didn't tinker with it.

00:11:29 Jeff Feldman

I want to swing back for a second and just illuminate something that I think is maybe worth noting here, which is I arrived in Alaska right at the, what I think of as the cusp when things started to change because if you look at the history of Alaska and the Alaska bar, there are several eras. So there's the pre-statehood territory era, and that was a very different kind of Bar.

00:11:56 Jeff Feldman

And then you have the post-statehood, but pre-oil era. That's mostly the 60s and very early 70s.

00:12:03 Jeff Feldman

And 75 was right at the point when oil came, and when oil came, money came.

00:12:10 Jeff Feldman

And the reason why that change was not only did the economics of the state change, and people could do things that they, including the state, could do things that there wasn't money for before, but more importantly, the people that arrived before oil, were just different than the people that arrived after oil.

00:12:27 Jeff Feldman

I don't know that I would have been tempted to move to Alaska in 1965, but by 1975, it had become a different place.

00:12:34 Jeff Feldman

The people that came up in the 60s were more akin to the people that you think would probably be drawn to Alaska. They were fishermen, they were lawyers who liked to fish and to hunt and to fly planes and do all the things that people do in Alaska. And to be sure, in my generation, people did that as well. But, you know, in my generation, the people that went tended to be brighter and people that had options and Alaska became an option because it had just enough of the structure and the economics and the money that made it seem like a reasonable place to be.

00:13:12 Jeff Feldman

So the bar changed starting when I arrived, probably around 1974, 75, the bar started to change.

00:13:19 Jeff Feldman

And then five or 10 years later, the bench started to change because the people that came up in the mid-70s, by the time you get to the mid-80s, they're starting to migrate their way onto the bench.

00:13:28 Jeff Feldman

And so you can almost chart what happened to the Bar by looking at what was happening elsewhere in the state.

00:13:35 Russell Buhite

Well, it makes sense.

00:13:36 Russell Buhite

I think probably before that, people drifted up there, or there maybe was not quite as seriousness of purpose, at least economically and business-wise?

00:13:45 Jeff Feldman

Yeah, and I don't mean to be dismissive or disrespectful of the people that came up. Either in territorial days or in the 60s, because, without the work that they did, we wouldn't have been able to stand on their shoulders in the 70s. But they were different. They had been educated differently. They came from different places.

00:14:03 Jeff Feldman

A lot of the bar that existed in the pre-statehood and early statehood days, you know, came from southern states and southwestern states.

00:14:11 Jeff Feldman

By the time you get to the 70s, you're seeing a lot more

00:14:16 Jeff Feldman

A lot more young lawyers come up for clerkships for the state Supreme Court or the federal courts, and they're coming from places like, Harvard and Yale and Michigan and Stanford.

00:14:25 Jeff Feldman

It just changed.

00:14:27 Russell Buhite

Yeah.

00:14:27 Russell Buhite

Well, I know you had your own experience, but what do you think allowed people to stay in Alaska? Because it does have its challenges.

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00:14:41 Jeff Feldman

First of all, not everybody stayed. I mean, you look at the people there and you say, they stayed, which is true, but there actually has always been the case that there were people that came up for a year or two and then for a variety of reasons drifted off back to other places.

00:14:54 Jeff Feldman

But I mean, during the, I can't, I'm not sure how much I can generalize an answer to that question, but I remember when I arrived looking around, having come from Boston, which had been legal community, been around for 250 years.

00:15:11 Jeff Feldman

So the first thing that got my attention was when I arrived, we were now 16 years into statehood and the entirety of what was called the Alaska Reporter. It's basically the Pacific Reporter, but just the Alaska cases. And West used to publish that in hardbound volumes. And the entirety of the Alaska Reporter, all the reported decisions of the Alaska Supreme Court comprised literally about 5 feet of shelf space. And I had a set of books in my office as a law clerk.

00:15:40 Jeff Feldman

Coming out of Boston, where you had 250 years of state decisional law, I looked at the Alaska Reporter and I thought, well, shoot, I'm living in a place where I literally could read every case that's ever been decided in Alaska.

00:15:54 Jeff Feldman

And I took home a book, volume every three or four days.

00:15:58 Jeff Feldman

And over the course of a couple of months, I read every decision the Alaska Supreme Court had ever issued.

00:16:04 Jeff Feldman

Now, was there value to that? Probably not. But I thought it was an interesting exercise.

00:16:10 Jeff Feldman

But what it reflects is that, you know, but I looked around in 1975, I thought to myself, yeah, this is a place where a young man could do well.

00:16:20 Jeff Feldman

It just felt like there was a lot of opportunity.

00:16:22 Jeff Feldman

And I think that's the answer to your question, because it was at that time, it was a place that offered, it was a different combination.

00:16:30 Jeff Feldman

In the 60s, you could be a lawyer, but you'd be a small town, mostly a small town lawyer in a small town.

00:16:35 Jeff Feldman

By the time you get to the 70s and the money that was flowing through and the oil companies that were doing the work that they were doing, it had a different feel.

00:16:42 Jeff Feldman

The vibe was you're living in a..., I sometimes couldn't figure out if I was living in a small town masquerading as a city or as a city that was masquerading as a small town, but it had a blend of both.

00:16:54 Jeff Feldman

And I think that's what prompted a lot of us to stay, which was it had the benefits of Alaska, which was a magical place to live and to spend time, obviously, raise your family and go and recreate.

00:17:06 Jeff Feldman

But it felt, it really did feel like there was, an enormous, range of opportunity.

00:17:14 Jeff Feldman

And there's no question, I mean, I represented BP in Alaska for 25 years.

00:17:19 Jeff Feldman

If I had the same firm in Seattle....

00:17:25 Russell Buhite

And that's a challenge in a big city.

00:17:28 Russell Buhite

And if you would have stayed in Boston, you would have had the same difficulty probably, and it would have taken maybe 10 years longer for you to get to....

00:17:36 Jeff Feldman

So if you ask me, I can't say why everybody stayed, but if you ask me why I stayed, it was a combination of, first of all, my wife and I were enjoying life in Alaska.

00:17:45 Jeff Feldman

So it's just simple. We were having fun. And that was, for a young person, enough motivation.

00:17:50 Jeff Feldman

But I think the reason why I left to go to Alaska in part reflects why I stayed in Alaska, which is there was something about me and my personality that I bristled a little bit at the structure of life in New England.

00:18:06 Jeff Feldman

In Providence, where I grew up, there were WASP firms that had token Jews.

00:18:12 Jeff Feldman

There were Jewish firms that had token Italians.

00:18:14 Jeff Feldman

There were Italian firms that had token Puerto Ricans.

00:18:17 Jeff Feldman

But it was a very structured place.

00:18:18 Jeff Feldman

And then you had a layer on top of that, the structure that comes from, who your family was, what your name was, where you went to school. And I just bristled at all that.

00:18:27 Jeff Feldman

And what I really loved when I got, I didn't understand this when I was going to Alaska, but when I got to Alaska, one of the things I really appreciated about the life there was that no one cared.

00:18:39 Jeff Feldman

I mean, no one ever asked me any of those questions.

00:18:42 Jeff Feldman

All anybody cared about was, how good you were. And if you were good, no one cared what your last name was, no one cared who your father was, no one cared what school you went to.

00:18:51 Jeff Feldman

It was just a question of how talented you were and how hard you were willing to work.

00:18:55 Jeff Feldman

And that was an environment that really, really did appeal to me.

00:18:59 Russell Buhite

Now, how did you find it socially, were people accepting at that time and in the next decade - of you socially? And I imagine if you integrated into doing outdoor things and being involved in the community, that would help?

00:19:14 Russell Buhite

I know Seattle has a reputation of having a freeze here and difficulty getting to know people, but Alaska seems the opposite to me.

00:19:22 Jeff Feldman

It was the opposite.

00:19:23 Jeff Feldman

It was particularly, to go to Alaska as a law clerk, you instantly were part of a community of 15 other law clerks and their families.

00:19:35 Jeff Feldman

And so we all found each other pretty quickly.

00:19:38 Jeff Feldman

And very few of us had family in Alaska. Almost nobody had family in Alaska. So you kind of make up your own family.

00:19:46 Jeff Feldman

You wind up attaching yourself to other folks, other people's families, and they become your kids, aunts and uncles and cousins, and you'd have holidays and birthdays and such with them.

00:19:58 Jeff Feldman

And that part was very, very easy. Having a social group or a social life in Alaska, there wasn't a lot to do. I mean... how little was there to do? The year when I arrived in Alaska in August of 1975, first of all, I think there were only three movie theaters in town at that time. And one of them was playing The Towering Inferno, a new movie with Paul Newman. Not a good movie. And so the Towering Inferno was playing in August of 1975 when I started my clerkship. And when I ended my clerkship in July of 1976, it was still playing! So there really wasn't anything to do.

