

# Introduction

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In 2004, I began videotaping interviews with American judges and lawyers, partly so that I could develop a body of work that would inspire law students to write better, and partly so that I could use snippets in my CLE seminars. For nearly two decades, I'd been touring the country and abroad, teaching lawyers how to perfect their writing skills. Everywhere I went I spoke with partners, associates, and judges on topics related to what works and what doesn't work in briefs, contracts, and other documents. By the early 21st century, the technology was available to bring into the classroom personal wisdom from the greatest legal minds of our day. By 2006, I had interviewed about 150 judges and lawyers — including judges on all the federal circuits. I now have a huge repository of DVDs from all these judges — an archive that I hope may someday prove helpful to historians and scholars.

At some point I decided to seek Supreme Court interviews. But this, unsurprisingly, proved significantly more difficult than it had been to interview circuit judges. My first serious lead was Justice Scalia, who declined an interview but invited me to breakfast the next time I was to be in Washington — to discuss, he said, some of my views on legal writing. Several weeks later over breakfast, in late June 2006, he again declined the interview . . . at first. We had a wonderful time discussing language and writing, and I persisted in cajoling him to consider an interview. He finally agreed.

That interview took place on October 2, 2006, and it went superbly. It was that interview, in fact, that convinced both of us that we should write a book together — a collaboration that resulted in *Making Your Case: The Art of Persuading Judges* (2008).

Within a month, I had invited the two Justices whom I already knew — Justice Ginsburg and Justice Breyer — for interviews and received their commitments. After that, and perhaps because of the positive reports from my earlier interviewees, I found it increasingly straightforward to arrange the remaining interviews, all of which, in my view, went stunningly well. They took place on these dates:

- Oct. 2, 2006: Justice Scalia
- Nov. 6, 2006: Justice Breyer
- Nov. 13, 2006: Justice Ginsburg
- Feb. 27, 2007: Justice Stevens
- Mar. 2, 2007: Chief Justice Roberts  
Justice Alito
- Mar. 21, 2007: Justice Kennedy
- Mar. 28, 2007: Justice Thomas

Throughout this period, I worked with the Public Information Office's Kathy Arberg to ensure that everything about the process was done to the Court's satisfaction.

The only declination I received was from Justice Souter, who wrote to me as follows: "I feel like a rotter in saying that I will have to ask you to excuse me from an interview, but that's how I come out. There is a broad spectrum of legitimate opinion about the prudence of judges' interviews, and I'm among the minimalists . . . . Notwithstanding your kindness to me, I've never been satisfied with

my own prose; since I don't think my own work is worth writing home about, I'd feel presumptuous telling other people what they ought to do." I sent a motion for rehearing — to no avail. But I appreciated the thought that went into Justice Souter's letter.

In asking all the Justices for interviews, I assured them that the purpose would not be commercial. In fact, I wanted to ensure that legal educators everywhere would have full access to the interviews at no charge, and so I've kept all the videos posted in their entirety at [www.lawprose.org](http://www.lawprose.org) ever since they were made. Many advocacy and legal-writing professors have been able to use the interviews in their teaching at no cost.

I am grateful to the Justices for granting me these historic interviews, and my hope is to make a tradition of it — and to continue interviewing newly appointed Supreme Court Justices not long after they assume their posts.

One editing note: for smoothness, we cut the occasional false start or *you know* or other little distractors in the transcriptions. But the interviews are otherwise unchanged, except for light editing requested by some Justices.

For making the transcripts available once again to the bar as a public service, I am grateful to Scribes — the American Society of Legal Writers. Professor Joe Kimble, editor of *The Scribes Journal of Legal Writing*, has done a tremendous job in ensuring the accuracy and polish of the transcripts. He was aided by four students from Thomas Cooley Law School: Michael Hekman, Cassandra Werner, Bruce Crews, and Thomas Myers. Professors Meredith Aden and Victoria A. Lowery of Mississippi College of Law reviewed the transcripts most helpfully, as did Karen Magnuson of Portland, Oregon. To all these people and organizations, my heartfelt thanks.

