

Selma Moidel Smith

Oral History, Session II — July 11, 2013

Interview by Attorney Rosalyn Zakheim

Women Trailblazers in the Law Oral History Project of the American Bar Association

Zakheim: It's July 11, 2013, and I'm Rosalyn Zakheim. This is my first interview with Selma Moidel Smith who is being interviewed for the ABA Women Trailblazers Project. It's a delight to be here with Selma, and we just finished listening to her conversation with Justice Kathryn Werdegar. So we will take off from there. In the conversation with Justice Werdegar, she mentioned that your upbringing enabled you to do things that some women in your era could not have done because there was an assumption that women could do what men could do. And you said, "until I reached the world" — until the real world intervened. We're going to start with the real world and your world as a lawyer, with your swearing-in on January 5th, 1943. Can you tell me about that?

Smith: Yes, I'd like to mention a few things about it. It was a bit unusual. I could have gone to San Francisco — in December, just before, to be sworn in — but I chose not to do that because I wanted to be able to have my family around me, knowing how much it would mean to them and how much it would mean to me. Since I was the last of the family, the last of five, I wanted those who could be present to be with me, and so I waited until January 5 when the Supreme Court came down to Los Angeles.

Zakheim: Your whole family was there at the swearing in?

Smith: Almost — my mother was there, my oldest brother, the youngest of the brothers, and my older sister [my father had died in Ohio in 1927 — I was eight]. The second and third brothers had already enlisted in the Army [shortly after the U.S. entered World War II]. They volunteered even though they were over draft age. The youngest brother was in Southern California, just before being shipped out to Europe. He was able to get a pass from his commanding officer and be able to appear. And, of course, there he was in uniform. All of us were very happy to be together on this last possible occasion for swearing-in in our family. When my oldest brother sent a telegram to the second brother, who was at that time in Florida just before being shipped out to North Africa, I remember the response that we got from him, and that was, “Another link forged in the chain of dreams” — referring to my being sworn in. He never did come back. This was the very beginning of what is the story of the last of the lawyers. I was always grateful that we could look around and see each other at that very important occasion that had just taken place.

Zakheim: Do you remember where you were sworn in?

Smith: It was in the State Building with the California Supreme Court. There began my actual association with women lawyers, because that very day, before the day was out, I went to the office of the treasurer of the Southern California Women Lawyers, which was the women lawyers organization that I had heard of. I signed my application for membership and paid my dues and became a member that very same day of the group that later became the Women Lawyers Association in 1964 — and I will talk about that much more in detail later. So my association with a women lawyers group began that very same day.

Zakheim: Did you know any members? How did you find out about the organization?

Smith: Oh, my middle brother, the second brother, was the one who had told me about it.

When I was in my second year at law school, at USC, he had invited me as his guest to a luncheon of the Lawyers' Club and introduced me as a law student there to the women lawyers. And so he was familiar with them. Before I was sworn in, I was invited to come to one of their meetings, and so I felt that I was joining my friends, you know. If it had been that it was the *first* time, it would have made no matter to me because I would have felt that I was at home anyway, and so I was delighted to start my membership the same day that I started my actual professional life. It has continued to this very day, and it will be the subject of a more detailed discussion when we get to that.

Zakheim: That's right. Now we're on your early history as a lawyer, and you said after the swearing-in you went back to the office. Can you tell me a little bit about the office that you practiced in?