00:20:40 Jeff Feldman

I mean, the way I used to describe it to, you know, young people that we were hiring over the years is that there's a lot to do here if you can figure it out on your own.

00:20:49 Jeff Feldman

But if you're dependent upon someone else amusing you, you know, to go out to hear music on a Friday night or something. This is not a good place to be because the options are very, very, very limited.

00:21:01 Russell Buhite

Yeah, it led to development of hobbies and pastimes to keep you safe. Absolutely.

00:21:07 Jeff Feldman

People became, you know, they took up athletic endeavors. They took up recreation and hunting endeavors and fishing. People became carpenters. I know at least three people who are in my peer group who, for whatever reason, started turning wood bowls. I mean, people found stuff to do.

00:21:24 Russell Buhite

Did you have an opportunity to do some traveling within the state?

00:21:27 Jeff Feldman

I did because my practice kind of took me places.

00:21:31 Jeff Feldman

So I did travel around a lot and I tried cases in weird places over the years.

00:21:38 Jeff Feldman

And it was always, that was actually a real treat because as soon as you left Anchorage and you went out into the rural parts of the state, particularly if you got off the road system and into the native villages, I mean, you were places and you were seeing and doing things that literally you could not see or do any place on the planet. Those native villages were, they were like third world countries. And again, I mean this with complete respect, but it was pre-satellite, it was pre-internet. I mean, it was, these folks were living very, very, very contained or their communities were very, very self-contained.

00:22:18 Russell Buhite

This sort of leads me to a question that I had, particularly from that time, 75 to 85, maybe even to 90. What were some of the biggest challenges you had in practicing? I imagine going to some of those small places would be a challenge. Getting your timing right and getting prepared and getting your witnesses wrangled up, all that.

00:22:41 Jeff Feldman

There's so many. There's so many weird stories to be told.

00:22:46 Jeff Feldman

I'll give you one example, though. I handled a case once. It was a plaintiff's injury case. A guy had fallen down the stairs at the Healy Hotel. Healy is a little teeny, teeny, teeny place up near Denali Mountain, National Park. It was called McKinley National Park then. And that tiny little old hotel that was built in the 30s or 40s, he managed to fall down the stairs. It was owned by the Alaska Railroad. So we had to go take depositions at the Healy Hotel. And nobody was in a mood to make the long drive up there. So the defense lawyers and I found a plane, found a plane, chartered the plane, and they flew us into Healy and dropped us off there. And we took the depositions and then got weathered in. And the plane couldn't come back and get us. And there was no indication that the weather was going to break. And none of us wanted to be stuck in Healy of all places for an indeterminate period of time. So one of the lawyers, of course, were representing the Alaska Railroad, which was a defendant in the case. And he said, I'll see if I can figure something out. So you might think that the solution would have been, get us on the next train out of Healy or something, but there wasn't a train coming. What the railroad did have, though, was the railroad had cars. Now, you couldn't, these weren't cars you could drive, and you wouldn't want to drive because the conditions were terrible anyways. We had had a blizzard. So,

what these cars were, they were conventional sedans, but instead of tires, they had railroad wheels.

00:24:21 Russell Buhite

I thought you were going to tell me that.

00:24:23 Jeff Feldman

And so we get on this car that has, a railroad car type wheels on it, metal wheels on the track.

And we put our bags in the trunk and get in the car. And one of us, the guy from the railroad, was driving. But driving involves just pressing the gas. That's it. I mean, you can't steer because you're on the rails.

00:24:49 Jeff Feldman

So you drove all the way from Healy to Fairbanks on the railroad tracks and pulled into the train station in Fairbanks and then flew home on an Alaska Airlines flight!

00:24:58 Russell Buhite

Well, lucky you didn't hit a moose midway, right?

00:25:00 Jeff Feldman

Absolutely.

00:25:01 Jeff Feldman

So lots of weird stuff like that.

00:25:06 Jeff Feldman

I remember, it's a similar kind of story, but I had to go to Cordova, a little fishing town in Prince William Sound for a criminal case. And there was no judge in Cordova. There was no prosecutor in Cordova. So they would ship in a DA, ship in, you know, you would fly in as a defense lawyer

and a Superior Court judge would fly in to cover the place. So I managed to fly in a day before trial with the Superior Court judge who was assigned to the calendar, a guy named Ralph Moody.

00:25:37 Jeff Feldman

Judge Moody was a legendary figure in Alaska. He was from Alabama. He spoke with a thick Alabama drawl. He mumbled all the time. He was very old, although, actually, when I think back, he was probably younger than I am now, for sure. I thought he was old as old. And he hated defendants and defense lawyers. I mean, he was very, very pro-prosecution.

00:25:58 Jeff Feldman

So I had lots of experience with Judge Moody, but nothing very positive. I could tell you two or three Ralph Moody stories, but nothing very positive. So, he and I fly into Cordova, and then the weather closes in again, and we can't get out, and the prosecutor can't get in. So, Ralph Moody and I, young defense lawyer, old, cranky, superior court judge, are stuck at the Reluctant Fisherman Hotel for day after day after day. And we would meet for breakfast. We'd have a long breakfast, and then he'd go back to his room and nap. And then we'd meet for dinner and he'd drink a little bit too much for dinner. And then we would do that day after day. And finally, literally after five days, the weather opened up and we flew home, but we never did get the case tried because the prosecutor never got into Cordova.

00:26:46 Jeff Feldman

I did learn an enormous amount about the history of our state, though, because Ralph Moody had been a territorial lawyer, and he knew where all the bodies were buried.

00:26:54 Jeff Feldman

And after a couple of glasses of wine, he was very happy to share.

00:26:58 Russell Buhite

What a wonderful connection to make, too, to the history of the bar and Alaska in general, to be able to do that just by happenstance.

00:27:08 Jeff Feldman

So to illustrate the mood of Ralph Moody, what kind of a guy he was, when I was a really young lawyer, there was the Alaska Law Review, which at the time was published by UCLA. And I wrote an article that I labored on from on Alaska Search and Caesar Law. And the article came out at that time, all the members of the bar received hard copies of the law review. So the article, the edition came out, the article came out, and literally about two days, it was only two days later, after we had all gotten our copies, but I found myself in Ralph Moody's courtroom arguing yet another completely worthless motion to suppress evidence on behalf of some hapless defendant who'd been trapped in a criminal case. And Judge Moody looked down from the bench as I was earnestly making my argument. And he said, Mr. Feldman, do you have any support whatsoever for that proposition? And I said earnestly, I said, well, your honor, as a recently published and very well-written law review article has stated, and he cut me off at the knees and he said, no, I mean respectable authority. So that's Ralph Moody.

00:28:25 Russell Buhite

It helps to get to know the bar, the member of the, not the bar, but the members of the judicial community personally. But it sounds like, it only helped you so far!

00:28:40 Jeff Feldman

Only so far.

00:28:41 Jeff Feldman

But it kind of illustrates what I was alluded to earlier, which is the schism or the, sort of the eras of the bar and the bench.

00:28:49 Jeff Feldman

Because, by the time you get to the 80s, people like Ralph Moody, meaning no disrespect, were being appointed to the bench.

00:28:57 Jeff Feldman

Younger, differently-educated from different parts of the country with different cultures and values were being appointed. And it changed, it changed the state. I would say it changed the state for the better, but, you know, that may be something that people would disagree on.

00:29:15 Russell Buhite

Can you even remember what your first case was – when that where you were assigned to a significant case? I know it was a long time ago.

00:29:23 Jeff Feldman

Well, I can remember my first case, which is different than my first significant case.

00:29:28 Jeff Feldman

My first case was a case I took on as a public defender.

00:29:31 Jeff Feldman

It was a case I was assigned. It was a shoplifting case. And, I mean, it was a silly little case. A young man goes into Sears at the mall, takes a shirt off the rack, walks out Sears into the mall, into the bathroom that's down the hall, and throws the tags in the trash and puts on the shirt and gets popped. It was a silly little case.

00:29:57 Jeff Feldman

Tragically, the defendant who I represented in that case, unsuccessfully, by the way, the defendant in that case actually went on to much worse. He actually wound up spending, I think, the rest of his life in jail after he committed several really terrible felonies. So that was my first case.

00:30:16 Jeff Feldman

I think my first big case was, I can tell you the answer to this. So there was a legendary lawyer in Washington, D.C. named Lloyd Cutler. Lloyd Cutler had been the founding owner of Wilmer Cutler Pickering. He was White House counsel to Jimmy Carter. I mean, Lloyd was a very, very prominent man of his generation. His daughter, Beverly was my era.

