R&E_S8E5

Sure, Martha, I'll Go: A Conversation with Retired Chancellor Edward Patten

[00:00:00] Ethan Kelly here with Providence Capital Management, where our goal is to help you provide for your future. A key part of that is insurance planning. There are several different kinds of insurance policies, but each one is very important for you and your family. Life insurance helps replace your income, pay off debts, and keep your family in their home if you're no longer here.

Long-term care coverage helps pay for help at home, assisted living, or nursing care, so your loved ones don't have to choose between your care and your savings. And disability insurance protects your most important asset, your ability to earn an income, by replacing a portion of your paycheck if illness or injury keeps you from working.

If you need a simple, coordinated plan using life, long-term care, and disability insurance that fits your budget and goals, we will coordinate with the necessary professionals to make that happen. Send me an email at [00:01:00] ethan@providencecm.com today. That's ethan@providencecm.com. Let's work together on providing for your and your family's future.

Today's conversation with someone who has spent decades at the very center of where law meets real life. Judge Ed Patton's career is one most lawyers would envy, but few could replicate. A pharmacist by training, he went on to earn his law degree from Ole Miss and began practicing in Hazlehurst in the late nineteen seventies, eventually becoming a longtime partner in his firm.

But in nineteen ninety-eight, his career took a turn that would define the next two decades when he was elected chancellor of Mississippi's fifteenth Chancery Court District. For more than twenty years and five terms on the bench, Judge Patton handled the kinds of cases that don't just shape legal precedent, they [00:02:00] shape families, futures, and lives.

Along the way, he served in leadership roles across the state's judicial system, chaired the Conference of Chancery Judges, contributed to rulemaking at the highest level, and earned recognition for judicial excellence and service to the profession. But what stands out about Judge Patton isn't just the resume, it's how he sees the role.

He once said, "I thought one of the greatest privileges of my professional career was becoming an attorney. However, when I was elected chancellor, I discovered that each and every day gives me the opportunity to affect, hopefully in a positive manner, someone's life. I look forward to every day because of that profound possibility and challenge."

That perspective didn't end when he stepped off the bench in twenty nineteen. Today, he continues that work in a different seat, serving as a mediator, helping people navigate some of the most difficult moments of their lives with wisdom, balance, and a steady hand. Stay with us for a few minutes to hear a [00:03:00] word from one of our sponsors, and we'll be right back with Judge Edward E.

Patton Jr.

Welcome to your Wellness Reset with Kelly Engelman. Let's dive into the fascinating world of gut health and why it's crucial for your overall wellbeing. Did you know that your gut is often referred to as your second brain? That's right. A healthy gut plays a vital role in your physical and your mental health.

When your gut is happy, it can improve your digestion, enhance your immune function, and even positively influence your mood. So how can we support our gut health? Personalized nutrition is key. By tailoring your diet to include whole foods, particularly rich in fiber, fresh fruits and vegetables, you can create a nourishing environment for your gut and your gut microbiome.

Think of foods like berries, leafy greens, legumes. Each bite is a step toward a healthier gut. [00:04:00] Let's not forget about fermented foods. Incorporate items like plant-based yogurt, kimchi, sauerkraut, kombucha. These can introduce beneficial probiotics to your gut. These friendly bacteria help maintain a diverse gut flora, which is essential for optimal digestion and immune support.

A diverse gut microbiome can also play a role in regulating your mood. Studies have shown a strong connection between gut health and mental wellbeing, suggesting that what you eat can directly impact how you feel. So as you consider your diet, think about how you can personalize it to include foods that nourish your gut.

By doing so, you're not just investing in your digestion, you're investing in your overall health and happiness. Remember, small changes can lead to significant improvements. Start today by adding a few more fermented options to your

meals. Watch how your gut and your body respond. For more information, visit us online at enhancewellness.com or give us a call, 601-364-1132.[00:05:00]

I'm here with our top associate, Sarah Didlake, who loves to keep me in line. My wife is my personal string to my balloon, and Sarah is my professional string to the balloon, that is, that's me, Judge. And you are too sometimes when we mediate cases together. Greg, I, I enjoy working with you and I can tell you there's always someone behind you, and mine is Jackie, my wife.

I know that. And- And I've met Jackie, and such, such a lovely person. But Judge, I wanna go all the way back to the origin story. Let's talk about first of all, what did they call... what'd your parents call you when you were growing up? Oh, now we've gone into territory that's not permitted.

You, you have to be from Walthall County to call me Eddie. I've been known as Ed, Edward, and Eddie. But only people from Walthall County are permitted to say Eddie. What does your mama call you, Judge? Eddie. Okay, that's what I thought. And you're [00:06:00] not from Walthall County. I'm not, I didn't that, you're Judge to me forever, tell us a little bit about your childhood and growing up and kinda just the origin story of the man who you are. I don't know if, most people don't know this, my, my dad was a career man in the service, in the Army. I was born at Fort Jackson in Columbia, South Carolina.

