

Narrator: Janice Niemi

Interviewer: Maria McLeod

Date: May 27, 2008

Transcriber: Teresa Bergen

[Begin Interview]

McLeod: Today's date is May 27, 2008. My name is Maria McLeod, oral historian. I'm interviewing Judge Janice Niemi at her home in Seattle. Thanks for doing this today, Janice. Could you say for the record, and for the recording, your full name, your date of birth, and where you're from?

Niemi: My full name is Janice Bell Bailey, and Niemi is my married name. I was born September 18, 1928, in Flint, Michigan. But after I was ten, we moved to Spokane, and, basically, I grew up in Spokane. Then I went away to college at eighteen, and I never really went back to Spokane very much.

McLeod: You were born in Michigan at the height of the automobile industry. Do you remember anything about that?

Niemi: No. My father was a physician. I think he lived in Michigan for a year or two, and then he went to the Mayo Clinic. Then we went to Europe. I was in Europe when I was in five, I think. I went to kinderheim in Europe. And then we came back. And after a year or two at the Mayo Clinic, we moved to Spokane.

McLeod: I want people to know why I'm interviewing you in particular. Can tell me, in brief – we'll get into it more later – what your occupation has been as well as the nature of your involvement in state and national campaigns for the equal rights amendment.

Niemi: Well, I've had lots of occupations, but probably my main jobs have always been with some form of government. I was in the Foreign Service in probably 1952. Then I

got married and they wouldn't let women Foreign Service staff members take husbands overseas. So I got out of Foreign Service. Then I took a government test, and I was a social security claims administrator, which for me was a big deal because when I got out of college, women could be teachers, which I'm not good at; secretaries, or they could work for the telephone company, I think, or be a nurse. And the idea of having a secretary was really pretty exciting.

McLeod: So what did you do in the Foreign Service?

Niemi: I was Foreign Service staff, which was kind of silly, because I didn't take the officers' test. When I was there – I was just there for about six, eight months – someone asked, “Why didn't you take this?” But I didn't.

McLeod: I know that you went to law school, became a lawyer, and went on to be a judge. Can you tell me your relationship between the practice of law and the Equal Rights Amendment and some of these related issues.

Niemi: Well, I've got to back up a little bit on this. After I got the job with Social Security, I was pregnant. So they said, “Okay, you can keep this job.” I worked until the day my son should have been born. That made them nervous, so I didn't work after that.

Then we moved to Seattle, and, in those days, daycare was different; everything was different. I stayed home for nine years. During that time, we also moved around. I lived in Mexico City, and I lived in Washington, DC. That's where I learned some pretty good Spanish. My husband went in the Foreign Service. That's why we lived in, well, that's why we lived in DC. They had a very good system for teaching the language.

My husband, Preston Niemi, who was really quite bright, had the lowest language ability that they'd ever tested in the Foreign Service. So Spanish was his only language, and he had to have a private tutor. [laughs] The other thing is, this was 1961 and '62, and I really wanted to go to Vietnam. But nobody with kids and with no language ability could go there. So we went to Mexico City.

He did not fit well in the Foreign Service. It wasn't totally his fault. The elevation of Mexico City was so high that he would hyperventilate. And the job, giving visas to Mexico to go to Disneyland, wasn't exactly interesting for him. So he left and we came back here to Seattle. I stayed home when my children were quite young. But before my husband went in the Foreign Service, I took the law school aptitude test because I always knew I wasn't going to stay home. I passed that test. Then we went to Mexico. When we came back, the law school said, "You can't go this year. You have to go next year." So I started law school in 1964, on my thirty-sixth birthday. But, before that happened, in 1964, the paperback version of Betty Friedan's book came out. If there were ever reasons to follow up on the Equal Rights Amendment, that was one.

McLeod: So you're talking about *The Feminine Mystique* in 1963. It became a bestseller.

Niemi: Yes.

McLeod: I want to talk to you about that. But I want to make sure we haven't skipped over anything, and I make sure I get some dates in here. You mentioned, I think, the University of Michigan, did you?

Niemi: Right. When I got out of college, I graduated in 1950 from the University of Washington. I went to this advisor of mine who had taught a class I was in. He knew me, and I said, "Now what am I going to do?"

He didn't have any idea. I think if I'd been a man, he would have said, "Well, you've done very well in this political science class. Why don't you think about going to law school?" But no one said that. I have never had a mentor. I have never set up a timetable. When I was young, I always wanted to be a boy. Not because of any sexual reasons, but because boys got to do things that I couldn't do.

During the summers, I would work at Glacier Park. I met someone there who was going to Michigan Law School. Also, my father had graduated from the University of Michigan, so I went to Michigan graduate school. Just because I couldn't think of what else I wanted to do.

McLeod: And what did you study?

Niemi: I studied history. I had two years of history there, but I didn't fulfill the language requirement for an M.A., which I could have done because I had enough Russian while I was at the University of Washington. I didn't do it. So I have graduate studies, but no MA. Then I went to Europe.

McLeod: Yeah, you went to Europe. You eventually went to the Netherlands, right?

Niemi: Well, that was in '54.

McLeod: So you went to Europe immediately after graduate school?

Niemi: Yes. I went to Europe in June of 1952.

McLeod: So you didn't go immediately to The Hague Academy of International Law?

Niemi: No.

McLeod: What did you do during those two years between U of M and Hague Academy?

Niemi: I hitchhiked all through Europe. I wasn't married, and I made all these friends. I was in Europe for six months. Then I got news that I had passed this Foreign Service exam. So then I came back, and went in the Foreign Service, and then I got married. Then I worked in the University of Michigan when my husband, Preston, was in law school. So in '54, he got out of law school and we went to Europe. I went with him to the academy. The academy was just a three-month program. It wasn't a long program.