00:30:44 Jeff Feldman

She came to Alaska when I did, and we were public defenders together. Beverly then went on to be a Superior Court judge in Alaska, which she served for a long time. So I was in private practice, brand new into private practice, and one of Lloyd's clients, an Italian insurance company by the name of Riunione Adriatica de Sicurtà. So an Italian insurance company out of Milan had insured the subsea cable that runs between Point Woronzof and Point McKenzie outside of Anchorage and Cook Inlet. And a Chevron tanker had come up Cook Inlet, dropped an anchor, and against all odds, doing the thing you never could do if you had tried to do it, dropped the anchor right on the cable. If you'd been aiming for the cable, you never could have hit it, but they managed to drop the anchor on the cable and broke the cable, which was a major disaster. And the insurance company insured the cable, didn't want to pay. And so Lloyd sent me, as my first major case and major client, the Italians to represent.

00:31:43 Jeff Feldman

And I did represent them against Chugach Electric for a couple of years of litigation.

00:31:50 Jeff Feldman

There were, what I really remember about that case is that we took, we wound up taking, we had scheduled the depositions of the Italians that came over from Milan to Anchorage to be deposed at one of the big conference rooms at a big firm for Anchorage, a big firm in Anchorage, fancy conference room, probably 15 people sitting around the table. And this had been scheduled for months and I had no control over the schedule. And the deposition, the deposition started on Monday. My first born son had been born Friday night at midnight. So I was two days into parenthood and dead tired. No sleep.

00:32:31 Russell Buhite

Yeah.

00:32:33 Jeff Feldman

And so we're getting into this deposition with 15 people at the table, including my Italian clients. And at one point mid-morning, I do the face plant. I just, I just went down completely. I just couldn't stay awake. And I went right down.

00:32:49 Jeff Feldman

I didn't wake up until my head hit the table and then I sprang back up. So that was my first big case. I don't think I impressed my clients in that moment, although eventually I think they were charmed by the fact that I had this little baby and they were very understanding. But that was my first big case. The Italians were disappointed that they could not solve this problem by paying me

to just go to the judge and have a conversation. That was the notion as to how we were supposed to solve this problem.

00:33:20 Jeff Feldman

And I had a hard time explaining to them that this wasn't really the system of dispute resolution in Alaska.

00:33:28 Russell Buhite

Yeah, and it sounds like some of the Lloyd's lawyers that I dealt with early in my career, They didn't understand how it worked in reality.

00:33:42 Jeff Feldman

So the insurance company had been founded by this very wealthy Italian family, the Gastaldi's. Luigi Gastaldi was the heir to the family. He came to Alaska to be deposed wearing clothes that were so much, they were so expensive, I had never seen clothes of such quality in my life.

00:33:59 Jeff Feldman

I lived in Boston, you know, not exactly.

00:34:02 Jeff Feldman

Got along very well with the guy. He came with a fellow named Alistair McLaughlin, a Scotsman who was serving as his translator. So, the entire week when the Italians are being deposed and he was being deposed, he spoke only in Italian and Alistair did all the translations. So, I never talked to him directly except through Alistair. Until, until we get to the end of the week and I had to drive them from the Captain Cook Hotel out to the airport to get the plane home. And as we're driving up Minnesota Boulevard, there was in a little cheesy shopping mall

at that time, an Italian restaurant called One Guy from Italy. And so as we're riding up the street and we pass this restaurant, One Guy from Italy, Luigi turns to Alistair, he hasn't turned to me, but he turns to Alistair and he says, these people, they have no taste. The only words of English I'd heard all week, but apparently he did speak a little bit of English.

00:35:01 Russell Buhite

And maybe was not too impressed, but I imagine he didn't eat there either. And one guy from Italy.

00:35:07 Jeff Feldman

Definitely not.

00:35:07 Jeff Feldman

But he was not charmed by, I mean, given the way the world in Milan looks and the way the world in Anchorage looks, I can sort of understand.

00:35:18 Russell Buhite

What do you think was your most challenging case ever?

00:35:21 Russell Buhite

And you can define that however you want.

00:35:25 Jeff Feldman

Well, the most challenging case by far was, I'd always been opposed to the death penalty. And I woke up one morning when I was in my 50s. I don't know where this idea came from, but it suddenly dawned on me that if I were a doctor and I was standing on the corner and someone got hit and we're lying in the street injured, I would run into the street and take care of them.

00:35:52 Jeff Feldman

And I would do that even if I was an obstetrician, you know, I would still use my skills to take care of them.

00:35:57 Jeff Feldman

And so it dawned to me that I accomplished, you know, a little bit as a lawyer and I'd learned a lot of things.

00:36:02 Jeff Feldman

And maybe it wasn't enough just to oppose the death penalty.

00:36:05 Jeff Feldman

Maybe I needed to actually use my skills to do something more meaningful.

00:36:10 Jeff Feldman

So, I contacted the ABA's Death Penalty Representation Project, which attempts to match lawyers who are willing, volunteer lawyers, with people on death row who need lawyers. And I said I was interested in taking a case. They said, great, what kind of case do you want?

00:36:26 Jeff Feldman

Well, at that point, the Supreme Court hadn't yet decided that juveniles should not be executed.

00:36:33 Jeff Feldman

And I was always intrigued by that issue.

00:36:35 Jeff Feldman

So, I said, well, I'd like to do a juvenile case, and it's hard to get in and out of Alaska.

00:36:39 Jeff Feldman

So, ideally, a juvenile case in a place that's one plane ride from Alaska.

00:36:45 Jeff Feldman

So, that'd be Utah.

00:36:46 Jeff Feldman

So, she said, well, I'll get back to you.

00:36:48 Jeff Feldman

So, about a week later, she calls and she said, I have a case for you. I said, great. I said, is it in Utah?

00:36:53 Jeff Feldman

She said, no, it's not in Utah. It's in Texas.

00:36:57 Jeff Feldman

I said, is it a juvenile?

00:36:58 Jeff Feldman

She said, no, it's not a juvenile.

00:37:00 Jeff Feldman

It's a guy who's 27. So I said, why is he my case?

00:37:04 Jeff Feldman

She said, because the limitations period on him challenging his death penalty is going to expire in two weeks. So today, he's the neediest man in America for a lawyer, for a death penalty lawyer.

00:37:16 Jeff Feldman

So he became our case.

00:37:19 Jeff Feldman

Elroy Chester had committed 5 homicides in the small town of Port Arthur, Texas over the course of six months.

00:37:27 Jeff Feldman

Port Arthur, Texas is 50,000 people.

00:37:30 Jeff Feldman

So you can imagine six, 5 unsolved homicides in a town that small had basically, sort of blown the lid off the community.

00:37:39 Jeff Feldman

He eventually got arrested and charged because he left one victim behind who didn't die. And he had a miserable court appointed lawyer and he was sentenced to die. After he was sentenced to die, but while he was still awaiting execution, which is a slow process.

00:37:59 Jeff Feldman

The Supreme Court decided that you cannot execute intellectually disabled offenders. At the time, they were called mentally retarded offenders, but now we would say intellectually disabled.

00:38:09 Jeff Feldman

And Elroy had always been categorized as intellectually disabled. He'd always been in special ed classes. He had tested out with an IQ of 59, which is substantially below the threshold for intellectual disability. When he had minor offenses, the state of Texas put him in the Mental Retardation Offender Project.

00:38:28 Jeff Feldman

I mean, he was always classified as intellectually disabled until it became apparent that he couldn't be killed if he was intellectually disabled.

00:38:36 Jeff Feldman

So I got in the case after conviction and initiated a *habeas corpus* proceedings, post-conviction relief proceedings, to challenge his death penalty, not his conviction, but just to challenge his

death penalty on the grounds that under the Supreme Court's recent decision in *Atkins*, he couldn't constitutionally be executed.

00:38:56 Jeff Feldman

And I litigated that case for 10 years, two trials, 5 appeals to every court between Beaumont, Texas and Washington, D.C., two runs at a cert petition, each of which came within one vote of being granted.

00:39:13 Russell Buhite

What year was that it...

00:39:16 Jeff Feldman

Well, July of 2013. I took the case 10 years before that, July of 13, 2013.

00:39:22 Jeff Feldman

Texas finally executed him when we ran out of options. Ironically, or not ironically, but the issue in the case was *Atkins* had said you can't execute mentally retarded offenders, but it left it to the states to determine - left to the states to determine a procedure for determining who and who was and who was not mentally retarded. And states varied. Most states adopted the standard, the medical standards adopted by the American Psychological Association. Texas, not a defendant-friendly place, Texas adopted a test that basically said, if you're smart enough to commit the crime, you're not dumb enough not to kill. That was basically the Texas law.

00:40:08 Jeff Feldman

So our issue on appeal was that the Texas standard for mental retardation simply was incompatible with the decision in *Atkins*. The basic argument was, you know, whatever mental retardation means, it can't mean something different in Boston than it does in Beaumont.

00:40:23 Russell Buhite

Well, it shouldn't anyway.

00:40:24 Jeff Feldman

Yeah.

00:40:25 Russell Buhite

But the Supreme Court, I guess, said it did?