And from there we moved to Kent State University, where my dad taught ROTC. Then from there to the Panama Canal Zone, where he was with the Jungle Warfare School, and then to Augusta, Georgia where he ultimately retired. And that was kinda during the Eisenhower years, because my dad would always tell us that that President Eisenhower was in town when the helicopter kinda flew over generally- Sure

in our area. And then when my dad retired, we moved to his home place in Walthall County, and basically from about the third [00:07:00] grade until I graduated from high school grew up on a farm in Dexter, Mississippi. Where did you go to high school, Judge? Dexter. Dexter High School. One of 24 in my graduating class, and the story about that is I refused to take agriculture and shop.

And so when it, I got- why did you refuse to take agriculture? 'Cause I wanted to go to college, and I was gonna do something. And and so when I it got time in my senior year, I didn't have enough credits to graduate, and so they made a course for me called occupational orientation, which I took with the shop teacher-

and basically had coffee and donuts. And and so I had enough credits to graduate. It sounds sorta like karma, Judge. I don't know, man. And what, now, that, now, l- law was not your original target. No I I really thought at that point in time I wanted to be a petroleum engineer, and I could do the math, but it was work.

[00:08:00] And I, I made a executive decision. I said, "If anything is this hard, I probably ought not be doing it for my livelihood." Judge, we've never shared this with one another, but I thought I was gonna be an engineer. And at Mississippi State I took what I call the walk of shame across the drill field from the engineering school to the business school.

And I s- my daughter's a business student at Mississippi College, and she got an award, and I said that joke that I've said 100 times to one of her business school professors. She didn't think it was that funny. But, my opinion is I keep throwing them out there until they are. I figured out I d- I didn't wanna be an engineer, and my sister was in pre-pharmacy, and so I didn't know what I wanted to do, so I just started taking the same things she did.

And then went to pharmacy school, and figured out in the course of pharmacy school I didn't wanna be a pharmacist. But there's a hitch, and that is nobody, and I mean nobody, accepts pharmacy school credits for anything else you do. [00:09:00] And so I was stuck. And and I decided I'll just go to med school.

And so I took the MCAT, got an interview at UMMC, and they said, "Look, everything looks great," says, "But you don't have all of our undergr- graduate courses. You gotta go back and take a language, and you have to go back and do this." And I said, "No way." So I had some friends in law school, took the LSAT, rest is history. That, that's interesting. I mean- And my wife also told me that if I did any more schooling, that she would physically beat me up. So i- really you, y- you almost went to law school by default it sounds l- I that's a fair statement. Yeah, because- That's a fair statement

'Cause you were y- Process of elimination ... I had never been in a courtroom. I'm not sure, the only time I had ever been in the courthouse, and that, that may have been the post office that I went to when I signed up for the draft. And the only time I recall ever being, seeing a trial was when I was in Boys [00:10:00] State, and we went and saw a circuit court trial and process in Hinds County, and I didn't have a clue.

It's just- I needed to do something else other than be a pharmacist. Wow. How did... Once you got into law school, what did you gravitate toward? I just at that

point in time, there were, there was pretty much a set group of courses that you took, and you got to deviate a little bit a little bit in your latter years.

But I really thought I wanted to be an oil and gas lawyer. And when I graduated, I went to work with the Armstrong Hoffman firm in Hazlehurst with the idea of being an oil and gas lawyer, and did oil and gas work, but the oil and gas market pretty much tanked after a couple of years, and I started doing other stuff which included family law.

And did a lot of family law. Like to think I did a pretty good job doing family law and started doing a lot of [00:11:00] chancery work and moved in the direction that I really thought that I wanted to to run for chancellor at some point in my career. And that happened a little bit sooner than I, I wanted to when Donald Patterson, who was my judicial mentor decided to retire.

And and at that point, Phen Fen was all the rage, and I had made up my mind that I was going to be in the Phen Fen litigation, plaintiff or defense. My pharmacy background, I was gonna fit in somewhere. And then Donald told me that he was gonna retire, and that kinda made me make a decision, and I like to think that I made the right one and ran for office Yeah, I would say you probably made the right decision.

Now, from a financial standpoint, I know a lot of those FinFin lawyers ended up doing quite well. We have some- And they also did time. Several of them did, yes. I've got lots- Some of them ... [00:12:00] I've got lots of opinions about that. But talk about your law practice, though, before you went in, before you ran for the Chancery bench.

Like I said I thought that my career was gonna be oil and gas work, and when that s- area of our practice slowed down I started representing timber companies and paper companies, and did a tremendous amount of that. But my senior partner, John Armstrong Sr., who was a former president of the Bar, a former legislator, he was from the country in Copiah County, a community called Rockport.

And Mr. Armstrong had the folks from Rockport and Georgetown that would come in on Saturday morning, and we were open on Saturday morning, and somebody would have a divorce issue, and Mr. Armstrong, and I always called him Mr. Armstrong , I would say, "Ed, I have a new client for you." And and then of course I started doing [00:13:00] divorces.

Y'all were open on Saturday morning for walk-ins or for appointments? For walk-ins. And did people walk in on Saturday morning? Country people would come in on Saturday mornings. We had a office staff, secretaries included, that came in from 8:00 until 12 noon every Saturday. Wow. And I'm I feel like y'all might have been paid in vegetables, too, but...

I do remember some fish one time. That came from the Gulf. Look, early in my career, I would barter for f- if a plumber- It was amberjack, to be exact ... if a plumber was having a problem and I could help him and he could help me, then, but anyway. Judge, talk about the...