McLeod: Oh, I see. I was wondering about that. When you were there, how was it different to be a woman in Europe – and again, you said you were hitchhiking in the ‘50s – compared to being a woman in the US? I mean, did you feel like you had the same freedoms in both places? What was your experience?

Niemi: I didn’t think at all about things like that. Really. It was an incredible experience. I met really wonderful people. In fact, I hitchhiked mainly with a friend of mine who just retired as a professor at Amherst. I visited him last year. The feminism part just didn’t enter into it at all. I just went to all these museums, and saw what people were doing to recuperate from the war, or not doing. England was still all broken up.

And the other thing is, I went through this kind of MFK Fisher period where I discovered real food. And since then, that’s been a very big interest for me.

McLeod: Okay, so I want to bring us back to that moment. I think it’s before you enter law school. And I think you’re back in the States. And you read Betty Friedan’s *The Feminine Mystique*. I didn’t let you talk about the impact that had on you or what that meant to you. What was that was about for you?

Niemi: Well, I was in law school. I got in law school in ’62. I couldn’t go in ’63 when I came back. Then in ’64, I was going to start. So I was going to start law school at that time. I think that book confirmed everything I had already thought about. I was thinking more in terms of a career.

I don’t know if you’ve read this. This happened in the last couple of months. But Ruth Reichl, who is the editor of *Gourmet*, was talking to a group of women. It was on Mother’s Day. And these were, you know, really interesting women, every one of them. She, I think, was getting an award. She said she’d never wanted to live the life her mother lived. There was a lot of criticism about that. I’ve always felt that way. It wasn’t whether I liked or didn’t like my mother. But the idea of keeping a clean house was the last thing I wanted to do. So Betty Friedan’s book emphasized that.

I knew that there weren’t many women in law school, but I never thought about that.

McLeod: I think when you entered law school, I read somewhere, you were only one of four women at the University of Washington. Is that right?

Niemi: There were never more than ten women in the law school the whole time I was there. I was one of five, and one dropped off in my class. That was a very big class. And the classes, they started out with 150 people. So there were 450 people in the law school and never more than ten women. We had one woman's john with lockers.

McLeod: Was it underused, since there were only ten of you?

Niemi: No, it wasn't, actually. Some women just stayed in there. The law school had a really big coffee room. But I think I was the only woman that went in the coffee room.

McLeod: I guess some women have more comfort with being around a lot of men and being a minority than others. Where did you stand?

Niemi: I am comfort being around men. I was a jock when I was young, and I would do anything to get my brother to take me to games so I could play. No, I was always comfortable there.

McLeod: How many brothers and sisters did you have?

Niemi: I have one brother and one sister.

McLeod: What about in the classroom? In terms of things you were studying? Did you notice any bias on the part of professors?

Niemi: Oh my gosh, yes!

McLeod: Can you tell me about that?

Niemi: They had a new person who was the law school director. He was a weird guy. But in many ways, he changed it. It used to be that the University of Washington Law School was like many other law schools – not like Harvard and Yale, but those law schools where they let in anyone who wanted to go and then they flunked them out. They'd say, "Look to the left of you, look to the right of you, those people aren't going to be here next year."

But he started it differently. You had to have a very high LSAT, good undergrad grades. So everyone he took was expected to graduate. And some didn't. But by and large, it was an entirely different thing.

So we had some very big classes, and all of us had a small class. There were probably six small classes in this 150. We got to know each other quite well. At the end of the first quarter, they had an exam in the small class. The teacher of that class happened to be my age, thirty-six. He called these guys in the class into his office. I was friends with all of them, so I asked them, "How did you do?"

They said, "Oh, I did terrible. It was terrible, but the teacher told me not to worry, that I'd catch on."

But when I went in there, he said, "Mrs. Niemi, why don't you go home and take care of your children?"

McLeod: How did you respond?

Niemi: I didn't respond. I thought he was a jerk. But that was all. On the other hand, that was the case in law school. Right after I got out of law school, Betty Fletcher and Betty Braceland and I, and sometimes others, would go around just before the last LSATs on Saturday, for law school application, and tell all our horror stories to these women to try to get them to take the LSAT and go to law school. We'd say, "We need you all."

McLeod: Tell me about Betty Fletcher.

Niemi: Betty was at the top of her class at the UW School of Law [1956]. Betty was the first woman ever to be really hired by a law firm. There were other women hired into law firms that did trust and estates – dead people’s work. But Betty got in a law firm. She was made a partner in that law firm, and then she was made a federal appellate court judge. She also was very active in the Washington Bar Association.

Then Betty Braceland was the first woman to be the president of the Washington State Bar Association. She got in Betty Fletcher’s law firm. Betty Braceland was about three years behind me.

McLeod: So I want to for us to recall some of the things that were happening in terms of the ERA and women’s rights and laws at the time, and politically what was happening. So in ’61, before you go to law school, I think John F. Kennedy had formed the Commission on the Status of Women. He named Eleanor Roosevelt as head of that. Then in ’64, the Title VII and the Civil Rights Act establishes Equal Employment Opportunity Commission. I believe, Malcolm X was assassinated when you were in law school, I think in ’65. I wonder, did these events and issues ever come into play in the classroom? Were people talking about Title VII of the Civil Rights Act and related issues? What kind of talk was occurring?

Niemi: There was no talk among any men about that. None. And no talk from any professors, that I knew of, about that. There were two women who taught in the law school, and they taught legal writing. One woman taught something else, too. Very disagreeable woman, actually. But no, there was no talk. But there was a lot of talk among my friends.

Betty Fletcher graduated had graduated about ten years before I did. Firms used to come to the law school and interview top students. And someone, a person from a law firm asked, “Who’s the top student in the class?”