00:40:28 Jeff Feldman

Well, it didn't, the Supreme Court hadn't grappled with that issue in *Atkins*.

00:40:31 Jeff Feldman

Didn't, I'm not sure it even saw it coming. So we didn't win because the facts in our case were terrible, really terrible. So the Supreme Court did not accept *certiorari*, even though we did get three out of the necessary four votes.

00:40:44 Jeff Feldman

But then two years later, the Supreme Court had accepted a case that raised the identical issue and actually declared the Texas test for mental retardation unconstitutional.

00:40:55 Russell Buhite

Well, the only reasonable conclusion it seems.

00:40:57 Jeff Feldman

So we had the right issue, we had the right argument. We had the wrong case. I think the Court, I think what happened was there were four liberals on the court at the time. So logically, we should have gotten all four liberal votes and had cert granted. But I think that somebody on the Court, and I don't know who, but one of the liberal justices, held back knowing that if they granted cert and it was the wrong case, they might not get the 5th vote.

00:41:22 Jeff Feldman

And so they just kept their powder dry, waited for a better test case, which was a more sympathetic case.

00:41:27 Jeff Feldman

It was a guy who was mentally retarded. Intellectually disabled, but had only killed one person in the facts of the case were not as grisly as they were in our case. And so they waited for the right case and then they got the right result.

00:41:40 Russell Buhite

How much help did you have in that representation? How many lawyers?

My partner, Susan Orlansky, who still practices in Alaska, worked closely with me on the case.

We took it together. We did not involve the rest of the people in our firm. I think this was just something that Susan and I decided we were going to take on and do. And so we did.

00:42:01 Jeff Feldman

There is a community of death penalty lawyers in Texas that were very, very gracious and helpful to provide us some guidance and instruction and sort of background intelligence on the courts and such.

00:42:13 Jeff Feldman

But it was mostly Susan and me. We spent 10 years, untold amounts of time, about \$100,000 of expenses that we paid out of our pocket over that period of time. And it didn't end well, but it was by far the hardest thing I did. And in many ways, the most rewarding, even though it didn't end well.

00:42:34 Russell Buhite

I think that's significant in its own right that you had the perseverance and dedication to take it that far and interest. I haven't ever handled a criminal case. My son is a criminal defense lawyer in Toronto and a young lawyer, and I think eventually he would want to handle these types of cases.

00:42:57 Russell Buhite

It's got to be daunting to jump into that without the experience and background in that type of case. I imagine you'd handled appeals before then.

00:43:11 Jeff Feldman

We had a lot of appellate experience and a lot of trial experience. And, Susan had been the appellate lawyer at the Public Defender Agency for a decade or more.

00:43:15 Jeff Feldman

So, you know, we definitely were well grounded.

00:43:17 Jeff Feldman

Initially, the trial judge in Beaumont was very suspicious.

00:43:22 Jeff Feldman

I mean, he didn't say, you know, why are there 2 Jewish lawyers from Alaska standing in my courtroom making a mess of this for me? But he was very suspicious initially.

00:43:34 Jeff Feldman

But as we tried the case, day after day, I think he eventually came to understand that we were just doing our jobs as well as we could.

00:43:42 Jeff Feldman

We certainly followed the rules. He appreciated that.

00:43:46 Jeff Feldman

And at the end of the case, even though he ruled against us, at the end of the case, he took 5 minutes. Good, Yeah, no, that's always appreciated.

00:43:58 Russell Buhite

What do you think was your most significant or memorable case? Was it Exxon Valdez matters or anything related to that?

00:44:06 Jeff Feldman

There are two in there. It's sort of polar extremes in terms of both the nature of the cases and what they involved. One was, oddly enough, a trial custody case for a woman who was a reporter at the Anchorage Daily News. I'll circle back to that in a second.

00:44:23 Jeff Feldman

And the other one was the other one was in 2006, BP, one of its oil transit lines in the North Slope developed a leak and spilled a good bit of oil on the tundra. And that triggered both a criminal investigation and prosecution. It also triggered multiple civil cases, including a securities fraud case against the directors and officers of the company. And congressional hearings that I wound up attending.

00:44:54 Jeff Feldman

So the BP Spill case was significant.

00:45:00 Jeff Feldman

And the reason why that child custody case was significant was simply just because of human considerations. The woman was Natalie Phillips. Natalie's story was she had a boyfriend who was a lawyer, oddly enough.

00:45:14 Jeff Feldman

She was 40 at the time. She got pregnant. He wanted her to get an abortion. She didn't want to get an abortion. They broke up. She had the baby. He said, I'm not going to have anything to do with this. She said, that's fine. I don't care. So she had the baby in January. And then in February, she was diagnosed with a very, very aggressive form of breast cancer. So she wanders into my office in March, bald as a cue ball with that translucent look that people who are on chemotherapy have. She just had a double mastectomy. And her ex-boyfriend was now suing her for custody. The theory being, well, you're going to die, so you might as well give me the kid. She wasn't ready to give up the kid or her life quite that fast. So I took that on.

00:45:57 Jeff Feldman

Actually, my co-counsel in that case was Sharon Gleason, who's now the chief federal judge in Anchorage.

00:46:03 Jeff Feldman

So Sharon, Natalie contacted Sharon. She didn't have any money. And neither of us felt alone that we were willing to take this on because we knew it was going to be a thing. It was going to be a big problem. So Sharon and I talked and we agreed, okay, well, let's do this together. We'll

share the burden here. And we did. I actually think it may have been Sharon's last case before she became a superior court judge.

00:46:28 Jeff Feldman

So we tried the case twice.

00:46:30 Jeff Feldman

I tried it once with Sharon, went up on appeal.

00:46:33 Jeff Feldman

We won in the trial court, went up on appeal, reported decision, won on appeal. Then a little bit of time passed, and as Natalie got a little sicker, her husband moved to change custody on changed circumstances. We had a second trial. We also won that, a second appeal, and we won that. So I won the case trial and appeal two times. And then I had about a year or so after the second appeal was concluded, Natalie eventually died. And then of course, the father got custody of the kid because that's the way it works. You know, he was the natural parent.

00:47:05 Russell Buhite

Yeah.

00:47:07 Jeff Feldman

But...

00:47:08 Russell Buhite

I imagine that got a lot of attention and press.

00:47:10 Jeff Feldman

It got a little bit of attention.

00:47:12 Jeff Feldman

You know, it was it was a bit was a wrench, heart-wrenching case. You know, I mean, she was a wonderful person stuck in a miserable situation, obviously. And you know, her former boyfriend who was fighting her was treating her really badly, really badly.

00:47:29 Jeff Feldman

So I'm going to have to use some bad language here, but bear with me. So when Natalie was being treated for cancer.

00:47:41 Jeff Feldman

She had all these wonderful women who were her closest friends. One was a school principal. One worked at Arco, was an engineer. One was an avalanche expert. Really wonderfully talented women who, as women do, they circled around Natalie and they took care of her and they took care of her kid.

00:47:57 Jeff Feldman

And they, I mean, they really did heroic work.

00:48:02 Jeff Feldman

And the ex-boyfriend was being very, very aggressive, wanting to have overnight visitation with this almost newborn child. And Natalie's view was, we can have you come visit, that's fine, but I'm not going to have overnight visitation at this age. And he kept beating on her. And at one point, Natalie turns to him and says, well, you know, Ken, all my friends think you're just being a jerk, which was true. And he turned to her as she reported back to me. And he said, Natalie, all your friends are *****. That was his response.

00:48:35 Jeff Feldman

So she tells me a story. I just kind of file it away. Then we go to trial with Judge Gleason, Sharon Gleason. We had agreed that I would cross-examine Ken. She would handle the experts. We had to divide this up. So I get Ken on the stand. And the trial judge was Peter Mihalski, who's now retired. But Judge Mihalski was a great judge for whom the thing that was most important was civility. I mean, you could commit, you could do a lot of bad things in life.

00:49:00 Jeff Feldman

But the one thing he would not abide was just being impolite and discourteous to people, especially in his courtroom.

00:49:07 Jeff Feldman

So I have Ken on the stand, and I ask him the following question: "So, Mr. Roberson, do I understand that you want joint custody?" They said, "correct." I said, "Do you understand that joint custody requires that you and your wife have the ability to make or your girlfriend have a ability to make decisions jointly and cooperatively for Dash's care?"

00:49:33 Jeff Feldman

"I'm a lawyer, counsel. I know what it means."

00:49:37 Jeff Feldman

"Well, in the period of time as we've, you know, gotten close to trial, have you and Natalie had any difficulty making decisions cooperatively without requiring court interference?"

He said "no".

00:49:49 Jeff Feldman

I said, "well, wasn't there a time sometime back when you had some harsh things to say about the women who were caring for Natalie and caring for your son?"

00:50:00 Jeff Feldman

He said, "I think I know what you're talking about."