So the timing was just right, because the, your predecessor was retiring, and so if you were gonna run for Chancellor in your jurisdiction the time was then. Absolutely. I, I, my personal opinion was that I would never run against an incumbent, from the judges that I worked [00:14:00] with.

And and like I said, when Donald decided to, to retire, he gave me notice, and I started working on my election immediately. And- You'd made it known that's what you wanted to do. Absolutely. What about you gravitated to to the robe and to, to wanna be in that position?

I... Y- you read a statement that I made. I really, throughout- I guess my career, have taken great enjoyment and I guess blessings from doing my best to help people. And being a chantry judge, if you know anything about chantry, you know that is a place where people come in with great problems.

They're always very personal problems, and they need someone that will objectively try and come to a solution that brings closure. And, I just gravitated to that. That was just what I felt was the thing I needed to do. And I th- I'm [00:15:00] sure the answer is gonna be the same, but is that, was that your favorite thing about practicing law?

Yes. Yeah. And then how did that mindset shift, if at all? I will say this much. The thing I really enjoyed about practicing law was winning cases. Depending- you can't get away from that. It was fun to win. Yeah. And it's hard to win a divorce. I've heard

My, my law partner Matt is a lot better at math than I am. And I hear him say often that divorces are subtraction and division, not addition and multiplication. So it's ... but do you win issues? Certainly. S- you know, and I like to think of myself as being pretty competitive, too.

But, nobody wins a divorce. Nobody wins a divorce, but, y- you always enjoy success for your client. Yeah. To me, that's what it's about. It's just to the extent that, look, it's a very imperfect just practice. It is a practice. And when you can, when somebody feels like that you've, poured out your life energy for them and that you've worked hard for their position and, and you c- you create someone that's happy with your effort, maybe not always happy with the [00:16:00] circumstances, then to me, that, that's the win.

It's a happy client, if that's possible. That's the ... That is the reward. Yeah. That is the reward. Yeah. And sometimes there are, ... Again, practicing law is some people are easier to help than others, just any other vocation. Some clients are easier to help, just like some customers are ea- easier to help.

So Judge, what was ... T- talk about your you had been practicing some 20 years, and then you took the bench. What was, what did you find in those early years of being a judge that were that stand out in your mind as a big shift from where you were as a practitioner? To put it simply, I caught the car.

Like a dog chasing a car. Yeah. I caught the car. And, What'd you do once you caught it, Judge? I will tell you that when I got elected- I felt like I was absolutely 100% prepared to make decisions. And reality comes to bear [00:17:00] when you walk in that courtroom and you say, "We're here on so and so versus so and we're here on such and such case. Call your first witness." And then they start testifying, and you say to yourself, "How do I tell who's really telling the truth? They're both saying the opposite." And then you listen to the conflicting testimony, and you come down to the end of the day, and you, nobody else, you have to make the decision.

It was a sobering experience, and like I say, the first trial, and it was almost internal panic on trying to figure out what to do. And then what I would tell you is after that, it was like a bell curve. At the very beginning, the lawyers don't know what you're going to do, and quite honestly, you probably don't know exactly either.

But you continue to see the pitches. You start making [00:18:00] decisions. You start developing a record, hopefully, of consistency, and that's one of the things that I prided myself and had my staff tell m- to tell me if any time under a given set of facts I wasn't being consistent, let me know. And then, as you creep up to the top of the bell curve, everybody has kinda got the book on you.

They figured you out. They know under a given fact pattern your range of outcomes. Then things start to get easier. Then you've seen the same pitch over

and over again. You almost know what the testimony's gonna be before they say it, and the lawyers, again, are able to predict outcomes, so they settle more cases, and it becomes easier and easier over time.

And because cases settle, because they figure out what you're gonna do, and you've already [00:19:00] intellectually made the decision on the facts before, and you build on that experience in knowing the fact patterns and intellectually know how to apply the law and make the decision. What kind of cases did you labor over the most in those early years of being on the bench?

It is simple. The easiest case to decide in custody cases are when there are two horrible parents. You just pick the least of the bad parents And move on. The hardest cases are when there are two genuinely superb parents that think that the best interest of the child is for custody to be with them, and they can't figure it out, and you have to decide between two [00:20:00] superb parents who can't work it out themselves.

Those are the nightmare cases. Those are the ones you always worry about because you have two good people and you're charting the course of that child's life, how did you reconcile that? I know, I ... we can sit here and talk the law, and we can talk about the Albright factors and

But really internally, as a human being how did you weigh that? You listen to them. You li- listen carefully to all the testimony, and this doesn't sound judicial, but you just rely upon what's in your heart is the best for that child. 'Cause basically, all the Albright factors are gonna kinda balance out and, you don't wanna say you're throwing a dart, but that's almost what it's like.

And we're not talking about cases where you've got, Mama's smoking crystal meth or Dad's been in jail three times. We're talking about hardworking people who love their kids, who for whatever reason, they can't make the relationship work, but how do you balance how, how these [00:21:00] children, what, the time they're gonna spend with these parents?

Because what happens when ... when you get a divorce all of a sudden you've got a set of rules that are gonna be either dictated by the contract that you signed or by the judge assigned to your case and what he or she decided to do. That kinda reminds me of I have a friend she was from New York, and actually now lives in Paris with her kids, and she was a family law mediator in Manhattan.