Smith: Yes, that was at 408 South Spring Street in the Continental Building, which at that time was the tallest building in the city. We were in a large suite on the eighth floor. There was my oldest brother. At that very point, the two younger brothers were gone. I came in as some kind of — what shall I say — neophyte, long-in-training, long-in-waiting-for [laughing]. I had finally arrived there, much to his help as well, because he was literally trying to hold down the fort for the office, and I was trying to help before being sworn in, but now I could do it, and go to court, which I did immediately. I was being handed files and witnesses and clients and [laughing] — so

I was immediately put into service, shall we say. I, therefore, did not have that most common experience of a young woman lawyer trying to get employment, going from door to door, and being turned down. Or if she were fortunate enough to gain some employment, it would not be by any means at the level that the lawyers in the firm would have, but perhaps typing, perhaps in the back room somewhere, maybe allowed to do some research, perhaps assemble a file for the real lawyer to go to court with. These were situations where they were in *need* of employment. It was unfortunate that they had no opportunity to do anything but accept whatever they felt lucky enough to get. And sometimes they, not being able to get private employment, applied to state offices — county, city — in whatever form they could and gain some kind of work as a lawyer, in whatever second-place capacity it might be. By sheer fact of the family I was born into, what they had established, I was simply welcomed into an office where there already were the secretaries waiting to do what I was requesting. I actually could do what a lawyer does.

Zakheim: What was the name of the firm?

Smith: Moidel, Moidel, Moidel and Smith.

Zakheim: And you were the “Smith.”

Smith: Yes.

Zakheim: You were the “Moidel Smith,” I guess [both laughing]!

Smith: Well, yes, I always was “Selma Moidel Smith,” but that’s what gave the last twist to the name of the firm [laughing]. Yes, it was a very busy time for me.

Zakheim: Did the firm start all together here in California?

Smith: No, as a matter of fact, in the first session I'd mentioned that our family came from Ohio and moved to Los Angeles, and so the oldest brother came at that time. The second brother had just become a lawyer, so the oldest brother was free to leave with my mother, my older sister, and me, and we are the ones who moved to California first. Then, as my second brother was free to leave, by reason of the fact the youngest brother had passed the bar in Ohio, then, we all had moved, and the whole office was manned by them. I must say, it was a rare privilege — a rare privilege — that I was accorded, to be in the center of a family that was happy to be working with each other, where there was a closeness of relationship and, very much, helping each other in whatever ways were needed. [with much emotion]

Zakheim: What was the nature of the practice — the type of cases you had?

Smith: Oh, well, that would have been a general civil practice. There were certainly occasions of criminal practice, but it would have been most likely for clients who *incidentally* now had a criminal charge — we're not talking about the serious crimes. We're talking about misdemeanors or whatever. They then appeared for their clients, who would have been their clients in any event. It would have been a general practice, because everybody was doing something different. We often consulted with each other, and referred things to each other, because we all had different areas.

Zakheim: What was your area?

Smith: Well, as a matter of fact, mine was pretty much similar. We were all litigators. There was not one of us who was not just as much at home in court as in the office. All of

us had our own tales to tell [laughing]. I think we probably would have included all of the civil law.

Zakheim: Are there any specific tales you'd like to tell — incidents that happened?

Smith: Oddly enough, my situation, because it came about as it did — somehow, I had a mixture of relationships, some pleasant, some unpleasant, by reason of being a woman lawyer. I remember very well going into a courtroom — not during trial — in order to see the superior court judge in chambers. I wanted to speak with him about something — not pending, of course — and I took my card out and gave it to the clerk to give to the judge who was in chambers alone. I waited for a moment or two, and then the clerk came back and handed me my card and said, “The judge said to say he does not see lady lawyers in chambers.”

Zakheim: Oh, my!

Smith: At which point, I think my jaw literally dropped. I had never in my life been refused access to speak to someone in a formal setting. Now I was being labeled as something that I had not lived with as a label — a woman *this* or woman *that*. That had all been taken for granted. Well, *of course*, I was a woman, and what difference did that make? Until then, it didn't make any difference. I said, “Very well,” and I left. I will not give the name of that judge because if I do, we'll be talking for a long time [both laughing].

