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### Practice Area Snapshot, Part Two ...

## Elder Law: Skill Sets, Hiring, & Medical Cannabis

*The following is the second of a two-installment feature as Of Counsel examines the dynamic and growing elder law area. The first part served as the lead story for the April issue.*

Earlier in her career as an elder law attorney, Jennifer Cona was appointed guardian of a woman named Lena who had no family, was living in a nursing home, and had dementia. A wide range of responsibilities came with that guardianship. Cona, the founder and managing partner of Cona Elder Law in Melville, NY, managed Lena's finances, paid her bills, make medical decisions, met with her care plan team, filed annual reports with the court, and performed other duties.

While Cona found it rewarding to help Lena—and no doubt sometimes challenging

as well—she encountered logistical problems. The nursing home where Lena lived was a 45-minute drive away and Cona was trying to build her law firm and raise young children. "It was very difficult for me to give up time in the office or time with my children to visit Lena," Cona recalls.

One day, mercifully, an epiphany struck. "I had a light-bulb moment: I'll take the kids with me to visit Lena," Cona says. "I brought crayons and drawing paper. I stored them in

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## Of Counsel *Interview*

# Appellate Lawyer Launches, Sustains Podcast with Women Legal Leaders

When Mary-Christine “MC” Sungaila practiced law in the 1990s as a litigator, she’d often need to visit people on the job in various offices to depose them for the case she was handling. She’d check in for her appointment at the reception area, walk down the hall to the conference room, and conduct the deposition. Invariably, she’d encounter biased assumptions at every turn.

“Everyone, from the receptionist to the lawyers, thinks you’re the court reporter,” Sungaila says. “You’re carrying your bags, and they just assume you’ve got court-reporting equipment.”

Apparently, this was a common occurrence for women attorneys in that era, Sungaila notes, adding that, while it was sexist and annoying, it didn’t rise to the level of sexism that previous generations of women in the legal profession ran up against. Those in the

1960s, 70s, and 80s who sought attorney positions at law firms often confronted the unwritten but pervasive policy that served as an employment barrier: Women need not apply.

“You just knew it was going to happen,” she says, “and then you’d use that to your advantage and think: *If you want to underestimate me, well, that’s cool. I’ll go ahead and do my work and do it well.* It was so common that if you mention this to virtually any woman lawyer in our era, they’ll simply say, ‘Oh yeah, sure, the court reporter thing.’”

Sungaila hasn’t let any societal attempts to demean her gender and slow her down. She’s had a robust, highly regarded, 30-plus-year career as an appellate lawyer in private practice, accumulating prestigious honor

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## Of Counsel Interview

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after prestigious honor for her work, including being named California Lawyer of the Year twice. These days she practices appellate law at California-based Complex Appellate Litigation Group.

In March, *Of Counsel* interviewed Sungaila about the arc of her career, appellate law, women in the profession, and other topics. But time and space prevented a much discussion about an important initiative that she launched more than a year ago and which is ongoing—an award-winning podcast that she hosts, “The Portia Project.” In the twice-weekly podcast, Sungaila conducts interviews honoring and exploring the accomplishments of trailblazing and leading women judges and lawyers, and those in other positions, in the hopes of inspiring the next generation of women lawyers and law students. Part two covers that ground.

For only the second time in the 25-plus-year history of this feature, the *Of Counsel* Interview comes in two parts, the first of which appeared in the April issue. (The only other two-part *Of Counsel* Interview, published in the spring of 2017, was with prominent immigration lawyer and author Susan Cohen, who founded the immigration law practice at Boston-based Mintz Levin more than 30 years ago.) To receive a copy of the first part, contact Steven T. Taylor at [steve-taylor77@comcast.net](mailto:steve-taylor77@comcast.net). Here, then, is part two.

### Finding the Right Medium

*Of Counsel:* MC, last month when we spoke we covered a lot of ground but we didn’t talk much about your podcast, “The

Portia Project.” How did it start? What was the inspiration for creating it?

**MC Sungaila:** It started a few years ago when I began interviewing women appellate judges in connection with the ABA. I was going to start working on a book for them, as a way to chronicle the history of women appellate judges. As an appellate lawyer, I was noticing that there weren’t as many female appellate judges either on the state or federal levels. There were about 130 of them, which is a small percentage of the number of positions there are. I thought it would be nice to highlight them and maybe encourage others to apply for those positions.