That was her profession. And, I ... When I met her with some friends in Hazlehurst we were talking about mediation and she said, "Judge Patton," she

said, "When I start a mediation pr- with custody, I make this statement to the mother and father." Says, "You need to realize that the only two people in this room that love your children are you two.[00:22:00]

The rest of us are doing a job." And said, "You are the two best people to figure out what to do going forward with your children since you can't live together." And, and I kinda bake that in to the decision-making, and that is these are two people that love their children- you gotta try and figure out what best serves them and the child.

Because quite frankly, the best interest of that child's gonna be served no matter what you decide. Yeah, when you've got two good folks involved. Sarah, what about you? You came to us from the insurance world that was cold and lifeless, and what about these cases where you're dealing with, people's lives and their, and childhoods and relationships with their kids?

How have you been able to make the shift from, the world you were in to the work that we do together now? Some days I feel like I'm still sh- still shifting. I did come from the insurance defense [00:23:00] world. I did my time there. It's a totally different area of practice. Enjoy- It was a great, it was a great learning experience I'll put it that way.

You're a fantastic lawyer. And, but, the human element of it is what I'm ... how's that shift been for you with the, with the lives that we engage with on a daily basis? At times it can be incredibly rewarding, but on the other side of that, it can be incredibly frustrating.

In my past practice, I dealt with institutions, insurance companies. Those were my clients. Now, we have humans who have humans of their own, and it is a totally different practice. And it's taken some adjustment, and I'm enjoying it. It ... But at the same time, it can be incredibly rewarding, but also incredibly frustrating.

Judge, do you remember and obviously we don't wanna talk specifics, but can you r- can you remember about situations during your time on the bench that just, that were the things that you labored over the most? Any specific circumstances? I know you said that when you had two good [00:24:00] parents, but is there a s- is there a s- particular thing you can remember that maybe took you longer than normal to, to work through?

Oh, generally, Craig I would tell you that it, it would always be- I say always is mighty big term. I would say that the majority of the cases that I labored over

were the close-call custody cases. That, you just really, f- good facts or bad facts, obviously you would love a case with a lot of good facts, but, where the bad facts apply to both sides and trying to balance it out and just- You're not gonna get...

M- Lawyers and judges aren't gonna get real emotionally wrapped up in money or a money dispute- No ... or equity in a house or things like that. Tha- those seem to be more routine. But again, I, I don't think I would stay up at night worried about whether or not they got, $1,000 a month in alimony or $1,200 a month in alimony, but you're just talking about just the, the, these innocent c- children.

I I'm gonna, I'm gonna tell you a story. After I was [00:25:00] elected, Judge Donald Patterson invited me to go to one of the chancery conference weekend meetings that they used to have, and so that I could meet some of the chancellors that, that I would be, associating with. And of course, I hadn't taken the bench, and I was...

We were driving back home, and I looked over and I said, "Donald," I said, "Tell me how you make decisions." I said, I'm... The reality of... that this is gonna start with me very quickly is coming down. I need to understand what's the process." And and so we talked about it a little bit, and in that conversation I said, "Donald, I like to pride myself in saying that I had you figured out, and that I could predict within a very narrow range of outcomes, and I think that's what led to some of my success in trying cases in front of you.

And so some of the other lawyers won't say that they could figure you out." And so that was [00:26:00] it. And then about... and to add to that, I said, "With the exception of one case." About six months later, Donald came up to my chambers and he said, "Ed, I've been thinking. I know that case you're talking about."

And I think you may have been right. And I'm sitting there saying, Donald was holding on to this horrible custody case, and I had been on the bench for six months, and he knew the case, and he- when I gave nothing to identify it other than that. I guess what I would say is an occupational hazard of being a chancery judge is that these hard decisions stick with you.

Yeah. And, they grasp a hold of you like they did Donald. And but of course, he finally came around and recognized I was right. Yeah and we as [00:27:00] lawyers, we have to kinda surrender at some point the outcome, because when you can't work, when you've done everything that you can do to create some

kind of out of court result, and then you've done everything you can do with the resources that you have and the evidence that you have to present the case for your client, at that point, it's kinda outta your hands.

And we as lawyers have a responsibility to be diligent advocates, but at the end of the day, we're not the final decision-makers though. And Judge, I'm curious, so I know that you were very active in the community of chancellors. And so talk generally for those who maybe are new to the idea of having to be faced with family law with a family law circumstance and the idea of a chancellor.

What did you learn in your 20-plus years on the bench about about the types of people that are judges and the diversity of ideas and the lens through which they see life with all the work that you did among your peers? What I can say without reservation, one of the perks of being elected chancery judge is the [00:28:00] association with a group of incredibly great minds.

And what I found very quickly was that there are judges that sit back at these meetings and conferences we go to, and they never say anything, and they're simply absorbing everything, and they are absolutely brilliant jurist. And when you have a question, you can pick that guy out or that woman out, and they will give you the best advice, sage advice to get you through problems.

I, I don't think, I don't think that lawyers fully appreciate, and certainly not the civilians, the litigants, how close particularly chancellors are. And that is because I think that they recognize that they make a lot of difficult decisions, and they need somebody [00:29:00] that they can walk through their problem and get guidance On how to make the decision.

