

## **ROBERTA GOLICK INTERVIEW by Margaret Brogan April 2012\*\***

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**MB:** All right, Roberta Golick. Very prominent arbitrator and mediator and now current president of the National Academy of Arbitrators. Here you are. Tell us about yourself. And it’s an honor for me to be asking these questions. So let’s start at the beginning if you don’t mind. And if you could tell us first, about your background.

**RG:** Starting at what age?

**MB:** Do you want to start with your educational background or earlier?

**RG:** It’s up to you. I mean, I can start with my early life; that would probably take no more than half a day. And then we can move into my life as an arbitrator.

**MB:** Well there is something special about you and your early life because it intersects with your work and how you started, so tell us a little bit about your personal life.

**RG:** Ok. Well, I grew up in Boston, Massachusetts, the youngest of three children. My parents were middle class Jewish wanting the best for their children. I had a pretty ordinary childhood. I can move fairly quickly to the influence that I feel that my parents had on getting me where I ultimately landed, which was in a good college and in law school and ultimately in this field. Because I do credit them tremendously -- particularly my mother who was quite a dynamo and very smart. It was my mother who always said to me, ‘You can do it if you try.’ She stressed how important it was that I be self-sufficient, that I use my abilities.

There’s a memory I have from when I was fairly young. I was driving, so I must have been about 16 or 17, and my mother and I went shopping for the day in a blizzard in Boston. When we came out of the store, our car was buried in what seemed like two feet of snow. I was ready to walk home and leave the car there until spring, but my mother said, “Come on! We can do this!” We had like the equivalent of a spoon in the car to use as a shovel, but we got the car out. I just remember the episode vividly as showing me that there is no challenge that’s insurmountable. Even though that was a trivial event in my early life, the message that seemingly impossible obstacles can be overcome really propelled me... and still does.

**MB:** I've heard you say that to me when I've come to you with issues ...But, did you feel your mother was pushing you a little too hard?

**RG:** She was just pushing me too hard to get married, so the fact that she was also telling me that I could have a professional goal and reach it with hard work was actually sort of a nice diversion. She was probably figuring that if I couldn't land a husband, I ought to have a means of support.

**MB:** And you know, you eventually married Dan and you have some beautiful children. You want to talk about that?

**RG:** Sure. I love talking about my children. Nobody's ever dying to hear all about them, but sure. I do have a daughter Julia, who's now 31. She's happily married, living in Denver with her husband and her two children, Charlie who's now 2 and Madeline who's a couple of weeks old. My son Max is 24 living in Washington D.C. Both my children are gainfully employed so they're off my payroll which is a great relief, And everybody's doing really well. I'm very proud of my kids.

**MB:** So Roberta, tell us about your educational background.

**RG:** I'd be glad to. My first 12 years of school were in the public school system in Brookline, Mass. And then I went on to Barnard College in New York City. After that, I went on to Boston University Law School. My older sister is also a lawyer. At Barnard, I majored in Asian studies and studied Japanese and Japanese literature for my four years there. You might be asking me how I ended up as an arbitrator with that kind of background. First I'll tell you why I selected Japanese as a language to study. After I was admitted to college, I looked through the course catalog at Barnard and Columbia and saw all the different languages that I could study. I had been good at languages in high school and I saw that Japanese was being offered at Columbia. I thought, why not just do something totally totally different, so I went for Japanese. Once I started this language that is so different from ours in every respect, it was an all or nothing commitment. I loved Asian studies, though, and I have no regrets. But when I was a senior in college, my sister, who was already a lawyer, came by and she said well, you know this is it... What do you plan to do next year? Of course I had no answer. She said there are millions and millions of people who speak Japanese better than you do and if you really want to have a job when you are a grown up, maybe you should think about graduate school in an area where there could be work waiting for you at the end. She encouraged me to apply to law school so, that's kind of where I switched gears. I applied to law school and ended up at Boston University.