In doing these interviews, I found that the judges really liked to talk. And then I’d have to adapt those conversations into essays for the book. In the adaptation process, I thought that some of the essence of the interviews was lost. There were more interesting anecdotes and stories that they were willing to talk about but they didn’t turn out as well in an essay format. Something was missing. And, I wanted to capture that. Just like any artist, I thought about it and realized a book might not be the right medium. This is a worthy project but I need a different medium.

During the depths of the pandemic, lawyers and judges got very familiar with Zoom and podcasts became more popular, although they hadn’t really hit their stride in the legal realm yet. But more and more people were listening to them. And I thought, *This might be the medium—if the judges are willing to speak publicly*. As it turned out, this *was* the right format. That’s how it evolved. So I wanted to hear what others thought about this idea and figured that someone would shoot it down [laughter]. But nobody did. So I moved forward on it.

I had a startup and knew that first I needed funding and even before that I need to find out if people want to do it. If the judges say no, there is no project. But I had nothing to show them because I hadn’t launched yet and I didn’t really know what it was going to look

like. People were going to have to make a huge leap of faith in me just like the people funding it had to have a leap of faith in me as well. I give all of those people a lot of credit, especially for those who agreed to be among the first 16 people I interviewed for the podcast. They had to trust me that either it would turn out well or, if it didn't, I wouldn't let it see the light of day.

**OC:** And indeed it did turn out well.

**MCS:** Yes, what happened was just organic. I thought it would be 16 episodes and then we'd start a new season. But I'd interview people and right after the interview they'd email or call me, or even during the interview, they'd say, "You should talk to this person next. They'd really enjoy it and they have stories to tell." As a result, before the first episode even aired, I had 30 interviews produced because of all the referrals and recommendations my interview subjects gave me. That's when I thought, *Okay, this project is serving a purpose. It has a greater mission. People are responding to it. There's something that the judges find cathartic about it. They think it's useful to share [their thoughts and stories] with others.*

And then the project just grew—from focusing on appellate judges to also include people who can talk about this: If I were in law school, I'd want to know two things. One would be all the different things I can do with my law degree, which is hard for career services to really fully share. And the second thing is: If I'm a woman law student, what are the ways in which women are already leading?

You can accomplish both of those things by talking to women who are leading in a number of different areas, and some of the women are doing so outside the legal realm. So it evolved from judges, to law professors to general counsel, and women managing partners of law firms to women who are running non-legal nonprofits and women entrepreneurs in legal technology businesses. And the project has grown. We're now at episode 109.

**OC:** It seems to be a classic example or epitome of The Snowball Effect.

**MCS:** Yes, absolutely. I didn't intend this to be as extensive as it is. But as long as there's a strong momentum behind it, I could keep doing it, because I feel like I'm just a conduit for the larger service of what this is doing.

**OC:** MC, it's really quite remarkable how many interviews you've done in such a short amount of time. To do 100 within a year is mind-blowing. You must have a lot of stamina to do so many in a short amount of time. Interviewing, which requires very actively listening among other things, can be tiring, as you know.

**MCS:** Yes, sometimes I had four or five a day. It depended on my scheduling. These days I don't do more than three on any given day and I try to limit it to one or two.

## Reaching New Levels

**OC:** Clearly this project is all-encompassing but are there one or two podcasts that really stand out or maybe surprised you? Are there a couple you'd like to highlight? Or do you feel it's too difficult to choose?

**MCS:** First, I'll make a general comment for context. When I go back and listen to them or read the transcript, I'm amazed at the women and their willingness to be vulnerable and genuine. One of my friends, who's a trial lawyer, said something to me once: "You know, you could go to 10 years of bar [ABA] functions and never have this level of conversation with any of these people," she said.