I, I will tell you, I had three people that I called, and you may not believe this- ... but all three of them, if I called, they would stop a trial and take my call to walk me through my problem. And- Y- I think that would be reassuring to a lot of litigants to know that there are pe- more than one person p- in some instances are thinking through the problem.

Absolutely. And I w- what I will also tell you this is, of those three individuals, absolutely none of them would tell me how to rule. They would walk me through the intellectual process of decision-making with that type of fact pattern and always leave the ultimate conclusion to me. And, it helped me grow as a judge and more importantly, as a [00:30:00] decision-maker.

Always leading me, mentoring me to make A decision in a thoughtful way.

Hey, everybody, this is Craig Robertson, and I wanna take a moment to thank you for listening to the Robertson Easterling Podcast. We know if you're tuning in, you might be looking for information, insight, and potentially a little encouragement as you navigate a difficult season in life. Thank you for investing this time with us.

I'm excited to let you know that we've created a free resource just for you, our new client playlist on Spotify. This collection of our podcast episodes will introduce you to the R plus E origin story and walk you through the basics of divorce from choosing the right attorney to surviving courtroom experiences.

It's everything you need to know to start arming yourself with knowledge when facing the breakdown of a marriage. You can find the playlist by visiting the podcast tab on our website at robertson.ms and clicking on the microphone graphic. When you're ready to take the first [00:31:00] step to receive a custom plan, we encourage you to sign up for an initial consultation or strategic blueprint assessment.

This in-depth session is designed to help you gain clarity, understand your options, and develop a personalized plan for your future, whether that means reconciliation or divorce. Because at Robertson and Easterling, we know life doesn't always go according to plan. But with the right guidance, support, and strategy, you can move forward with confidence.

Visit us at robertson.ms to learn more. Now, let's get back to today's show.

So we're back with part two of our podcast with Judge Ed Patton, and he's been talking about his path as an attorney and then eventually as a judge. Judge, before we transition from talking about your time on the bench to the work that you do now as a mediator, I wanted to know, we talked about th-you-- the community that you enjoyed.

And I have heard from other judges that especially in the early days of being on the bench, that it can be quite isolating because you don't have the [00:32:00] same camaraderie or availability with some of the attorneys. And I know that varies from jurisdiction to jurisdiction. And in hearing you say that you did walk in community with your other chancellors and were very supportive of each other, it not only, I think that's reassuring not only to me, but to a lot of others.

But so what do you think makes a great judge? Because, not every judge is created equally, and I have had the honor to work in, in-- before some fantastic

chancellors, including yourself. I would name Jerry Mason from Meridian in that category. I would... John Grant from Rankin County in that category, and so many others.

But there's some that don't take their job seriously, and they don't put in the time and energy and effort that it takes. What-- in your opinion, what makes a great family court judge? A better temperament than I had. Me too, Judge. I get that. And what I would say is preparation you have to take the preparation [00:33:00] seriously.

And I, I would say this, I never, ever walked or took the bench without having reviewed the court file from front to back, without having a memorandum of every issue of law that I was gonna decide in front of me, and being totally and thoroughly prepared. I never shot from the hip. If an issue came up that I didn't know the answer to or have the law in front of me, we recessed until I got the law.

I tried my best, and I think good chancellors do their best not to make a mistake. Yeah. To, and look, I can say that to lawyers too. Eh, the lawyers that are in court ev- four days a week, I, I don't know when they have time to prepare, and that to me I go by the old idea that it takes twice as l- if you're gonna be in court for five hours, it's gonna take 10 hours to [00:34:00] prepare, that it's gonna take twice as long as you expect the presentation to make to get ready for it.

And I've ... And, so that's why we have forever. If there, if I've got a three-day trial, there's gonna be six days of preparation that's carved out on my calendar to get ready for that, because I just don't know how you ... I'm not, again, maybe I'm not smart enough to step into that type of environment without, without that type of preparation.

You've heard me say a number of times, when I'm talking to clients in a mediation, when we talk about, the cost of litigation, I always tell them the same thing. When I was a lawyer, it took me three days of preparation for one day of trial. And, and if you don't do the work, then you can't expect the outcome.

Yeah. Let's transition our c- our talk, Judge, because you ... Why did you retire from the chancery bench? Had you just had enough, or your PERS was vested or what, Judge? The PERS is nice. But, I, to to be honest, I was getting to the point I wasn't challenged.

You're ready for something new. And I ... There's one thing [00:35:00] about chancery court litigation, particularly domestic relations. People are predictable. They do the same things all the time, and once you hear a fact pattern, and you've heard it a number of times, that fact pattern really not gonna change.

And people are very predictable, in, in how they act and how they treat people, and by the time you've heard a couple hours of testimony, you almost can predict what the next word out of their mouth is gonna be. You had to have seen some kind of, over the 20 years that you were on the bench, sure- what would you say the trends that changed from the time when you were first on the bench until when you decided to retire?

Oh right before I was elected, equitable distribution came into being. So everything was new on day one. E- everything was new. And then, when all of the [00:36:00] post-Ferguson cases came out, everything was being shaped it, it changed the whole environment and landscape of domestic litigation.