The other person responded, “Well, the top student’s a woman. You wouldn’t want to interview her.” And Betty heard that. She was there, in the room. So we would go and tell these horror stories to other women to try to get them to go to law school.

McLeod: Did it work?

Niemi: Oh, yes. Women now are more than half the law school graduates. Oh, yeah. It really worked. It really did. Betty Fletcher's daughter, Susan, was the top, well, tied with another woman to be the top in my class in law school.

McLeod: Oh, how incredible!

Niemi: Yeah.

McLeod: Okay, now remind me, you mentioned Betty Braceland. Can you say who she was at the time?

Niemi: Betty Braceland got into Betty Fletcher's firm. She was a plaintiff's attorney in a very big, good law firm. She did personal injury cases. The women, almost all the women I knew in law school were friends and got together. We formed the Washington Women Lawyer's Association, of course. And Betty Braceland took on these discrimination cases. There was a wonderful lawsuit, I remember. One of the women that was behind me in law school, but that I knew quite well, worked for Henry Jackson. In fact, many of the women attorneys did. Scoop was always very helpful to her. She got a job with a law firm, a very good law firm. They called her in after a year and said, "You are a square peg in a round hole. I'm sorry, we can't keep you." So she went to Scoop and she said, "I did cry a little bit."

Scoop said, "Don't you worry. That person will never become a federal judge."
[laughter] Anyway, she went to work for Boeing, and she's still quite happy.

McLeod: Can you say who Scoop Jackson is?

Niemi: Senator Henry Jackson.

McLeod: Yes, Senator Henry Jackson from Washington state.

Niemi: And a lot of women also worked for Maggie, who was a good, reliable Senate vote for the U.S. Equal Rights Amendment.

McLeod: Oh, and his full name?

Niemi: Warren Magnuson.

McLeod: Senator Warren Magnuson, right. You mentioned the Washington Women Lawyers, can you say what that was?

Niemi: When I got out of law school, there was kind of sorority type thing that women lawyers belonged to. It was very social. You know, all of our experiences as lawyers, even though my experience was quite small, involved having really tough times in the courts. We were not treated with any kind of respect. Judges called us by our first names when we were in court.

We got together, I think it was in 1969, with Chris Young on her patio. Christopher, her name is, but it's a woman. What happened is that we wrote a letter to every person, every member of the bar with a feminine name. So we had a few Shirleys that were men.

McLeod: Or Leslies or Marions.

Niemi: Yes. [laughter] But basically, we announced that we were going to meet and start a women's group similar to the bar association. I think there were eighteen or nineteen of us there. We got women from all over the state, really wonderful women. Spokane had two women attorneys. One didn't really practice, and the other one refused to come. But Tri-Cities had this wonderful woman. There were a couple of women on the peninsula. Anyway, a few women wouldn't come, but basically, all the rest of the women did.

McLeod: And how many did that make?

Niemi: Oh, twenty or so. But then more women started to go to law school, so it got bigger. We had to decide what the name was. We decide “caucus,” in those days, would rile people too much because it was identified as a rebellious type of organization. So it was just Washington Women Lawyers.

McLeod: Did you define your mission? Did you set goals?

Niemi: Well, we didn’t do all those things formally. For a long time, we didn’t even have a chair. We just took turns. But during that time, when I first got out of law school, I got a job with a firm where the lawyers were friends. It was civil law, and it was in Kirkland, and I really, really thought “this is not why I went to law school.” This was 1968. I had received my degree in December because I didn’t go full time my first year. So this was in 1968 that I was hired. I passed the bar, I think, in January or February. I worked there for about three or four months.

During that time, Martin Luther King was assassinated. Bobby Kennedy was assassinated. There were fires burning in the ghettos. I remember being down in Palo Alto, watching East Palo Alto burning. I thought, this is ridiculous. So I went to legal services. I was a legal services lawyer until I was elected to the Seattle District Court.

McLeod: Oh, that’s interesting. There were those two assassinations, and then there was the protest in Chicago, the Democratic National Convention.

Niemi: Yes.

McLeod: And that was the same year as the Vietnam Tet Offensive.

Niemi: Yes.

McLeod: Could there have been a more tumultuous era for you to have graduated from law school?

Niemi: Oh, no. But also, Lyndon Johnson had set up the War on Poverty. That was incredibly exciting. I mean, that's why I've been supporting Barack Obama for so long, because he was a community organizer, which we were as lawyers in the Central Area. I practiced law at 23rd and Union, and 24th and Jackson. Mainly I represented clients. We could represent clients in those days. I represented a volume of clients. If a really good case came up, I would pass the issue to lawyers that were better appellate lawyers. We did an awful lot in those two or three years at legal services.

There was a case that came up, at the time, that was a Florida case. I can't remember the title of that case, but it said that everyone has the right to be represented by a lawyer if there's any chance that they will lose their freedom, which included misdemeanors. I didn't do criminal work, I did civil work then. There was a whole other group of public defenders that were set up then. But we were all so close and did so many things together that I still know all these people.

McLeod: Were the Legal Services Attorneys set up through the War on Poverty? Was that a federally funded?

Niemi: It was federally funded, but we weren't federal employees. There was a Legal Services Board, which was appointed by the president and other people.

After I became a judge, and after I was in the Superior Court, there was a vacancy on the Legal Services Board. A lot of people proposed that I go on this national Legal Services Board. In fact, the *PI* [*Seattle Post-Intelligencer*], who had never been really terribly supportive of me, had a little editorial that promoted my appointment to the Legal Services Board. Well it turned out I didn't get on it. And that was all right with me. I hadn't really expected to get on it.