00:50:02 Jeff Feldman

I said, "well, how did you describe these women who were caring for Natalie and caring for Dash?"

00:50:11 Jeff Feldman

"I'd rather not say."

00:50:15 Jeff Feldman

"I understand that, but I would rather that you do say."

00:50:18 Jeff Feldman

"So tell Judge Mahalski what you, how you describe these people."

00:50:22 Jeff Feldman

"I don't want to do that."

00:50:24 Jeff Feldman

So Judge Mahalski leans over to the witness stand and he says, "Mr. Robertson, there's a pad in front of you."

00:50:30 Jeff Feldman

"Yes, there is, Your Honor."

00:50:32 Jeff Feldman

"Write down what you don't want to say." Like a four-year-old was being forced to write something.

00:50:38 Jeff Feldman

Writing down, he hands it up to the piece, hands the piece of paper up to Judge Mahalski.

He opens the piece of paper and looks at it, folds it back up, hands it back to Mr.

Robertson. Turns to me and he says, “you may continue, Mr. Feldman.”

00:50:54 Russell Buhite

You had to think that was a risk to ask that question in open court, right?

00:50:59 Jeff Feldman

I did, but we were where we were, so he says, “you may continue.” And then Mr. Robertson and I proceeded to have what I think wound up being a 5 or 10 minute colloquy about what he meant by that.

00:51:16 Jeff Feldman

So my next question was, “So Mr. Robertson, would you tell Judge Mihalski, please, what qualities these women had that you thought qualified them to be labeled *****?”

00:51:30 Jeff Feldman

So we had a long colloquy about the meaning of this term and what he intended by it, which obviously did not work out very well. And after 5 or 10 minutes, Judge Mihalski turned to me and said, I think you've made your point.”

00:51:40 Russell Buhite

You've made your point.

00:51:45 Jeff Feldman

So it was it was a, you know, I mean, I count that. I mean, listen, 2 trials, 2 appeals, another case where I sunk a boatload at a time and never got paid. But I count that as one of the cases that is most meaningful to me because I really feel like I helped somebody who was in a desperate situation. And thankfully it worked out well. So I'm grateful that it worked out well.

00:52:07 Russell Buhite

It's evident to me from your description of your career so far and review of your CV and so forth that you've taken on a variety of types of cases. And for me, that has been part of what's kept me going in my career is learning new things. And would you agree with me that that's something that's helpful in maintaining this obviously very stressful career?

00:52:35 Jeff Feldman

Yeah, absolutely.

00:52:35 Jeff Feldman

You know, when I got out of law school, I wasn't worried about making money.

00:52:39 Jeff Feldman

because I was so broke that I couldn't get any poorer.

00:52:43 Jeff Feldman

I would have had to, I don't know what could have happened, but I was in debt and I didn't have anything.

00:52:48 Jeff Feldman

So I figured, you know, I've got nowhere to go but up financially. So all good. And I didn't worry about being a good lawyer.

00:52:55 Jeff Feldman

I didn't know that I'd be a great lawyer, but I looked around Alaska and I saw enough lawyers that were of meager ability that I figured, yeah, I may not be the best, but I'll be okay. But you can make a living.

00:53:04 Russell Buhite

Yeah.

00:53:04 Jeff Feldman

I can make a living. So I figured I didn't worry about money and I didn't worry about being a decent lawyer. What I was a little concerned about was boredom because I knew there was something about me and the way my brain is wired that if I did the same thing over and over and over again, eventually I would get a little tired of it. So the variation in cases actually was intentional. But most it was intentional just because it combined, I have a certain, my associates would say, I have a certain annoying kind of curiosity.

00:53:40 Jeff Feldman

They were not as enamored as I was about the variation in our work doing, you know, construction case one day and securities case the next day and a criminal case the next day.

00:53:50 Jeff Feldman

Anyway, I was curious and I was concerned about being bored. So I did seek out the variety of work. And, I don't know, I was never reluctant to jump into something that I hadn't handled before. So I figured just, I mean, there was a certain inefficiency to it because I never felt comfortable charging clients for the time I had to spend boning up and learning a new area of law. But I was fine with that. I mean, I just figured that was just part of the cost of doing this the way I felt like I wanted to do it. And not everybody in my firm did that.

00:54:23 Jeff Feldman

I had one partner, Eric Sandwich, who went on, eventually went on and became a Superior Court judge. But Eric had almost exclusively a sort of high-end personal injury practice. And our associates, who were enormously bright, I mean, they were very, I mean, they were better credentialed and better educated and smarter than I was.

00:54:44 Jeff Feldman

I always believed in marrying up, to be honest with you. So that's what I did. But I don't, I think at times they found my penchant for taking cases of vastly differing subject matters. I think they found it not as thrilling as I did. I mean, we were good-natured about it and they did what we asked them to do, what I asked them to do. But, but I eventually understood that what appealed to me, obviously, is not necessarily what appealed to everybody.

00:55:14 Jeff Feldman

And so eventually, when people, when lawyers grew up, when they got a little older, they tended to drift toward their lane, whatever they wanted their lane to be.

00:55:22 Russell Buhite

Yeah. Do you think that that's in part what led you to be a teacher of the law as well, a professor?

00:55:29 Jeff Feldman

I don't know. I mean, I'd always done a lot of CLE stuff. So I always liked the exercise of trying to figure out a subject matter and figure out how to explain it to someone else. So the exercise of that I found satisfying.

00:55:43 Jeff Feldman

But there is, as I came to learn, I mean, there's a big difference between being helpful, informative, and charming for two or three hours versus 30 or 40 classes over the course of a quarter or semester. So it's a different exercise.

00:56:01 Jeff Feldman

And I didn't come to Seattle with the intent of teaching. I came to Seattle because my wife got ill when we decided we needed to be here. And then after she passed away, I just didn't want to go back to Alaska without her. It was a curious thing because it was counterintuitive. One would think that maybe the most logical thing would be to go back to where your base was, where your friends are, where your life was. But by that point in time, my son had just started law school here in Seattle at the University of Washington. And it felt like the center of gravity changed. So I stayed in Seattle and attached myself to a law firm down here, a firm that I had done several cases with over the years and where I knew people.

00:56:41 Jeff Feldman

It wasn't home, but it felt closer to home than other places. And I didn't really have an intention to teach except one of my colleagues at the firm was a good friend of the woman who at the time was the dean at the law school at the University of Washington. And I happened to say something in passing to him about teaching. And he said, if you'd like, I can introduce you to Kelly, the dean at UW, and you can go talk to her. And I said, that's fine. So I didn't really have a mission, but I went over and visited with Kelly. And somehow, despite the fact that I was an older, gray-haired, aging out trial lawyer, and she was a lesbian law school dean, we hit it off marvelously.

00:57:23 Jeff Feldman

I really, really enjoyed her and she enjoyed me.

00:57:26 Jeff Feldman

So she gave me my first opportunity to teach. And what I quickly figured out was that, although I hadn't burned out as a lawyer, I was at a stage in life where I actually, 20 years earlier, I would

not have opted to teach in lieu of doing. 20 years earlier, I would have wanted to be the guy in the batter's box, not the manager.

00:57:51 Jeff Feldman

But by the time I got to be, mid 60s, I think a little bit of that had changed and certainly losing my wife changed my focus as well.

00:58:00 Jeff Feldman

And I just felt like I had gotten to a point where showing somebody else how to do something or explaining to someone else how to do something actually wound up or felt more satisfying at that time in life than continuing to do it.

00:58:15 Jeff Feldman

So I still have, believe it or not, I still have 3 cases remaining. I'm co-counseling all three of those cases with my son, which is kind of a joy.

00:58:26 Russell Buhite

I saw that it looked like he., I saw a Feldman listed in the firm and I figured it was your son.

00:58:32 Jeff Feldman

Yeah.

00:58:33 Jeff Feldman

So he had been, he had been at Stoel Rives for four years and was ready to leave the big firm life behind and have a little more independence.

00:58:43 Jeff Feldman

So I still, I'm still doing a little bit of practice, but I'm not taking on a whole lot of new stuff these days.

00:58:49 Russell Buhite

Have you had an occasion to get back to Alaska to practice in the last 10 years?

00:58:54 Jeff Feldman

Well, the cases I have are still Alaska cases. I'm doing the Pebble Mine case, which is an Alaska case, and a couple of others. But I haven't been to Anchorage for a while. I'm going to go up twice this summer, so I'll get back there this summer.

00:59:10 Jeff Feldman

But I haven't had a need to be up there for a little bit of time now.

00:59:13 Russell Buhite

Yeah, well, I imagine you've seen quite a bit of change in the legal system and the bar in Alaska over the years, do you have an opinion as to whether the judicial system and the legal community, the changes in those things have been for the better or for the worse?