**MB:** After Boston University what was your first position?

**RG:** My first position was with the State of Massachusetts in the Department of Labor at the Board of Conciliation and Arbitration.

**MB:** How did that come about?

**RG:** It was the summer of '74 when I finished law school. I did well in law school but no one was beating down my door to beg me to work for them. I took the bar exam that summer. Incidentally, my entrepreneurial side came out during that bar exam study. I'm sure you recall how long and torturous the bar exam classes were. They went all day. They gave us breaks, but there was no food, nothing available. So my roommate and I got the idea to go into the bagel business. We'd shop for bagels and cream cheese, do the prep the night before, wrap them and sell them during the breaks. We made a lot of money. It paid for the bar review course. It's amazing that we actually passed the bar.

**MB:** Is that when you decided that you'd like to be self-employed?

**RG:** No, I guess that was when I decided that I'd like to make money.

**MB:** Got it. All right, well, tell us how you found this job after law school.

**RG:** So, I took the bar in July. I had a very thin resume as you might imagine. It was probably a paragraph triple spaced but I packed up my resume in a nice looking new briefcase and I went downtown to the office buildings in Boston. The first building I went to was the State office building and I went up to the top of the building and looked to see what department was there. If it said Natural Resources on the door, I walked in, I introduced myself, said "I'm Roberta Golick; I'm a new lawyer; I'm *really* interested in natural resources. Is there someone I can speak to about a job here?" I did that on every floor of the State office building. On the 11<sup>th</sup> floor, I walked into the Department of Labor. The hardest part of finding a job was getting past the gatekeeper in those days. It probably still is. In the Department of Labor, I managed to get in to meet with Larry Holden who's a member of the NAA and is a nationally renowned arbitrator today. At the time, he was the Chair of what was then called the Board of Conciliation and Arbitration, the sister agency to the Labor Relations Commission in Massachusetts. This was soon after the passage of a comprehensive statute that provided full collective bargaining rights to most State and Municipal employees.

Larry and I chatted, and at one point he pulled from his desk a manila folder that was jam packed with resumes. He said to me, "You know, I've got all these resumes of people who really want to work here. But you're sitting here and I really need someone now." So Larry Holden gave me my professional break in life by hiring me as general counsel. I'll never forget what he said that day: "Who knows, maybe someday you can be the first female mediator in this 100-year old agency." Well, there was a challenge. In those years, the agency employed 8 mediators, all men. I thought they were ancient, though they were probably in their 40s. I sat in on some of their mediations, and learned about the process. The agency also conducted arbitrations, so I learned that process as well.

**MB:** So now that we have that background let's talk about your life at this first job you had. Talk to me about these fellows you followed around who you say were ancient. Did everyone allow you to follow them?

**RG:** No, I wasn't welcomed by anyone except the person who hired me in that agency, and one of the mediators. The majority of the men in that agency really wanted nothing to do with me.

They had come out of the War Labor Board, were secure in their positions, and I think felt insecure by my coming on board and particularly insecure when I expressed an interest in learning mediation. So I was not welcomed with open arms. Well, some of their arms were open, but not in the right way. That was another issue.

**MB:** Did you experience some sexual harassment in the job?

**RG:** You know, in the '70's, I don't think we really talked about sexual harassment in those terms but I certainly was treated poorly and in a sexual way -- in a way that made me very uncomfortable at times by some of the people that I tried to work with. Those who paid attention to me fell either into the camp of helping me in a really wonderful way as mentors and later as peers. And then there was the other camp of men who made gestures, suggestions, overt sexual remarks all the time. In those days, it was just different for us. We didn't want to make a fuss. We didn't really feel like we had a right to make a fuss. I was eager to maintain my job and move forward and so I took a grin-and-bear-it attitude towards these guys. I'm happy to say that I came out ahead at the end. The cost was putting up with that nonsense. But everything that I gained in that position made it worth it. But I can't imagine anyone doing that today. I can only believe and hope that today women would not put up with it. Today there would be support and opportunity to put a stop to it, where there wasn't then.