Then in 1980 — between 1979 and 1981 — I worked in Washington, DC. I worked for the Small Business Association. Carter hired an awful lot of women. So at the

end, when we all had to resign because we were Democrats, I got this big scroll of all the women Carter had appointed. I looked at the appointees to the Legal Services Board. When I didn't get on, someone said, "Oh, they appointed a governor's wife from Arkansas." Well, when I looked at the appointees, I saw it was Hillary.

McLeod: Oh! [laughs] Hillary Clinton. Well, there you go.

Niemi: I must admit, I was a little upset during the current primary campaign when she said she had done all these things for children's rights. She went to a meeting once a month, but was never a lawyer for children's rights.

McLeod: Well, see, it all comes around. It comes full circle.

Niemi: Oh, it was amazing. Amazing.

McLeod: So I want to talk a little bit more about being a Legal Services attorney. And I wondered, and getting back to women's issues, if you were working as an inner city lawyer, what were the central issues for minority women, single parents, otherwise marginal women in terms of equality and civil rights, and what laws did you feel were necessary that didn't exist.

Niemi: Oh, there were a lot of them. And actually, we got most of them fixed during that time. It was amazing. For one thing, I have to explain before. The West is very different from the East.

McLeod: In Washington state?

Niemi: No, the West. The whole West. California, New Mexico, Arizona, Texas, even. Because women were needed. And women were always more respected. It wasn't like the East. Consequently, that's why we have community property laws, where half of the property belongs to each party.

But unfortunately, during the time that we were at Legal Services, the husband was supposed to be the manager of this property. This was really, really difficult for women because the husband could sign anything. The wife never had to sign off on anything. They could just, if you didn't pay up, they could just take all the property. This was really important for the women that we served. So we did have a change, got that changed in the Legislature. It wasn't a constitutional right.

McLeod: It was Community Property Law, isn't that what it's called?

Niemi: It was a change in the Community Property Law.

McLeod: And wasn't that law passed in 1968, the same year you started practicing?

Niemi: No, the change came in 1979, I believe. The husband no longer was the sole manager of community property. I think that's when we got it changed. That was a big change for us. And there were others. The Equal Credit Law was a big, big thing. In fact, it was a big thing for all women. I didn't even realize that. Because all the credit companies started to send those credit cards, which meant that after I was divorced, I had my own credit card and I had my own credit history.

McLeod: Before that existed, credit was determined by the couple, with the male as head of the family. The credit was under the umbrella of the male, right? It wasn't independently determined.

Niemi: That's right.

McLeod: You couldn't earn an independent credit rating before that time. Do you remember, recall the year?

Niemi: Yeah, it was really important. I know Equal Credit for Women passed in 1972, while I was a legal services lawyer.

McLeod: Right.

Niemi: One of the things I did was more community work. I worked for the schools, because the war on poverty included getting lunches and everything, so we had a lot to do with making sure the schools did that right. We also set up the Central Area School Council, which was like the one in New York, where we ran the Central Area Schools. This is my first election, the Central Area School Council. I was unopposed, or I don't think I would have been elected. [laughter]

McLeod: Did you know about running a campaign at that time?

Niemi: No, I didn't know anything about it. In fact, my daughter was in school at the time. This was when I was a Legal Services lawyer. She was in school, and because of the money for the War on Poverty, this school had a pediatrician. And she was bussed to a black school in the Central area. Anyway, those of us running for the Central Area School Council had to go on television. So I went on Channel Nine. We all had to say what why we were running for the positions.

So the next day, she fell off the swing and broke her arm. The school called me and she was there. The pediatrician said, "I think your daughter broke her arm."

I said, "Okay, I'll come and get her."

And she said, this doctor said, "I saw you on television last night." She said, "You and your daughter look alike."

I said, "Yes, I think we look alike." I said to her, "You know, I wasn't very good."

She didn't say anything, and she turned to another teacher after she hung up and said, "No, she really wasn't very good." [laughter]

But anyway, we did an awful lot of stuff during those two years. We got people to be able to file divorce suits after they signed an affidavit of poverty. You know, they didn't have enough money to pay the filing fee. We got the divorce law changed so that

either party could ask for a divorce, no-fault divorces. It made a big difference for women.

McLeod: What were some of the things, I mean, without no-fault divorce, what's difficult? You can state the obvious, if you want. But before no-fault divorce, and a woman who needed to seek a divorce, which she may not have been able to afford due to an impoverished situation, what kind of position did that put her in?

Niemi: With an affidavit of poverty, no filing fee was required. But before no-fault divorces, the woman would have to testify that she had been physically abused. She couldn't get one. I had one such case as a lawyer in my brief period in this law firm. A woman came to me, nice woman, I think she was married to a lawyer. Basically, there had been no sexual relations in two years. Well to me I thought, that's good enough. I went down there in front of this judge who had been a judge in the war trials in Germany. He was very well known, respected judge. He looked at this and he said, "That's no reason." He threw the case out. I eventually went to another judge and got the divorce for her.

McLeod: Did you ever come upon any ridicule for the cases that you defended? Did you hear from people on the opposite side?

Niemi: We had, at the time, some really good, nice judges in King County. I do remember there was one judge that didn't like Legal Services. So all of us would figure out a way not to go in front of that judge. But part of the problem was the way women lawyers were sometimes treated in the courtroom. One time two women came into a courtroom and the judge said to them, "Okay, girls, go at it."

McLeod: Two lawyers.

Niemi: Two lawyers. A lot of the judges would call not only women lawyers, but women witnesses, by their first names. Even when I was in Superior Court, a lot of the

complaining prosecutors would call complaining witness, say, even in a rape case, by her first name. But there is a U.S. Supreme Court decision that says you can't do that.

The other thing about being a woman lawyer is that we couldn't get hired. I mean, there was no way. The only jobs that women lawyers could get were either for a divorce mill type of firm, or they could be prosecutors and do the sex cases. There weren't that many women lawyers anyway.