Actually made it very interesting and from the financial aspects of it, equitable distribution, it was a challenging time. So I would say, I got to see the development of what current divorce law is. Yeah, and Judge, I can relate to a lot of what you're saying because I've talked to Sarah about this.

It's it is the cases that are, that, that have just real interesting fact patterns and just are a little different, l- different legal issues, more challenging legal issues. Those are really the cases that I gravitate toward these days. Because it doesn't matter if you're worth $20 million or, negative $2.

You're right. A lot of human behavior is predictable, and I'll- you do hear a lot of the stories over and over again. I tell people often during an initial consultation that two people that are very difficult to surprise are divorce lawyers and judges who preside over [00:37:00] divorce proceedings. And every now and then we get surprised, and usually I'll tell the person when I get surprised, but most of the time you're hearing very similar stories and- Similar stories and the minute it's different, and then you get excited about doing the case, it's, you know- It is ba- And if you hear your lawyer say I never heard that before," that is not what you really wanna hear. That's not what you wanna hear. You would prefer to be in that more routine, in that more routine space, if you will.

Judge, let's talk about the transition so to mediator and what ... obviously as a judge you are ... there's a appellate court of course, but g- I am of the opinion that good judges, as long as they go through the proper analysis and, they do

they go through the proper procedure to make decisions, that more times than not those decisions are gonna be upheld.

But, as a mediator you have relinquished control and power at that point. You are powerless. And it's a beautiful thing. Yeah. Talk about that. Tell us more. First of all you need to kinda understand my, my, my pathway [00:38:00] to becoming a mediator. And a couple of years bef- I'd made up my mind I was gonna retire, and and when I retired, I think I was about 67, and my wife told me that, "When you retire, you're not going to sit around the house and do nothing."

And so the choices were doing senior status, judging, where a judge has a conflict and the Supreme Court appoints you to hear their case, or the natural extension, is to mediate cases. And it's interesting. I think I ordered mediation less than three times in 20 years when I was on the bench.

Never did a mediation as a lawyer. You never mediated a case as a lawyer? Never mediated- Interesting ... a case as a lawyer ever. And now I quit counting mediations at 300, so I don't know where I am now. I just got tired of keeping up with it. I bet you know how many cases you hadn't settled though knowing you.

I do. I know you do. I actually do. I really do. I know you do. But, [00:39:00] I went to the old- And I won't ask ... heh It's a very small number. I, I- I've probably been a part of a few of those ... I went to the Ole Miss o- mediation training couple years before I retired, and and then I decided to get more training, and I went to the National Judicial College for their intensive mediation training.

Okay. And I got on the plane with my wife, and I told her, "I'm never gonna do mediation. I hate it." Really? And I didn't ... It was just I ... There was nothing about it that appealed to me. Retired, a lawyer called me and asked me to do a mediation, and he said, "This is easy. There's nothing to it. We need to he- get you to help us resolve a attorney fee issue that has been remanded from the Supreme Court."

I said, "Sure, I can do that." They walk in with [00:40:00] five lawyers. The attorney's fee issue was nothing. There was libel, slander estate issues, and it totally caught me off guard. The only reason in the world that case settled was the attorney from Cincinnati, Ohio, had a plane to catch. That was handy.

And it was handy, but after that I kinda started doing 'em and did a good many that first year. And now as I do a lot and and have come to really enjoy it, for a number of reasons. I enjoy the fact that it is a lot like herding cats, to use that old phrase.

I enjoy the fact that I don't have to make a decision at the end of the day, and I enjoy- You enjoy that you don't have to make the decision? Absolutely. Really? And enjoy having- A different interaction with the attorneys, a lot [00:41:00] of whom practiced law in front of me, was on the bench. I think at least some of them, have come to the conclusion that I'm not the grumpy old man that I was on the bench.

I'm gonna plead the fifth on that, Judge. Okay. You don't have to. They, everybody tells me the same stories, but they they also say that, that I'm a much easier person to deal with in the mediation sector. But anyway- do you think as a ... Now, let me ask you this, and I've probably heard you talk about this before, but, a divor- y- your average divorce case with lots of issues, and you've mediated that case for nine hours, and we reach a, and we reach a resolution.

Do you, as the mediator, know as much as a chancellor would who heard that case for three days? ... And I know that you said that things became predictable, but compare and contrast maybe for our listeners about this idea of the waterline of evidence and how, as a mediator, you can go below that and get a sense for what's really going on.

What, how would you comment about that thought? What I would say is, that, that is, that's a yes, I [00:42:00] do, and no, I don't. I think the big difference is when I mediate a case, I am at the mercy of what the people tell me. And, and what the people tell me is never subject to the rigors of cross-examination.

And so sometimes I will get facts, statements, whatever you wanna call it, that may not be 100% credible. And I tell folks all the time, I'm the conduit of information. I'm not vouching for what the people say. And so sometimes I think that the picture is somewhat clearer in the courtroom, but the exception to that is I get to hear information that a lot of times the judge would never permit in the record.

And so i- it's yes and no. Sometimes I don't ne- necessarily [00:43:00] get the most truthful version, but sometimes I get to hear background facts and versions of things that may not meet the evidentiary criteria to get in front of a judge, which quite often sometimes that is extremely helpful in, navigating, the components of a mediation.