I remember other situations, for example: One thing I did a lot of was Law and Motion. I very often ended somebody's case in Law and Motion, by some defect in pleadings that could not be remedied, or something, or sometimes that *could* be

remedied but by which time settlement had been made. On this occasion, this was something of an opposite kind of occurrence. It happened just once in my whole career. We were waiting to be called. The opposing counsel, who had brought his clients with him — which is not customary, really, in Law and Motion — asked if he could see me out in the corridor. So we stepped out. I was in my twenties still, and he was probably about forty-five. Anyway, he said to me, “I have to ask a favor of you.” I said, “Well, what is it?” And he said, “I don’t do very well in court.” And, he said, “I’m very much afraid that I’m not going to be able to do it properly. My stomach,” he said, “takes a terrible toll, and I can see already that you are very accustomed to doing this kind of thing. And so I’m going to ask if you could possibly think of some way not to embarrass me before the court.” I said, “Well, I can think of something, I’m sure,” and so, we went back in. We both stated our positions. I made my motion, and he said whatever he had to say as best he could, and I stepped forward. I said, “May we approach?” We stepped forward, and he was surprised, too. And I said to the judge, “Would you please be good enough to take this matter under submission?”

Zakheim: Very kind of you.

Smith: Well, I really did not feel that it was appropriate on my part to take advantage of something that would not have — and he was just forever grateful. Of course, he lost the motion. He was through. It was one that he couldn’t remedy, and his case was over, but at least, in the presence of his clients it was under submission. He could retire from the immediate scene of the discussion, and go out with them as he asked to do. I can assure you that that happened only once [laughing].

Zakheim: It must have been very odd to be a woman who was a litigator, because you were telling me how most of the women lawyers had trouble even finding jobs, and my guess is that it was even harder for a woman to get a job being a litigator.

Smith: Well, she usually wasn't allowed to. She was lucky if she was sitting at counsel table, and handing him exhibits or something. Yes, I would have to say, this was unusual at the time, because it was immediately, you know, in '43. I can say that I never gave it a thought, because I had always done public speaking. I was accustomed to speaking on my feet. As my opponents usually ended up saying, I was "well prepared." It was not a matter of feeling inadequate.

One situation that only a woman could have, but that was of the positive variety: A case had been referred to me from San Francisco, from a firm. It was going to have to be tried in L.A., and so I was asked to present their case. I remember that when I received the file, I looked at it and I sent back a letter to them saying that "I see that this case involves everything but oil and gas, and I'm expecting to strike that any moment now" [both laughing]. At any rate, fortunately, I was able to win the case for them. Much to my surprise — and this is where this comes in, that only a woman can get this — my secretary knocked on the door, and I looked and I couldn't understand what she was doing. She was holding a long box from a floral company. Inside were a dozen long-stem red roses.

Zakheim: Now there's an appreciative client!

Smith: There it was, with a very lovely note, and so they even had added a little bonus in addition to the fee that I was being paid, and wanted to present me, I guess a — what

shall I say — a bit of gallantry? And so that was one of the positive things that a man cannot look forward to [chuckling].

Zakheim: That's true.

Smith: I remember also that — well, this is more of the other side: This is where we were going to be at trial, and so we were in court with our respective clients. And so my opposing counsel — a tall man, over six feet, and pretty heavy build — came to court with a large briefcase and a number of law books that he, ostentatiously, stood up in front of him at the counsel table. And I had come with a thin file, and nothing else. At any rate, he did an interesting thing. He addressed the court and said, first, he would like to ask counsel, namely me, to stipulate to a change in his complaint. I immediately said, "So stipulate." As soon as I said, "So stipulate," I finished my little sentence by saying, "and I move for nonsuit." And he turned and looked at me. The court — I still see him in front of me now — raised his gavel, brought it down, and said, "Motion granted." This man turned and looked at me as though — I won't finish the sentence — what he would like to have brought down upon me. He said to me, "What is this? What do you mean? What is this?" And I said, "You brought a summary action. What you are doing is a summary action which must be strictly construed. It says that when your complaint changes the ground on which you served someone — a complaint on the basis of which you were proceeding — that that would take it right out of your ability to proceed." And I said, "That's exactly what you did." And he didn't know that. It was a summary proceeding, and he had not prepared himself despite all the books in front of himself. And his clients are now on

their feet behind him, asking why the judge just left the bench [both laughing]. I would say that was the shortest piece of litigation that one could imagine.