McLeod: So did you end up where you wanted to be, or did you feel like there would be too much bias for you to try to become a corporate attorney, or another kind of attorney.

Niemi: When I went to law school, I did well enough to be eligible to be on the Law Review. Then they had this one week before law school, before the school started, as an introduction for Law Review nominees. That's when my daughter fell and broke her leg badly. So I just couldn't be on the Law Review. It really never bothered me, because by that time I realized that even if I had been on the Law Review, I couldn't have gotten a corporate job. I don't think that I knew that I'd want a corporate job. I don't think I even knew what it was. But I knew that I couldn't have gotten such a job anyway, even if I went through all that.

But the problem that we couldn't get a job was what upset so many women and is partly what made us organize and form Washington Women Lawyers. At that time, I would find out about an opening at a firm, and I would go there. There weren't as many lawyers then and it was easy to find out about openings in large firms. Everyone would be very nice because my husband was a lawyer, and they knew him. They'd say, "Come in for an interview." They'd take me around, and they'd show me the library and all these things. Then they'd say, "Well, I'm sorry, but we don't have any openings in estates." You know, there was no way that they would allow a woman to have a job representing any kind of corporate client or any important person. I knew there was an opening, but then they would never hire us. A woman.

McLeod: Well, what about the EEOC (Equal Employment Opportunity Act)?

Niemi: It wasn't really up and working at that time at all. And then, who wants to do that? I think the EEOC is important. But on the other hand, there are a lot of things that are complained about that it would just never occur to me to complain about. You know when I was in college, I would work in bookstores and the manager might come up too closely or kind of touch you inappropriately. Who wanted to file a lawsuit about things like that?

McLeod: In '66, the National Organization of Women is founded by a group including Betty Friedan. One of the reasons it's founded, I think, is in response to EEOC's inaction on employment discrimination complaints. Twenty-eight women find the National Organization of Women to function as a civil rights organization for women.

So I'm curious about your relationship to the National Organization for women. Was there any relationship between the Washington Women Lawyers and the National Organization for Women?

Niemi: There wasn't any relationship between Washington Women Lawyers. I was always aware of NOW, but I was in law school first [before NOW was established]. I ran for office in 1970. I ran for a woman's job. It was a district court job. The woman had it had to retire because she was so old. There were four people in the race, and I won, but I didn't get 50 percent in the primary, so I won in the general. I went through some time thinking I didn't want to have my picture shown. But that was ridiculous, because I had a woman's first name. I wanted everybody to vote for me.

I'm not good at organizations. I've never belonged to NARAL. I've never belonged to NOW. I've been with a lot of women's groups, Women's Caucus, women's networks, a lot of organizations like that. But I just didn't feel comfortable belonging; I have never belonged to the ACLU either.

McLeod: When you're a judge, is there a difficulty between being a judge and belonging to some of these organizations? I'm more familiar with the area of being a journalist, and

we have to be objective, or at least show some objectivity, which makes it difficult to belong to certain organizations. So was that part of it, too, for you?

Niemi: Not really. I've always been a very strong feminist, but I just didn't want that label.

McLeod: What was the mantle the women who belonged to NOW wore at that time? I mean, what was the label?

Niemi: You don't want me to say.

McLeod: [laughs] Actually, I do. But if there's a way you can phrase it.

Niemi: No. Well, I have met and had lunch with Gloria Steinem. I've got a picture of me with Bella Abzug. So I think they were all incredibly important. But you know, I ran for office in a city of five hundred and some thousand, and a county of over a million. I just didn't want labels.

McLeod: And what was your hesitancy about having your photo out there? You mentioned that you didn't want your photo in the press.

Niemi: That was early on. I thought if people didn't know I was a woman, but they all knew I was a woman anyway, so it didn't do any good.

McLeod: Were you concerned people wouldn't vote for you for district court judge if they knew you were a woman?

Niemi: Oh, district court, they probably would.

McLeod: Superior court?

Niemi: Superior court. There had never been a woman superior court judge. In 1971, Dan Evans appointed Nancy Holman to the King County Superior Court. In 1972, I won the election to superior court. I started in Superior Court in January of 1973. In the Superior Court they had their monthly meetings in the Rainier on Fourth Avenue, at a club that women had a separate entrance to and women couldn't belong to. So Charlie Smith, who had just retired, couldn't go to the judges' meetings because they had the meetings at the club, and a black person couldn't go. Solly Ringgold was Jewish, he couldn't go. So he couldn't go to the judges' meeting. Warren Chan was Chinese, and he couldn't go to the judges' meetings. But Nancy Holman could go to the judges' meetings because she didn't make a lot of noise.

McLeod: [laughs] And what about you?

Niemi: By that time, they had changed the judges' meetings. But they also had memberships at that club on top of the Norton Building. They all got free memberships before. But when I came on, they didn't give me a free membership. By then they decided that they couldn't have their meetings at the Rainier Club. They would have their monthly meetings at night. We would have our judges' meetings at night in the judges' conference room. The clerks would make dinner.

Well the clerks, particularly the presiding judge's clerk, was not very happy about making dinner for people, especially women. So that didn't work, either. I think we had lunch meetings from then on.

McLeod: [laughs] Well, we got up to 1970. And I wanted to start asking you questions more particularly related to the state Equal Rights Amendment campaign and the Federal Equal Rights Amendment campaign. And I know that in 1970, the ERA is introduced, or reintroduced to Congress, I should say. It had been introduced to Congress, I think, since 1923, when Alice Paul first wrote it, but it was written differently and reintroduced. What was your involvement with the ERA campaign? What were your feelings about the necessity of the Equal Rights Amendment? We can start there, if you want.