Judge, some- if somebody's listening to our voices right now, and they are ... fir- I would like to start with first they've got their day in court. What would, what kind of general advice would you give to a potential litigant who is going to show up- For court over some issue with their family for the first time, what would you tell that person?

Tell the truth. Tell the truth. Y- it is, it's much more effective from the standpoint of being a litigant if the judge hears the bad facts from you. If you don't tell the judge these [00:44:00] things that may be hurtful and give your version of it when you testify, as opposed to letting someone else bring it out, it makes the judge feel like you may have been hiding that, and it affects your credibility.

Good lawyers ... I used to tell my clients all the time, "I really don't care what the facts are. Let me package those facts in the way that help you the most." And I think good lawyers take control of bad facts and present them in a way that diminishes the harmful effect. That, I ... And I could not agree more.

It is it's ownership, is what it is. You make a mistake. You did something that you regret. You said something that you regret. My goodness, own it. I can remember years and years ago, I was trying a custody modification case in front of Jerry Mason in Lauderdale County, and my client had done something stupid that was caught on [00:45:00] video, and this was, like, VHS tapes with a 400-pound TV on a stand in a courtroom with a VHS player.

And I can remember, we were the plaintiff, 'cause we were s- w- I was representing the father. We were seeking to modify custody, and the child- the children's mother and her new husband had caught my client on tape being an absolute idiot. And very first thing I did was pop that tape in and played it and said, "Can you explain what this was all about?"

And I think that Totally diffused what otherwise might have been a bomb, 'cause my client had some anger issues, specifically when it came to his kids, and this was one of those instances where he did. And he, and he took ownership for it. He said, "I wish that wouldn't have happened.

These were the circumstances surrounding it, but but, judge Mason was convinced that the, there should've been a custody modification, so I think I agree completely with you, Judge. And by the way, Jerry Mason, one of the great chancellors in the state of Mississippi. Yeah, totally agree. So what about li- let's talk about your current vocation.

What would you tell a litigant who's getting ready to... [00:46:00] we recommend you to mediate cases all the time, especially complex cases and where there's big personalities because you have a way with big personalities. What would you tell a person who is stepping, who's gonna show up to a mediation with you?

And if you had the opportunity to say something to them about how to prepare themselves for that event, what would you tell those guys? A- actually several things. The first thing is I think participants in mediation make a fundamental error when they come in thinking that Judge Patton's gonna tell the other side that I win and that I get to dictate the terms of surrender.

That there has to be this mindset of, "I'm going in a mediation to have to compromise in order to reduce risk." And having a spirit of compromising is, I [00:47:00] think, extremely important. The second thing is I tell people in almost every mediation, and I quote Woodrow Wilson, where Woodrow Wilson said, "If you come to me with a clenched fist, I will come back to you with two clenched fist.

Come to me with open arms. We can sit down and counsel together and resolve our differences." If you come in there with an attitude of, "I'm going to get," as opposed to solve problems, then things are harder. To... you made a comment that I'd like for you to expand on, reduce risk, and I know what that means to me, and I know how I would counsel a litigant concerning that, but tell me from your perspective what that means.

I'll tell you what from my perspective, every side has risk, and it comes in all sorts of components. But I like to tell people in mediations [00:48:00] that whenever I disagree with your lawyer or you hear something that- You don't like that I'm saying to you, you should pump the brakes and be glad that happened because it spells risk.

That means the predictability or the range of predictability in your case is not certain. And so whenever a lawyer can't predict within a range of outcomes what will happen, then the client needs to recognize that is an area where there's uncertainty, and where there's uncertainty, it spells risk, and risk is a motivator of settlement.

The other component of risk, actually comes from my former colleagues. Sometimes judges either [00:49:00] have not decided cases with a given fact pattern, and so the legal community doesn't have a basis to know exactly how

they're gonna rule or what the range of outcomes are, or the judge has ruled differently on the same set of facts.

And so prediction is golden. And so if you can't predict what's gonna happen, you need to pump the brakes and think about, how do I reduce that? And the way you do that is settle the case. I say this, and I'm curious if you agree or disagree. I like to tell my clients that when you go to mediation, it's like doing surgery with a scalpel, but if you go to trial, it's like doing surgery with a chainsaw.

Do you agree or disagree with that? I agree with that 110%. And, but there's a very specific reason for that in my mind, [00:50:00] and that is if you have people that have been married 20 or 30 years, the lawyers have to pick and choose the facts that they present to the judge. They can never pack 20 or 30 years of marriage into a two or three or four-day trial.

It's impossible. So the judge sees these snapshots of this husband and wife's life, but they never see the whole picture. And so judge hears a few days of testimony that tries to compact 20, 30, 15, whatever the number of years they may be married, into a few days and applies the black letter of the law to those facts, makes a decision And one or both of the litigants walk out of there scratching their s- heads saying, "How the heck did that happen?

He or she didn't hear it all." But that's the [00:51:00] way the system is designed. Yeah. And so when and so when the people go to mediation, they have the ability to be problem solvers, and that is, like you say, doing microsurgery versus surgery with a machete. Yes. They can do things that the judge l- literally cannot do but will approve by agreement.