It's like you're sitting down for coffee with them and the audience is sort of along for the ride. I really don't think it would work if they weren't willing to be vulnerable and share parts of themselves—because what makes the interviews interesting is that you get to see who they are as people, to some degree, which you rarely get to see. That's especially

true for judges, but also for a general counsel of a major company or a managing partner at a law firm. You don't usually hear those kinds of introspective or personal thoughts. That's what makes the interviews work and even makes them a little magical. How or why that happens I don't know. But almost all of them say they enjoyed it and have had a good experience, which leads them to recommend someone else.

A lot of people believe that people who are successful never had any challenges in their life. But a lot of them did, especially the trailblazing women who were told they shouldn't even apply for a job. There's a lot to learn from them. For example, for some of them, you can see how they navigated things through their personality and creativity.

I think of Ann Covington who served as the chief justice of the Supreme Court of Missouri [the first woman to hold that position]. She's a gracious person who usually doesn't talk about herself; rather, she talks more about other people. The challenge with her was to get her to talk about her journeys without talking about other people. People like her are special. And, we're friendly now. Some of these people I never knew and we just kind of hit it off, and I feel like there's a connection. And sometimes I'll introduce someone to someone else. They could meet one another on their own but feel more comfortable with having someone else introduce them. So I broker introductions.

**OC:** It's often better to have a liaison.

**MCS:** Exactly. So there's this nice little community of connection, and I hope that people are able to share their ideas with and meet each other. I didn't really have a vision of this happening because of the podcast.

**OC:** You mentioned Ann Covington. What others come to mind?

**MCS:** I was able to interview four women on the Washington State Supreme Court. All of them have very interesting backgrounds

and each unique. I find it interesting how many women are serving on state Supreme Courts in some states. Michigan is another state with several women justices.

## Landmark Episode: The Right Choice

**OC:** For your 100th podcast, you chose to interview Judge Dorothy Nelson for whom you served as an extern years ago. She seems to have been an excellent choice for that landmark interview. Why did you choose Judge Nelson and how did it go?

**MCS:** Actually I interviewed, together, both Judge Nelson and Lisa Kloppenberg, who was a clerk for the judge [and has served in various leadership roles and as a professor at Santa Clara University in California and other academic institutions]. There are several reasons why I did that. First, of course, Judge Nelson is very special to me and I was so glad she agreed to do that podcast; it seemed fitting that the 100<sup>th</sup> episode would be a very personal episode. But it wasn't just personal to me.

I also wanted to highlight the book that Lisa wrote about Judge Nelson, her life and work and the law [*The Best Beloved Thing is Justice: The Life of Dorothy Wright Nelson*]. We talk about mentoring quite frequently in the podcast and I wanted to exemplify what that looked like. Judge Nelson was the first women dean of an ABA-accredited law school in the country. She was the dean at the USC law school, and then she mentored a lot of her law clerks into leadership positions at other law schools, including Lisa.

I also wanted to highlight the respect for Judge Nelson that so many of us have and all of our connections because of that particular clerkship.

**OC:** What are one or two things you learned from Judge Nelson that have been most vital to you?

**MCS:** Her ability to bring people together. She talked about that in the podcast. She is very conscious about bringing people together in ways that will help resolve [matters] and get consensus to move forward. One way she does that is she often includes food, whether it was punch and cookies in her chambers or dinners and potluck dinners at her house. It just breaks things down to have people connect over food at a human level, which makes them more able to see you as another person, rather than someone who might be opposing them.

She had a soft-power way of working with people. She's been behind many initiatives and moved them forward and doesn't mind if she doesn't get the credit directly, as long as the initiative happens. It's interesting to be around her and see that happen because if you ask her or someone like her how they do something ... she'd only tell you part of it because she's not [overly conscious] of all that she's doing to bring people together.

**OC:** That's a great answer, MC. What else comes to mind?

**MCS:** She's warm and fuzzy but she's got high standards. We [those who worked with the judge] had to deliver and be careful and deliberate about our work and analysis. So we'd sit around the table with punch and cookies and her but we were pushing through tough issues in the cases and debated them before we'd go outside her chambers. You have to deal with the tough questions first before you can go out into the world.

I admired her for pressing everything to make sure she was reaching a proper decision, in her mind, and not only for the case at hand but for other cases. So as a judge, she had this soft power but she was also very focused on the law and rigorous about the work. I think those two things together is a very good lesson. ■

—Steven T. Taylor