To make things more so, it just happened that he had a partner — there were two partners in the firm — it so happened I had a matter with the other partner as well. The next one, shortly after, was a trial, and it was in Pasadena. That trial continued to the end. It was a jury trial, and, at any rate, it was a verdict in favor of my client. When we both stood, having received the verdict of the jury, I looked at him, and he looked at me. He was obviously in a very bad state, with his clients waiting to get a question answered. As I turned to leave, I said, “And do give my regards to your partner.”

Zakheim: Ooooh.

Smith: Yes, as it happened, the two of them had, throughout my dealings with them, been extremely rude, had been contemptuous. I, of course, prepared, but I certainly could not have guaranteed which way it was going to go, and I never took issue with them. So it all ended up with each case, both partners with the same person that they had spoken down to — it was that moment that I could sympathize with the position of women lawyers and at the same time feel that perhaps, the hard way, they had learned that they really needed to extend a professional courtesy — that there should be an equality based upon their ability to do their work.

Zakheim: You mentioned one client who sent you the red roses.

Smith: Yes.

Zakheim: How were your relations with your clients? Did they accept having a woman be their lawyer?

Smith: Well, I can say that, happily, they were open to this. Those who had been referred to me by my own office, of course, already understood that this was a lawyer that was going to be presenting a case for them that was a woman. But we had already established our rapport. Also, I had had referrals from clients that I had known in college, so they had known me personally. It never would have crossed their mind not to, you know. So I was able to do that, too. I will say that my relationships with clients — and I certainly had a large number of men clients as well — always were very professional. They dealt with me as they would with men lawyers, in the sense of giving courtesies and civility and that kind of thing.

It does remind me of another lawyer who hung up on me. It was a matter in which I had gotten a judgment and I had proceeded to execution on real property, and I had scheduled it for sale. He had called to find out if I would settle for half cash [laughing]. I said, “Why would I do that when I have a judgment for the full amount, and we are at the point of a sale on execution?” I said, “You’re perfectly well entitled to bid at the execution sale as well,” and he said, “No, you’re supposed to settle!” I said, “At this stage?” I said, “I didn’t hear anything about that from you before.” He said, “Well, you’re supposed to.” I said, “I don’t see it that way.” I said, “You’ve held out as long as you could — to make my client wait and wait and wait — and now that I have the judgment, and now that we are really proceeding, why would I do that?” He said, “When you’re an old lady and you have gray hair, you’re gonna learn that the thing you’re supposed to do — you’re supposed to be a lady, and you’re

supposed to settle for half!” And he banged down the phone. As it happened, that was a Wednesday, and on Wednesday at lunchtime, many of us gathered for lunch at The Lawyers’ Club, which was a weekly lunchtime, and, of all things, we were sitting directly across from each other at the table [laughing]. I’m afraid it made it uncomfortable for him. I didn’t do anything to alleviate it. I’m afraid that he also had to learn that civility with counsel would go a long way and should not have done it in that way.

But that was an improvement, in fact, over another opposing counsel who threatened me on the phone. This was involving an unlawful detainer. He had sent a notice to the people to move. He found out that the wife had been diagnosed with M.S. — he just didn’t want them on the place. He, having learned this unfortunate news, which was disastrous for this couple, wanted them *out*. So he sent them a notice to leave. I said, “But you have no grounds, you have nothing,” and he said, “Well, I’m telling you that if you don’t get out of there she’s going to need an ambulance to move, and *you’re* going to need one too!”

Zakheim: Oh, my goodness!