00:59:33 Jeff Feldman

I have impressions, but I don't know how fair they are. I think that's a question that would be better put to someone who has uninterruptedly been there. Because I'm a little concerned that I'll answer this. I'm going to answer the question, but I'm a little concerned that my answer - I don't know if my answer is going to be accurate or whether it's going to just reflect a tendency on the part of many of us to idealize our own pasts.

00:59:58 Russell Buhite

Right.

00:59:59 Jeff Feldman

I think somehow, you know, it glows a little brighter than the present. Here's what I'll say about the difference now in Alaska versus the difference when I was there. The main difference, first of all, is the absence of money. You know, Alaska is not awash with money the way it was in the

1970s. And that translates both into the work that's available, the kinds of cases that are available, the compensation levels that are available. that are available, the resources that the court has, the caseloads that the court has. I mean, the caseloads that public defenders carry now in Anchorage are multiple times greater than what I carried. You know, when I was a public defender, we had, I think when I was doing misdemeanors, I had 30 cases. When I had felonies, I had 12 or 14 cases. And I think if you talk to a public defender today, they'll tell you that their caseloads are four or five times that size.

01:00:50 Jeff Feldman

And so there's the absence of money has a lot to do with how life feels professionally. And I think that I'm not sure about this, but I think it's the case that the state is attracting different lawyers, new lawyers, than was true in the 70s, 80s, 90s. I think part of that may be economic related as well, but I think there's just, there aren't as many opportunities for young lawyers as there was when I entered the profession.

01:01:22 Russell Buhite

Maybe, correct me if I'm wrong, but it seems to me that some of the larger firms, particularly the Pacific Northwest firms, have opened up offices in Anchorage and populated them with young lawyers who may or may not have connections.

01:01:37 Jeff Feldman

Yeah, for sure that has happened. But, I mean, in the 70s and 80s, the Bar was admitting, we gave the bar exam twice a year and, something like 80 to 100 or 110 applicants each administration for the test. So we were admitting 200, 250, whatever, 200 new lawyers a year, year after year after year. I haven't looked recently, but I'll bet that the successful applicants these

days maybe 30 or 40 twice a year, much, much, much smaller. So much, much smaller in migration of new lawyers.

01:02:12 Jeff Feldman

And I think if you were able to get the demographic information, I think you'd find that they're coming from different places. They're not all whiz kids coming out of Harvard and Yale to clerk for the Supreme Court anymore. I mean, we're still getting some people who fit that profile, but it's different.

01:02:32 Jeff Feldman

And in saying that, I'm not suggesting that, if you happen to come to Alaska from, pick a State University of Wyoming Law School, that somehow you're a lesser lawyer. That's not the case at all. Not everybody came out of Harvard's a genius, but it changes sort of the vibe of the community. And again, without passing judgment as to whether it's better or worse, it's just different. And the size and the economics are definitely different.

01:03:03 Jeff Feldman

I think I had a very easy ride, to be honest with you. I don't think I realized that at the time, but I didn't have to struggle ever, financially, getting cases, getting work. And I don't think it was unique to me. I think that in my generation, that was sort of what it was. I mean, I think, I mean, how much of a land of opportunity was it?

01:03:24 Jeff Feldman

When I was clerking, I'd only been in the state for three or four months. I'm in my office one day. In those days, there was no courthouse security, so you could just take the elevator up to the 5th floor of the Supreme Court. It wasn't just walk around. So I'm in my office one day. Who comes

in the office? Guy named Avrum Gross. Av Gross was the Attorney General. He said, hi, just wanted to introduce myself and let you know that if you'd like a job after your clerkship is over, we'd be happy to talk to you. And you didn't go out and apply for jobs. Firms and agencies contacted you and offered you jobs. I mean, you had a license, you had a job.

01:04:03 Russell Buhite

Yeah, much more interconnected, I would say, than now. Well, it's interesting to hear about the changes over the years in the community. And at what time, what year did you move down to Seattle?

01:04:21 Jeff Feldman

2013.

01:04:23 Russell Buhite

So you were there during, at least in Alaska, during the heyday of things going well and could start to see things changing by 2013, I imagine. And what do you think, and you may or may not have adequate information to assess, but how do you feel about the merit retention system for judges, having had interactions with judges quite a bit over your career in Alaska?

01:04:54 Jeff Feldman

Yeah, I mean, I've always felt that it's the Minnesota plan, you know, for judicial selection. And I always thought that was a gift that the framers of the Alaska Constitution gave us. I mean, if we were electing judges in contested elections, the, I mean, you may like the Alaska judges, you may not like them, you may think they're smart, you may not think they're smart, but I can absolutely promise you that if we had contested elections, the judiciary would look very different. You'd have people running for judicial positions, promising to be tough on crime and do the things that people get people elected. They wouldn't be the same people. And I don't think

the judiciary would be as good. I mean, if you look historically over the course, ever since statehood, if you look at the history of the judiciary in Alaska, remarkably few instances of judicial misconduct, corruption. I mean, it's been a pretty good run for an awfully long time. And it would be, I think, an unfortunate thing if that system or tinkered with.

01:05:59 Jeff Feldman

Yeah, I had been on the Judicial Conduct Commission for a long time, for 13 years. I noticed that, yeah. And one of the things I felt like I needed to be careful about is that there were so few cases of judicial ethics issues.

01:06:16 Jeff Feldman

There were so few of them that when one came along, you had to be a little careful not to inflate its seriousness. Because if the only thing you ever see is misdemeanors, you think misdemeanors are the worst thing in the world. If you've never seen a homicide, you might think that an assault is really, really terrible. But if you've been trying homicides, an assault case comes along and, oh, fine, you go through five days in jail and we're done.

01:06:42 Jeff Feldman

So, you know, that was my experience on the Judicial Conduct Commission, which was we had very, very, very few cases of significant misconduct. We had, you know, occasional relatively minor instances that needed to be corrected.

01:06:55 Russell Buhite

Well, having practiced in several states, started out in Oklahoma and then in Florida for a long time that had elections for judges, I would prefer to have a merit-based system and oversight like Alaska has over that, I can tell you, and for the reasons you've stated.

01:07:21 Jeff Feldman

And I had that same experience, when I was in Texas in that death penalty case, of course, that was a judge who'd been selected in a contested election with lawyers and law firms making substantial contributions.

01:07:35 Russell Buhite

I can remember them coming by the office, campaigning at firms.

01:07:41 Jeff Feldman

It just feels, I mean, especially if you live in a state that doesn't have that, it feels very uncomfortable.

01:07:48 Jeff Feldman

So I'm grateful that I got to practice in a place where the judiciary was selected differently. And believe me, especially in the early years, it's not like I think every judge that we had was a legal giant. There were some people that left a lot to be desired, but on balance, it was a very good system. And I can tell you, especially the last 15, 20 years of my career in Alaska, I did a lot of work as local counsel for big firms from big cities who had cases in Alaska. So Kirkland Ellis in Chicago and Vincent Elkins in Houston. Ropes and Gray in Boston. And I think all those big city lawyers and big firms routinely came to Alaska thinking that they were going to be dropped into a world with a bunch of rubes who didn't know what they were doing. And I can tell you that multiple times, I don't know, 5, 6, seven times, but I was multiple times, I heard comments from my colleagues, who had come from big cities, that were complimentary of our judges.

01:08:49 Russell Buhite

Yeah, that's been my experience as well when I've been up in Alaska arguing cases.

01:08:53 Jeff Feldman

I mean, I don't think it's me idealizing the world in which I live. I mean, if there's a reality check there that makes me feel like that actually was the case.

01:09:02 Russell Buhite

They're doing it right.

01:09:04 Russell Buhite

Well, shifting gears a little bit, I noticed from your bio and from what you've said today that you've spent a fair amount of your career giving back to the community, and not just the legal community, but other aspects of the community.

01:09:18 Russell Buhite

And I see that you've dealt with issues like Planned Parenthood and reproductive freedom and

01:09:27 Russell Buhite

I imagine you've been involved with the ACLU also from your bio.

01:09:35 Russell Buhite

Can you talk a little bit about that experience and how it has affected your legal outlook and personal outlook over the years?

01:09:46 Jeff Feldman

Yeah, this is a place where I'm going to wind up idealizing the past because that's an area where the past feels a little better than the present. I've told, you know, one of the courses I teach is constitutional law and it includes reproductive rights. And I'm always reminded that I was in law school when Roe v. Wade was decided. And I was back in law school teaching when Roe v. Wade was overruled.

01:10:14 Jeff Feldman

So the 50-year arc of reproductive rights in our country sort of completely aligns with my life as a lawyer.

01:10:21 Jeff Feldman

And what made it interesting in Alaska was that, you know, Alaska, as I'm sure you know, has in Section 22, an express protection of privacy. It's not implied by the due process clause. It's an express provision.