Niemi: Well, I think we started before then, because I know I was still a Legal Services attorney. I would go all over the county. Because I did a lot of speaking, I would speak to every Eagles, Elks, all those people at their lunch meetings.

McLeod: Largely male organizations?

Niemi: They were. We spoke all the time, and this was about the state Equal Rights Amendment, too.

McLeod: The House Joint Resolution 61.

Niemi: Yes, I spoke all over about that. We also had a very big meeting. Frankly, I don't think it was for NOW, but it was a big women's meeting, just when I was running in 1970. I think I met Helen Summers there. She was involved in that. Helen was involved, Marianne Norton was involved. I think even Mary Helen Roberts was there. I know Elaine LaTourelle was there.

McLeod: Elaine was head of NOW at the time. What was Marianne Norton? She became State President of AAUW, didn't she?

Niemi: Yes, she was with the AAUW. She later ran for the Mercer Island Council, but and didn't win in Mercer Island. So all those women were involved in that. Dorothy Sale [ERA field organizer, NOW] was also involved. I remember all of them. Jane Noland, eventually a Seattle City Council woman, was there. That's how we all got to know each other. From then on, we worked with each other all through this. You know, whenever there was a speaking engagement, they'd call one of us up, and we would go out and speak.

I remember, it was kind of hard for me to speak the first times I was out. You asked somewhere what was the opposition based on. Well, it was God.

McLeod: The Bible.

Niemi: Yeah, absolutely.

McLeod: And what was the argument, if you could characterize it?

Niemi: Well, it was just that men were made to manage the household. There was no other argument against it.

McLeod: How do you respond to God and the Bible as a defense?

Niemi: Well, you know, you don't respond. You just say, "Well, I think this should happen." I would come back home and think oh, God, I can't do this again. But I did do it again and again. Well, it was all worth it.

I think after Betty Friedan's book, there were many, many feminist articles. There were many women's groups set up, all kinds of groups. Some were commercial, you know, getting together to learn how to sell things or buy things. There were women's business organizations, in fact, that was a group that I spoke to. The statistics that we could throw out was the percentage, the amount of money women make as opposed to the amount of money men make. Also, the number of women who were working. About that time, at least 50 percent of women with children in the household were working. We would explain all those things and get women encouraged to work with us, and to elect us, to elect women. We started to elect a lot more women to office.

McLeod: I actually wrote down a fact I read, to help me understand the era. It's right here. The proportion of wives that worked had doubled in the United States from 15 percent in 1940 to 30 percent in 1960. So this only takes us up to 1960.

Niemi: Yes.

McLeod: But let's see. Forty percent of all women over sixteen held a job. Female employment was increasing at rates four times faster than men. However, as women's average earnings in 1960 were 60 percent of men. So by 1970—

Niemi: We still haven't gotten above 72 percent of what men make.

McLeod: Right. There are still a few things I wonder about when you went out to speak to people. I bet, even though you said at first you were uncomfortable with it, you got better at it as time went on, because you became more prepared what people were going to ask you.

Niemi: I got pretty good at it for many reasons. I had heard Gloria Steinem speak, and it was easier for me to talk like Gloria Steinem does. You know, make jokes about stuff at the beginning and be very casual about it. So I learned from her, and I felt very comfortable speaking with all these groups. I'm not a good shouter or anything like that.

McLeod: And when you met with her and you talked to her, did you talk about that? I mean, you said you had lunch with her once.

Niemi: No, we talked about the issues.

McLeod: You talked about, and do you remember any of that?

Niemi: Well, equal rights, mainly. Yeah, she was working for the national and the local equal rights amendments.

McLeod: I think 1971, probably around the time you met with her, was the first time *Ms.* had come out. I think it came out as an insert in the *New York Times*.

Niemi: That's right.

McLeod: I wonder, sometimes we polarize men and women as women being for the ERA and men being against. But certainly there were many women against the ERA. There was HOME, the Happiness Of Motherhood Eternal, and HOW, Happiness of Womanhood, and Stop ERA, which was Phyllis Schlafly's campaign, Eagle Forum. There were all these organizations. So when you went to speak to these men's groups, did you feel that they were doing it because they thought they had to, or because they needed to know? How did they respond to you?

Niemi: Well, you know, they met every week. They just needed speakers.

McLeod: [laughs] Was it a kind of, I'm going to tolerate this hour or half hour of this woman speaking? Or did they really listen and ask questions?

Niemi: Oh, both. I don't know how meaningful it was for them. But again, my knowledge is mainly the political climate in Western Washington. Most of these groups you're talking about were effective in Eastern Washington, not Western Washington.

And the other thing is, and until this day, it exists. Women vote more than men vote. Women really wanted women to hold office. So if there's a reason that my elections got to be pretty easy – I mean, I did lose elections – but got to be easy to win because of the same reason that women are for Hillary [Clinton]. Women are committed to get other women in. So you know, you go out and talk to these organizations. But frankly, if you wanted to get elected, you had to be involved with women's organizations.

McLeod: People argued that the fourteenth amendment and the nineteenth amendment, these laws were enough, and we didn't need equal rights amendment. What was your response to that? Because you were you were in a position of looking at things from a legal perspective. How did you respond to people when they made those arguments?

Niemi: Well the trouble is, by the time I started to be a lawyer and care about these issues, women's equal rights were done in Washington. I mean, we passed our own equal

rights amendment. We passed our own changes in the Community Property law, and the Equal Credit. So as far as the state of Washington goes, even abortion rights was passed.

McLeod: Referendum 20 in 1970.

Niemi: Yeah, that was passed. So that wasn't as much of a problem in this state as it was in other states.

McLeod: So did you have a relationship with women nationally? And did you have an investment in getting the ERA passed nationally?