Smith: Yes. And he also banged down the phone. Let’s just say that I was able to take care of him in court in short order. I remember still how he stalked out. He didn’t mind making a great show of stalking out. I felt sure he would not really have done that if he had had opposing counsel that was a man, and that he really felt that he could threaten, he could frighten this woman and her husband, and me — and that I certainly would back down, and they would just get out. So I was able to save that for them. You know, when you look back over various situations, then, I have to say on

the other side — I picture Justice with the scales balancing at this point — a very nice lawyer in Pasadena who was very kind. He, unfortunately, lost also. He called from his office to me in my office after the case, after he had gotten back. He was a perfect gentleman. He said, “I want you to know that I have to applaud your efforts as a lawyer.” He said, “You are better prepared than any I have had the pleasure to appear with.” He said, “You’ve taught me what a woman lawyer can do.” He said, “And I’m sorry I lost the case,” he said, “but I feel I’ve gained a friend.”

Zakheim: That’s wonderful.

Smith: Yes. That was unique. I *can* weigh certain things against others and say that the road as a woman lawyer has been a rocky road at times and, at other times, especially nice.

Zakheim: You started practice during World War II.

Smith: Yes.

Zakheim: And from what I gather you did have an involvement with the Civilian Advisory Committee.

Smith: Yes.

Zakheim: And could you tell me something about that?

Smith: Yes, several things, actually. There was the Women’s Army Corps, and the Civilian Advisory Committee to the Women’s Army Corps. I was asked to serve on a committee, which would be primarily speaking to women’s groups in efforts to obtain their cooperation in matters that would be helpful to the Women’s Army Corps — and

also to interest them in joining the Women's Army Corps in the various capacities that they could. This went on for some time, and I did do this for a period of time. The interesting thing is that, when I had finished doing this, there appeared at my office, without prior call or whatever, a woman in uniform from the Marine Corps — an officer who, I guess, had heard something — I don't know — and she offered me a commission as an officer in the Marine Corps.

Zakheim: Oh my goodness.

Smith: This was quite a surprise, and I said, "I'm sorry, I wish I could help you in that, but as it happens this office has needed my help [chuckle] with the absence of two brothers in the Army. I really could not just leave, much as I see the merit of what you're requesting." And she said, "This would be a commission at once. You would not have to do anything further. We can offer you that." And I said, "Well, I thank you very much but my office, my oldest brother, would not thank you. I'm badly needed on the home front right now, and I hope you will understand." So that was an interesting offshoot from the other. One never knows how one is perceived, after — I guess, they may have mentioned something back and forth. That was totally unexpected and never came to pass, of course.

Zakheim: I think you have other involvements with war service?

Smith: Oh, yes, with veterans — for the State Bar and also for the L.A. County Bar — it wasn't "County Bar" then, it was "Los Angeles Bar Association." It later became "County Bar." Yes, I had done a good number of services for veterans who were referred by the committees — to such an extent that at the end of the war the Army, in

order to say thank-you, held a big dinner at one of the large hotels on the beach in Santa Monica. We were the guests, those of us who had served on the Servicemen's Legal Aid Committee and had been assisting them and their families, were invited. I was there, and it was a very lovely affair, and the officers were there to express their thanks. They wanted us to know, very much, that it had meant a great deal to morale and that they were grateful in many cases for acts that went beyond the ordinary call of duty. I thought myself, as did the rest of us, that this was a very nice gesture on their part. We certainly were not expecting that, and it was quite a nice evening.

Zakheim: That's wonderful. You were talking before about your relationships with male judges and opposing counsel. What was your relationship with other women lawyers?

Smith: My relationships with other women lawyers were excellent. And one of the things I would certainly say to any young woman who is entering the profession is that one of the best things she can do for herself is to join women's legal organizations and bar associations, in addition to the usual. She will gain from the women's bar associations a variety — and of course, when you are thinking that I'm back to 1943 again — these offered any number of advantages of common concerns, needing to know what they would suggest. At that time, we had to make up our own forms, and some forms were made finally by the court, but if you didn't happen to have them, other women lawyers who were anywhere within reach were happy to provide you with what you needed and to suggest to you as well that you might also want to do this or that. There was a great spirit of camaraderie among the women, and I'm pleased to say that. I know that we had two women lawyers groups which we finally unified in 1964. I was in the forefront of that as well. But, before and after, I had

friends in both groups. It was recognition on their part, I think, of the mutual regard — that I was asked to be the person to set up the actual succession of offices that would take place between the two groups in the new organization.