01:10:37 Jeff Feldman

And that gave the Alaska Supreme Court a sort of a foothold for developing a body of jurisprudence on reproductive rights based on the Alaska constitutional provision, not based necessarily on the federal constitution. And so I did litigate a bunch of reproductive rights cases before the Alaska Supreme Court, and they all were resolved to our favor, which I'm grateful for, owing in part to the structure of the Constitution, and owing in part to the fact that we had a relatively young and receptive court for those arguments.

01:11:15 Jeff Feldman

It's been troubling to see what's happened with that issue. And of course, now I have to teach - I still teach *Roe v. Wade*, but I also teach Dobbs, which overruled Roe v. Wade. And it makes me sad. You know, I mean, I don't, it makes me sad that the law moved in that direction.

01:11:35 Jeff Feldman

One of the things I talk to my students about, because, you know, I teach at a blue law school in a blue state.

01:11:40 Russell Buhite

In a blue state, yeah.

01:11:41 Jeff Feldman

You know, the sympathies of the state, of the students are not hard to figure out.

01:11:47 Jeff Feldman

And when they express their unhappiness with Dobbs,

01:11:51 Jeff Feldman

What I try and remind them is that, it didn't happen overnight.

01:11:55 Jeff Feldman

People that didn't like Roe v. Wade spent 50 years building a political apparatus, starting at the local level and reapportionment issues. And eventually that translated into legislatures, which translated into judicial appointments. But it took a 50-year sustained effort to eventually change the law. So I then put the question to them, which is, I know you're unhappy with Dobbs, are you sufficiently unhappy that you'll sustain that commitment for the rest of your life, for the next 50 years? I mean, you're gonna be as old as I am, maybe, by the time this changes again. You know, if you're lucky, maybe it'll change faster. And I mean, I wanna plant that seed so they know that change is not only hard, but it's really, really, really slow.

01:12:38 Russell Buhite

It takes commitment and it takes dedication and perseverance, as you said.

01:12:45 Jeff Feldman

And it's hard.

01:12:46 Jeff Feldman

I mean, as a lawyer, as a lawyer, we all know that, in any given case, somebody's going to win, somebody's going to lose. But it takes a certain kind of person to take on a range of work, a type of work, where you're going to consistently lose over and over and over again in pursuit of a longer-range goal.

01:13:09 Jeff Feldman

It feels at times it feels a little bit like Sisyphus, to be honest with you, nudging that rock up the hill. But that's what that's what that really is, I think, a correct assessment of how this all works. And I feel like I ought to alert them to that.

01:13:26 Jeff Feldman

There's no reason to feel hopeless.

01:13:28 Jeff Feldman

But if you are thinking that this is something you want to focus on or dedicate some portion of your life to, just be prepared for the fact that this is all going to take time.

01:13:40 Russell Buhite

It is. And as lawyers, particularly as litigators, we're used to having a case maybe last two or three years, or if maybe you're a little unlucky, 5 to 10 years, but not 40, 50 years, unless you've got the Bhopal disaster to deal with or something.

01:13:55 Jeff Feldman

I mean, the only person in my lifetime who has been able to accomplish substantial structural change very, very, very quickly is Donald Trump.

01:14:05 Russell Buhite

Yeah.

01:14:07 Jeff Feldman

I think, I mean, it pains me to say this, but I think he will wind up being the most consequential president of my lifetime.

01:14:13 Russell Buhite

Yeah, in terms of effect.

01:14:17 Jeff Feldman

So anyway, I did take on those cases.

01:14:22 Jeff Feldman

I used to, you know, with my partner Susan and I always did a good bit of pro bono work.

01:14:29 Jeff Feldman

That's where her heart was. There was a year when the National Law Journal gave us a little award for our pro bono commitments. And they interviewed us for the article. I described my little firm as being built around the Robin Hood business model that we sort of did work for people like BP and were paid well for it. We took some of those resources to do other things that we wanted to do. I didn't want to do good stuff. But I also wanted to put my kids through college and have a life.

01:15:02 Jeff Feldman

I mean, I admire people who were willing to work in the public interest exclusively, that's a huge commitment, but that wasn't what I wanted to do. I wanted to have a life and I wanted to be financially secure, but I also wanted to do what we could. And so, probably over the years, I think when the article came out at that point, we were 15% of our bill time was pro bono time, pro bono cases.

01:15:27 Jeff Feldman

And there was no rhyme or reason to the cases we took. I mean, we took reproductive rights cases because they were there and they needed to be taken. What happened was there was an obstetrician in Anchorage who was performing abortions and had been targeted by the right to life.

01:15:43 Jeff Feldman

So, you know, as is always the case with lawyers, I mean, you don't stand out on the corner with a sign that says, you know, anybody need a lawyer? You know, somebody comes and, you know, asks for help.

01:15:54 Jeff Feldman

So, Natalie, the child custody case, she asked for help. The reproductive rights people, they needed help. So we took it on. The death penalty case is really the exception, which is it's a case where I decided this is something I wanted to do and I reached out to find the case that would allow me to do it. But everything else was really just a product of something happening that triggered a case and an issue. We were generally receptive if it was a worthwhile thing to do.

01:16:24 Jeff Feldman

We also did a fair bit of political work.

01:16:27 Jeff Feldman

No one ever, you know, appointed me as counsel for the Democratic Party, but I wound up being, you know, the lawyer for the Democratic Party on issues of reapportionment and election challenges and candidacy challenges. So we did a fair bit of that work as well, some of which paid, no, some of which didn't.

01:16:45 Russell Buhite

Yeah. Now that'll lead to a target on your back, apparently, as a firm.

01:16:51 Jeff Feldman

Apparently.

01:16:51 Russell Buhite

Not you, but others.

01:16:54 Jeff Feldman

But not all firms, because I was very, very grateful and respectful that firms like Perkins Coie pushed back potentially, and they should be given credit for that.

01:17:04 Russell Buhite

Yeah.

01:17:06 Russell Buhite

Shifting gears to a little bit more. Broad question. What do you think makes an effective lawyer these days and a good attorney in the 21st century, at least, do you think?

01:17:23 Jeff Feldman

You know, you would think since I'm training people to be lawyers in the 21st century, I would have a good answer to that.

01:17:28 Russell Buhite

Yeah.

01:17:29 Jeff Feldman

But I don't, because, you know, I think what makes a good lawyer is the same thing that makes a good judge, which is someone who has a really, really good head and a good heart. And a good heart alone and a good head alone is probably not going to get you where you need to be if you

want to really achieve excellence in the performance of the work that you'll be doing. So again, you've heard me say this several times now. I am cautious about idealizing my own life or my own experience. But generationally, what do I see in the next generation of lawyers? I teach people that are as smart or smarter than I was when I was their age.

01:18:16 Jeff Feldman

Better informed than I was because everybody's better informed than we were in the 1970s.

01:18:23 Jeff Feldman

But for example, I never heard the words work-life balance until I was about 60 something.

01:18:30 Jeff Feldman

I mean, it wasn't something anybody talked about or care about. Students care a lot about that. And, I mean, I was of a generation that when I took a case on, and I don't think I was unique in this respect, but when I took a case on, I would wake up at 2 o'clock in the morning worrying about something. I routinely worried about people's problems more than they worried about their own problems. I'm not sure that that's the way my students are wired.

01:18:59 Russell Buhite

Do you think that's a good thing or a bad thing?

01:19:03 Jeff Feldman

I don't know.

01:19:03 Jeff Feldman

That's why I don't want to idealize. I mean, maybe they'll be better adjusted and happier people and be less prone to burnout. I don't know. But I know that part of what drove me was the sense of responsibility that I had, that people drop their problems on my desk and then they were mine.

01:19:20 Russell Buhite

And you got paid for it too.

01:19:22 Jeff Feldman

I got paid for it, but it wasn't it wasn't just the money. I mean, I definitely wanted to get paid and, appreciated that. But once I took on the matter, whether, like Natalie's case, I mean, I wasn't getting paid for it and Elroy Chester's case.

01:19:38 Jeff Feldman

Once I took it on, everybody got the same quality of work.

01:19:42 Jeff Feldman

Whatever was our maximum ability, that's what everybody got.

01:19:45 Jeff Feldman

I mean, BP got the same thing out of me that Elroy Chester did, even though they were paying me a lot more money, obviously.

01:19:52 Russell Buhite

No, and I think that's to your credit.

01:19:55 Jeff Feldman

And I don't know if that ethic or that perception is the same. You know, my son's a lawyer, and I'd be happy if he heard me saying this, so I hope he never sees this tape.

01:20:06 Jeff Feldman

But he's a very, very talented lawyer. He's a much better writer than I am. I have enormous appreciation and respect for the lawyer that he's become. And I love working with him. But a big difference between him and me, and I think this is generational, is that for me, being a lawyer

was not what I did. Being a lawyer was who I was. It defined me as a human being. It still does, to be honest with you. It's who I am. And I think for my son and for most people of his generation, he likes being a lawyer. He likes the work that he does, but I don't think it defines him as a person. I don't think it's who he is. I think it's what he does. It's what he chose to do.