And I think that's a big problem. I don't think people realize how narrow the road is in, for a judge in making decisions and not get reversed. Yeah. I like to use, and I think it wa- it was Judge Larry Primo I think that I saw I guess I'm staying on Lauderdale County. But that he

I think he had posted when he was doing his blog, the picture of the iceberg and the idea of the waterline being the line of evidence, meaning the things that a judge gets to hear and a judge doesn't get to hear, and how really the iceberg is so much bigger beneath that line of [00:52:00] evidence, if you will.

Yeah, I like that example. Yeah. I like that. Judge, as we are transitioning to the end of this show, I... Sarah reminded me that we needed to ask you about some of your hobbies. We've got a, an awesome watercolor painting that you did

hanging in our office, and I know that you like to bake. So how did you get into those very different hobbies?

100% my sister. Your sister led you to pharmacy school, and now she's led you- I- ... to painting and baking ... I never made that connection, but, she- Is she older? She's my oldest sister. Okay. Yeah. And have an- I have an older sister and a younger brother. And so you're the middle child.

I am. That explains a lot, too. Interesting. The, I said that to Judge Walker the other day about a particular point, and he's "You think you got me figured out, don't you, buddy?" Anyway, my, my sister called me on both instances, saying, "Hey, I need you to do something with me." And I said, "Sure, Martha, what?"

She said I I'm gonna do a baking class with [00:53:00] this baker, and I don't wanna be the only one there and not know somebody." I said, "Martha, sign me up." And so I went to this baking class by a marvelous baker, Gil Turchin, who used to have Gil's Artisanal Breads out on on Lake Harbor Drive, and started taking classes with him, became friends with him, and and really learned the craft.

And it's just something that I enjoy doing. And I really think part of it's the pharmacy background. I was about to say the same thing, yeah. I, it's the measuring things in grams- The precision and all the things ... and all the, all that. The bread is kinda secondary to the process. Yeah.

What's your, So what's your go-to thing, Judge? You're, you... It's Christmas morning and you have baked this thing for your grandchildren. What is it? I make... I do make the best cinnamon rolls, but I, Homemade cinnamon rolls? Yeah, absolutely. Oh my gosh. I actually have started to bake something and bring it today, and I just kinda got crossed up on my time.

But when my father passed away our dear friends David and Jill Gates Jill brought to [00:54:00] my house some homemade cinnamon rolls, and my daddy has been gone for over 10 years now, and I can still almost smell 'em and taste 'em. They were that amazing. The, it's one of the great aspects about baking is how it makes your house smell, oh, yeah. Yeah. What about painting? That's b- The painting- That's very different ... same thing. She called me. She was gonna do a Millsaps enrichment course, and this was really just weeks before I was gonna have my first knee replacement. And she says, "I don't wanna be on the campus at night alone.

Will you come do this?" And I said, "Sure, Martha, I'll go." And I absolutely- I, I think that's the name of the show, Sure Martha, I'll Go. That's the name of this show maybe. Anyway. So I did, and I absolutely knew nothing. And the instructor, just kinda helped me. I didn't even know how to mix the water and the pa- It was nothing.

I knew nothing. And and I I picked it up and what I absolutely came to love about it was how it was a complete distraction from what I was doing on the bench. I heard others [00:55:00] say that. And, and what I loved about watercolors is the fact that- I could start painting and paint for 15 minutes and quit, and then come back tomorrow and start again- Pick up right where you left off

right where I left off. Where my friend John Grant, who's a very good oil painter- I've seen some of his work ... when they sit down to paint with oils, th- they have to do it for a while. And I love the spontaneity of being able... Now, the other side of that is my wife kinda shut me down in working in the kitchen, so the setup's a little more complicated now than- That's fine

it used to be, but- Yeah. And, and that, that's, that translates into life in general, just being in the present moment. There is peace and stillness when you're just doing one thing, because it's so easy with our devices and our screens and all the, as, us as lawyers with the attention on our time to be pulled in so many different directions.

But when you can just be in the present moment right here, right now, there's just a stillness in that, that, that's a oasis from life in general sometime. And there's also another thing that I learned [00:56:00] about watercolors as maybe as a life application, and that is my watercolor instructor told me, "If you make a mistake, make it look intentional."

Yeah. Yeah. And so that's kinda life. Yeah. Make a mistake, yeah. Yeah, totally. Judge, thank you so much for spending this time with us today. It's just always a pleasure to be with you. Thank you very much.

Thanks for spending time with us today. We appreciate you being a part of the Robertson and Easterling podcast community. If you need our help, we are here for you. You can request a consultation on our website at any time, day or night. It takes less than five minutes. If you enjoyed your time with us today, subscribe on your favorite podcast player so you can be the first to know when our next episode drops.

You can also join us on social media. We're on all of the major platforms. We hope you have a great day. Remember, there's no harm in arming yourself with information. A big thanks from the Robertson and Easterling family and all of our sponsors [00:57:00] for hanging out with us today.

This podcast is not a substitute for an attorney. All information is provided as a general reference and public service. Listening to this podcast does not create a professional relationship with Robertson and Easterling or any of its attorneys or guests. This podcast may be considered advertising under applicable rules, and free background information is available upon request.

For more information, please visit our website at robertson.ms.