Zakheim: Let's start with your involvement in the Southern California Women Lawyers Association, and I know, you just told me, that you signed up the very day you were sworn in to the bar.

Smith: Yes, and, as I say, it continues to this day. When I did begin, the Southern California Women Lawyers had a dinner meeting each month at which judges and other experienced attorneys would come and speak to us on lawyering skills in general, and also in specific areas of the law. We were able to learn a great deal that you would not want to have to learn the hard way, individually. By being part of the organization, you were there for what your cooperation could bring, the goodwill among you, and the feeling that human beings always need, and that is they're not alone in something — especially when women were making their first strides, not the real pioneers of the 1800s but the mid-1940s. I would say that it was a dinner meeting because, being that their scope was Southern California, it enabled the members to come in at the end of the day from wherever they were located. And I remember that there was one from San Diego — I even remember her name, Elizabeth Crable — who never failed to attend a meeting. She came from San Diego every meeting time and would not have missed it.

The other group, the Women Lawyers' Club, did have one thing that was different. That was, they had a committee for admission. In other words, in addition to the fact you had passed the bar, the committee would then meet with you and

determine your admission to the Women Lawyers' Club. That was not the case at the Southern California Women Lawyers Association. If you passed the bar, you were a lawyer, and you were welcome as a member. It was just a difference in philosophy, I believe. Nevertheless, they did proceed on a different basis as well. Theirs were luncheon meetings, luncheon because it was at the time when lawyers were primarily downtown. It was their opportunity to do a similar kind of thing, although the Southern California Women Lawyers was accredited by the State Bar to have delegates first [in 1934], and then later, the Women Lawyers' Club did the same [in 1947].

Zakheim: About how many members were in each group, if you remember?

Smith: Well, when I began, there would have been about two hundred women lawyers in the area. We're not talking large, large numbers, but each one counted for a lot more than just one, because as we say, the more rare the jewel [laughing], the greater its cost. I think the Women Lawyers Association, if I use its current name, after '64, will lose some of the cause-and-effect things that existed before '64, because I was practicing twenty years by the time we did that. So in the first twenty years, even then it was still precarious, and I guess they are quite accurate when they refer to the "women trailblazers."

Zakheim: Well, I know that you were very active in the Southern California Women Lawyers Association, and from the very moment you became a lawyer, became active and involved as an officer.

Smith: Well, yes.

Zakheim: Can you describe your involvement with that group and your leadership?

Smith: Oh, yes. I dipped a toe into the waters, first as treasurer, then as secretary, then vice president, and then president. It seems that I was the youngest president they had had, or have had since. That would have been in 1947, so I would have been twenty-seven years old.

Zakheim: Your colleagues must have been very trusting of you, to entrust that kind of responsibility on someone so young.

Smith: Well, yes, I'm afraid that I made a bit of a joke: They insisted upon reelecting me for a second term, and I remember saying to the group — because it turned out to be by sheer applause, you know — I said, “Well, it's very clear that we don't all learn from our mistakes.”
[both laughing] At any rate, it has always been a pleasure to work with my “sisters-in-law,” my very, very good friends. I have great regard, great respect, for women lawyers — what they've achieved and what they are capable of achieving.



LEADER—Selma Moidel Smith will be installed as president of Southern California Women Lawyers. (L.A. Times, Jan. 27, 1947)

Zakheim: That's a beautiful place to stop for today, Selma. Next time, we'll begin with your presidency of the Southern California Women Lawyers. And now, just as your conversation with Justice Werdegard concluded with one of your musical compositions, we'll hear another of your pieces. This one is “Tango in D minor, No. 4, Opus 81.” [Click below to play music.]