Niemi: Yeah.

McLeod: And what was that relationship?

Niemi: Well, for one thing, when I got to be a judge, I probably knew every woman judge in the United States, or knew of every woman judge—there were that few. Lyndon Johnson appointed some people to the federal court. So we were talking maybe twenty, twenty-five people. I kept getting questionnaires from every graduate student in universities in the country saying, "How did you get where you are? Who was your mentor? Did your father encourage you?" None of which are true for me, so I didn't fill out a lot of them. But being a judge was pretty rare. So yes, all knew each other.

McLeod: So I'm going back in my mind between the state ERA and the national ERA. The state ERA here passes in '72. It passes out of the house without too much trouble. Then it reaches the all male Senate.

Niemi: Oh, yeah.

McLeod: What you can remember about that time?

Niemi: By then I was an elected judge, and I did testify, I believe, at a legislative hearing. I thought Martin Durkan had a lot to do with it passing.

McLeod: And Martin Durkan was a Washington State Senator from King County.

Niemi: I know Slim Rasmussen had always been against it. Senator Mardisich, from Snohomish County, was very helpful. And the other thing is, at that time in the Senate, there were reasonable Republicans.

McLeod: Well, Dan Evans was for it, as was Slade Gordon. They were both Republicans.

Niemi: Yeah, they were good on it, I mean, really good on it. So was Joel Pritchard. But I can understand why it would have been held up. It certainly wasn't just Pete Francis that got it through.

McLeod: Francis, the Democrat Senator from Seattle. Well, it's interesting, because here's some things that Senate members said quotes in the press from the day, "This will allow for homosexual marriage," or, "This has gone too far," or, "This is ridiculous." Then there's the draft. That was certainly a huge issue, that women might be drafted. Although I didn't see that comment coming too much coming from the Senate. So when you say you could see why it was held up, were you talking to any of these senators?

Niemi: Probably.

McLeod: Do you remember speaking with any of them?

Niemi: Well the trouble is, with me, King County was all for it. I mean, there wasn't anyone that I knew well that wasn't for it. So we would go down there. I can remember distinctly going down there once with Betty Fletcher. I think we talked to Durkan. But it just was entirely different. I know the draft was a problem. I knew all those things were a

problem. But I still thought in political terms. I know where the votes are. Those people that said there were problems were not where the votes were.

McLeod: Oh, right. But then the state ERA passes, I think, by three thousand some odd votes.

Niemi: I know. Well, there were more people living in Eastern Washington than there are now.

McLeod: Right. So were you concerned at some point that it might not make it?

Niemi: Probably.

McLeod: [laughs] And there was this photo I've been wanting to show you. Oh, here it is. It's a photo that appeared, oh, is that the *Seattle Times* in February of '72, a critical time for the ERA's passage?

Niemi: Now that's Dorothy Sale, I know that.

McLeod: Right. Dorothy Sale, a member of NOW, is in the photo.

Niemi: Oh, Jean Marie?

McLeod: Yeah, Jean Marie Brough, I think, is there. Anyway, they are in the gallery, right, when the Senate is in session. They're all wearing these nametags that say "ERA" instead of saying their names, just the initials E-R-A. I read, also, that there were some legislators that were so tired of being lobbied. They would have posters on their office doors that said, "No more women's lib." They didn't want to be approached. [laughs] Do you remember this?

Niemi: I don't remember that. I was a judge then in Superior Court. I knew Jackie Griswold. I certainly knew Dorothy. Jean Marie came in with us in the Legislature. She got elected in '82 and came in in '83. She's a Republican; however, a progressive Republican.

McLeod: You were often quoted in the newspaper. I know Susan Paynter, of the *Seattle PI* [*Seattle Post-Intelligencer*] quotes from you a few times. What did you want to convey? When you sat down with a reporter, what did you think your function was? I'm assuming women gathered together and strategized and thought about it. Maybe I'm wrong. What was the message you really wanted to get out?

Niemi: It would depend on what the question was, obviously. I can remember Susan was very helpful to all of us. I mean, she would write things up that we had done. I assume that what I was trying to say was how much woman needed it and how, what the problems were involved if women didn't have equal rights.

McLeod: In some of these other arguments against the ERA, people were worried that the family unit would break down. They worried that women would lose their femininity. They worried that there were going to be unisex bathrooms and that we'd lose our privacy. Again, the military draft was a big issue. Same sex marriage was another concern. So if these questions were coming at you, what did you feel like the real issue was on that side of the fence? Because you're a critical thinker, probably, as a judge or someone who's been in law school?

Niemi: I think, you know, I think – and I hadn't thought of this before – that it's like the recent election with [Barack] Obama in North Carolina. I think they all had reasons for not wanting women to vote. They weren't going to say they don't want women to vote, so they'll give you another reason. They just didn't want women to have any rights, so they'll give you another reason. But there's no way you can talk them out of it. Certainly being strident didn't do any good. Being there and being logical about things was probably what I was saying.

McLeod: When the ERA did pass in Washington state, I think that Gayle Berry, the attorney general's assistant, is quoted as saying there would be about a hundred to a hundred and thirty statutes that would have been changed. What do you remember of that work?

Niemi: Well I remember, you know, it happened. She was an AG, and she worked for Slade. She was appointed to that task, so she did it. Her job was to replace "man" with either a "he or she" or something like that. I don't think it was a very interesting job for Gail, and it took her quite a while, but she did it.

McLeod: And there weren't computers with a finder function to search and replace every "he."

Niemi: No, no, she went all the way through. It took a long time. I'm guessing when I say a year, but maybe not that long. But it wasn't fun, I'm sure.

McLeod: So her job was to take passages of laws and make them gender neutral.