01:20:46 Jeff Feldman

But I think, you know, if someone had come along when I was 40 and said, you can't practice law anymore, if I had gotten disbarred, I would have had a nervous breakdown because I wouldn't have known what else to do with my life.

01:20:56 Russell Buhite

And I think you could probably say that about many vocations these days and this generation, that it does not define them, their career.

01:21:05 Jeff Feldman

I think it is generational.

01:21:06 Jeff Feldman

My friends who are doctors, share similar observations.

01:21:10 Jeff Feldman

And again, I just want to be cautious here because, I think there is this capacity for us to just to think that the people that come behind us just aren't as good as we are, or they don't have what we had or something.

01:21:21 Jeff Feldman

So, I respect and I genuinely love my students.

01:21:26 Jeff Feldman

And I think many of them are going to go off and have enormously impressive careers.

01:21:31 Jeff Feldman

But I just think that the, I think part of it for me was the values I grew up with.

01:21:36 Jeff Feldman

But I didn't save the world as a lawyer.

01:21:40 Jeff Feldman

It would have been grandiose to think that I could have.

01:21:43 Jeff Feldman

But actually, coming out of the 60s and then going to law school, which is what I did, my generation felt that we had a mission to save the world. That we were so dissatisfied with what our parents' generation had done, especially with the Vietnam War, that we were committed, that we were just going to do better. Well, the sad truth, obviously, is that we've not done better. I think we've actually done worse, but we thought we were going to do better. And I think that implanted in me and a lot of other people as well, this seed that morphed into this sort of heightened sense of responsibility and commitment that made it ours, that made it very personal, made the practice look very personal.

01:22:25 Russell Buhite

And made you feel like you described a little while ago- you would have had a nervous breakdown if you would have lost your career at age 40, it became your life. And I'm not saying it's a good thing or a bad thing either, this new generation's focus on balance. I think that maybe they're a little happier and less stressed than we were.

01:22:49 Jeff Feldman

I hope so. I mean, I hope if there's a change that's occurring, I hope it yields some positive qualities.

01:22:56 Jeff Feldman

But when you ask, what would make a good lawyer in the 21st century, among the... I mean, it's tempting to say, well, you got to work hard and you got to be smart and you got to be disciplined and be ethical.

01:23:07 Jeff Feldman

I mean, all the normal stuff.

01:23:09 Jeff Feldman

But, you know, among the things that makes that really a more difficult question to answer than we might think is that I think back about the changes that occurred in my lifetime as a lawyer. I started as a lawyer going to the library and pulling out the Digests just to find cases. And shepardizing. It was all analog. It was all pieces of paper.

01:23:29 Russell Buhite

That's right.

01:23:30 Jeff Feldman

And look what's happened now. I mean, I didn't touch a keyboard for the first 15 years of my practice. I dictated everything in a little dictating machine.

01:23:40 Jeff Feldman

So you think about the changes that's occurred in my lifetime, and they're enormous, many of which having to do with technology. And then you think about what's occurring right now in the arrival of artificial intelligence.

01:23:52 Jeff Feldman

I think it's reasonable to assume that the practice of law will look a lot different 20 or 30 years from now than it looks right now.

01:23:59 Jeff Feldman

And so when you ask what will it require, what will being a great lawyer require in the 21st century? I don't know, because I think it's going to require some of the same things that we have relied on. Certainly intelligence is important. Ethics will always be important. But I think that there are skills that we may not even know we need that are going to define what a lot of lawyers wind up doing.

01:24:23 Russell Buhite

No, I think that's right. We have to be open to technology. And I've experienced the exact same change over my career. I started in 87, so after you did, but reading books and then, now, to the age of AI and how that will change things.

01:24:41 Russell Buhite

I had a case in Alaska recently where my opposing counsel filed a brief with the federal court that had 13 hallucinated cases in it.

01:24:51 Jeff Feldman

So I've had the opposite effect or opposite experience, which is I gave a midterm exam a couple of weeks ago on a constitutional law question. And I was just kind of curious, what AI would do with this and are students accessing and what would they get? And will I recognize a student answer that's been AI generated if I see it? So I took the entire exam, one fact pattern that was one single space paged, and I just copied and pasted it into the search bar, with a query that said,

please generate an answer not more than 1,800 words that would be written by a law student.

That's all it said.

01:25:26 Jeff Feldman

And as soon as I hit the send button, literally within a second of when I hit the send button, it starts scrolling the answer. And I get an 1,800, not more than 1,800 word answer that was flawless. I mean, it was flawless. What it really served to give me was it told me a little bit about what AI was capable of doing. It also gave me assurance because when I read my students' exams, they were so lame compared to what AI generated. There was no chance any of them had used AI to write their exams.

01:25:55 Jeff Feldman

So I felt good about that.

01:25:57 Russell Buhite

Makes you wonder whether some of our jobs might be obsolete in 10 years.

01:26:02 Jeff Feldman

I don't know what to think about it. I mean, we don't think that we used to find cases manually with the digest as such. No one thinks that legal research is less valid now because West tells us what cases to go look at.

01:26:16 Jeff Feldman

So, should I get wrapped around the axle at the possibility that AI will be generating briefs for people? Not really. I mean, if they're checked and people do the work they're supposed to do to make sure that they're not fraudulent, and if they're better written and better reasoned than what people are capable of doing on their own, then maybe that's a good thing. I don't know. I mean, the purpose of a brief is not for a lawyer to, you know, write the great American novel. The

purpose of brief is to provide the judge with information that will help the judge decide the case correctly, presumably.

01:26:50 Russell Buhite

So however you get there, but to me, to keep that level of intellectual involvement in your cases and briefing, I think you've got to carefully analyze and review the content of what you get from AI and make sure that it's accurate and proper.

01:27:12 Jeff Feldman

I think that's all true. I think that I'm sitting here, though, looking at you on the screen, looking at me on the screen, and I'm thinking, you know, if someone, if you put this recording in the archives, they're going to laugh at us. They're going to laugh at these two old guys. They didn't know what was coming down the pike, you know. And I just feel like some of this is going to seem almost silly.

01:27:35 Russell Buhite

Oh, yeah, clearly.

01:27:36 Jeff Feldman

We get there.

01:27:40 Russell Buhite

Enough philosophical questions, but it's been an absolute pleasure talking to you today and learning a little bit about your career and quite a distinguished career. Do you know what you're going to do after you quit actually practicing? Do you intend to quit taking cases in near future?

01:28:01 Jeff Feldman

I keep saying I'm going to stop and then as soon as I finish off something, somebody comes along and dangles something else in front of me. So I haven't quite stopped. I think realistically, I'll probably finish off my existing cases and I'll probably stop doing casework in the next couple of years.

01:28:21 Jeff Feldman

I don't know how long I'll teach for. I mean, I've always said that if I wake up some morning and I don't feel like I want to do this, then I'll stop. But right now, I find it interesting, energizing.

01:28:36 Jeff Feldman

I really do enjoy the students.

01:28:39 Jeff Feldman

I love the experience of having a student ask me a question in class that I don't know the answer to. No, that's good. Because it's a young person. Yeah, to see a young person and they don't even realize how smart they're being. They're just asking a question. They don't know it's a really complicated, interesting question. That's just what's on their mind. But to see a young person put some pieces together and then ask a really tough question like that, just makes me smile.

01:29:04 Russell Buhite

No, that's good.

01:29:06 Russell Buhite

I grew up in a professor's family, university professor's family for many years.

And you're forever learning from the younger generation and challenged by them. And you can give back in that way.

01:29:24 Jeff Feldman

I enjoy it immensely. If my, I'll freely confess that if my wife hadn't passed away this last chapter of life, when most of my friends and colleagues are retiring and doing the things that retired people do, I suspect that this chapter of life would have wound up being a good bit different.

01:29:43 Jeff Feldman

But, you know, I'm here. I'm on my own. And teaching fills a nice space in life. So I'm happy.

01:29:54 Russell Buhite

That's good. Very good.

01:29:56 Russell Buhite

Well, I appreciate your time. And I don't want to keep you any longer. But very nice to talk to you.

01:30:04 Jeff Feldman

You're a patient and curious man, which are two very good qualities.

01:30:08 Russell Buhite

No, I appreciate that. I think one of the best things lawyers can do is listen. And you can do a lot of good for your client and learn a lot doing that.

01:30:19 Jeff Feldman

Absolutely right.

01:30:21 Russell Buhite

Well, thank you again.

01:30:23 Russell Buhite

We'll be in touch if I've got all your waiver forms, I think already.

01:30:29 Jeff Feldman

But if you need anything, just let me know.

01:30:31 Russell Buhite

Will do.