Niemi: Yes, gender neutral

McLeod: Were there any laws that shifted because of this work?

Niemi: No, nothing. It was just nomenclature.

McLeod: 1972 was a big year for the ERA in Washington State. It passes in the Senate. Then the vote is ratified in 1973. It's also ratified by the state of Washington on the federal level. We're one of twenty-two states that do it. Then there's a federal deadline of 1979 to get thirty-eight states to ratify. But, by 1979 we'd only had thirty-five states ratify. So congress grants an extension of 1982. And it doesn't happen.

Niemi: It was Illinois that really was the problem. And we had a hard time with Senator Jackson. As I recall, we finally got him. We had a very hard time with Senator Jackson. And my guess is I probably sent money nationally, but I'm not sure.

But you know something, to go back even to what did I say and what did I do. I represented this district, the forty-third. There are probably more gays and lesbians in the forty-third than in any other district in the city or the state. Every single year in Olympia, from the time I went down there in 1983 until the time I left, I would add an amendment to every single nonprofit bill we ever had, that they don't get any nonprofit status – they have to pay taxes, say, real estate taxes – if they discriminate in their membership. I had to say “full membership,” because you can be a part-time member of some of these circles. If they discriminate on the basis of gender or race, I would always pass it on race. I would never get the gender through. This was long after the Equal Rights Amendment. I never did get it through.

The last ones I remember were golf courses. Golf courses have less property tax because it's not the highest and best use, or something like that. Whatever it is, they get a break on taxes, property taxes. But women couldn't play during regular hours; they had special women's hours. So a woman couldn't play on the weekends when the men wanted to play. I still didn't get it through.

Gender and sexual preference, no. Every one of those, from then on, I never got sexual preference through. It never went through the Senate until I got out of the Legislature. The person who took my place was gay, and he got it through finally.

McLeod: Senator Ed Murray?

Niemi: Not Ed. Although Ed got another bill through [Lesbian, Gay, Bi-sexual, Transgender Civil Rights Bill] this last time, too. It was a different one. But heavens! We're talking 2007 he got that passed. It was Cal Anderson who got the first sexual preference bill through the Senate.

McLeod: And you were trying, how long?

Niemi: Twelve years.

McLeod: You were in the Senate how long?

Niemi: I was in the Senate for, I was in the House from '83 to '87, and '87, I was in the Senate until '87 through '94.

McLeod: Through '94. I'm really interested in this. I think maybe readers will want to know, especially years from now, what is was about the sensitivity toward race, and having an understanding of that at some level, but not when it comes to issues related to—

Niemi: Gender and sexual orientation.

McLeod: Yeah, right.

Niemi: You know, I can't imagine. When I was at Legal Services, we were putting together these things. I went to talk to a very well known African American minister in town. Very well known. I said, "Look, can't we get together on this? I mean, I realize that we want racial equality. But can't we put gender in this, also?"

"No," he said. "That's your fight. It's not mine." I really like his wife a lot, but boy—

And the other thing that happened is during this time, while I was in the Legislature, they had this really big thing and Jesse Jackson came to town. He was on the pulpit, and all people like me got to sit in the front row, or the second row, everybody, elected official in the area, the governor and other people, all got to sit in the front. Every single person was introduced. I think Gary Locke was governor at that time. I know Ron Simms had an office at that time. They introduced everybody but me, but I was white. I really didn't care if I got to stand up in that church. But basically, that bias still exists.

McLeod: I'm not a lawyer, but I grapple with the question, isn't the argument essentially the same? Don't you just replace "race" with, "gender" or "sexual identity" or "sexual preference."

Niemi: Well, it seems to me, too, but they don't. There's a need to keep all the power. There's a lot of power, and there's a lot of money involved.

McLeod: Oh. So is this similar in some sense, but many years later, the argument that we have against equal rights for women, was it about power at that time?

Niemi: Of course.

McLeod: And also about money, in a way?

Niemi: Yes. I think so.

McLeod: So we have the same thing kind argument replaying itself?

Niemi: Yeah, well, I also used to introduce the same kind of sexual equality in every bill. Well, someone will say, "Well, what about bathrooms? You can't be using the same bathrooms."

And I say, "What about airplanes? And Europe." You know, it's ridiculous.

McLeod: Well, okay, so my last question is, where do you stand on the status of the ERA, now? We're speaking about the federal ERA, and what you hope for its passage. Then there's this interesting thing that has happened in regard to that. I believe Congress had decided that there's a time period during which time something can be ratified. But the twenty-seventh amendment was supposed to be the ERA. It became the Madison Agreement, which, 203 years after the fact, deals with congressional salaries, and is finally passed. So there's an argument now that the ERA can also be extended to fit under

that umbrella. It could be extended for that amount of time to become the twenty-eighth amendment. What are your feelings about all this?

Niemi: Well, I would certainly like to see it passed. I think it's obviously still necessary. I think in the state of Washington, you know, when you have an Equal Rights Amendment, we got very close to being able to say that marriage did not have to be a man and a woman. It was a five-four decision on our Supreme Court. I think our Equal Rights Amendment probably covers that kind of thing. I think they made a mistake. But I think we still need it. You have to have the right time. Clearly with a Republican president, it will never be the right time. The time may come up in the next four or five years, but it has to be timed right. Because, as you can see, first everyone thought Massachusetts was terrible, and now everyone's frightened about California. But that is changing. And people's feelings about same-sex marriage is changing.

McLeod: What are you referring to with Massachusetts and California?

Niemi: That marriage is not just a man and a woman. Also, an end to the death penalty, feelings are changing about that. I don't think that you can just hop in and do it. But I think it is still necessary, clearly it's still necessary. But I think that a time will come when it's possible.

McLeod: Thank you so much.

[END INTERVIEW.]