**MB:** So, you've got this unpleasant environment, but you did learn a lot.

**RG:** Yes, I learned a lot. I learned that there's a broad spectrum of mediation personality styles and skills and to be effective, you need to be who you are and not try to transform yourself into a personality that isn't genuine. I learned how to listen carefully and to be sensitive to all the subtle nuances of communication. I learned the importance of patience and critical need to be respectful. After a while, I got my own mediation caseload and became the first female mediator in the Board's history.

**MB:** How do you know when a case is resolvable?

**RG:** That's one of the most exhilarating and exciting moments in a mediation. Typically, a mediation will begin with parties having absolutely rigid positions. They hate each other, they've been meeting for some period of time, there are personality conflicts. They're thrilled to be separated into private rooms; that alone is the beginning of making headway. But it takes a long time to get parties to move into a position where you feel a settlement is possible. I spend a lot of time in mediation thinking I'm going to go home in five minutes because this is impossible. Then five minutes goes by and something happens, just a tiny little tweak or a tiny little comment by one person that enables us to move down a slightly different path and try something else. When that turns out to be a dead end, I say to myself that this is going nowhere. Then something else changes, and suddenly there is a moment where the parties are fully engaged with a view towards resolution. The air in the air room is suddenly light and clear. And I know from here on in we are coasting towards settlement.

**MB:** And yet sometimes things don't settle. What does that feel like?

**RG:** Just the opposite.

**MB:** So in your position with the Commonwealth of Massachusetts you also acted as an arbitrator. Tell us about how that occurred

**RG:** Okay Larry Holden left the State service about a year after I came aboard.

He had decided to go out to be an arbitrator full time instead of leading this agency. So we suddenly had no leader at all and I was the only person on staff with a law degree. I might have been the only person on staff with a college degree. I'm not sure, but in any event, I was the logical person to be asked to step in as Acting Chairman of the Board of a period of time in 1975. It was a tri-partite board in those years to hear arbitrations. There was a labor member, a management member and the neutral chair. Larry was the neutral and I then became the Acting Chair of this agency. I might add that my two counterparts there hated me.

**MB:** Why is that?

**RG:** The same reason that the mediators hated me.

**MB:** You were too young?

**RG:** I was young; I was a woman and they were threatened by my role. They hated Larry too, actually, so you can leave out the woman part. I think it was really a matter of insecurity. The tri-partite panel conducted arbitration cases in Massachusetts. Parties would come to the State Board to have their grievances heard by that panel. It was a free service provided by the State. The parties historically were small, private sector companies that didn't meet the minimum prerequisites for FMCS intervention but they did for the State. In 1975, with this whole new world of public sector collective bargaining, the Board was suddenly inundated with demands for arbitration. And it was the tri-partite Board that sat as the panel to hear those cases. I presided as the Chair in those cases. That was my first exposure to the arbitration process.

**MB:** And how did you know how to be an arbitrator?

**RG:** I guess I watched a lot of TV. Perry Mason.

**MB:** Did it feel comfortable to you to preside in a judge-like manner?

**RG:** It did feel comfortable. Law school, of course, provided a great background.

**MB:** How long did you stay at the Board?

**RG:** I remained Acting Chair of the Board for perhaps a year and then the governor appointed a permanent chair. But what the department did then for me and no one else, which of course didn't endear me any further to my colleagues, was create a new position called Mediator Arbitrator, with the requirement that one had to be an attorney to fill that role. And as I mentioned, I was the only attorney on staff. So for about five or six more years, I served both as

a mediator and as an arbitrator for State cases brought to the Board. Eventually, the original labor and management co-chairs were replaced by delightful, bright gentlemen, and we got along well.

In those years, there was no prohibition against my serving as an arbitrator in cases that I was selected for *outside* of the State board. Most of the public sector mediation that I did for the Board was at night, when groups like school committees and municipal boards could meet. I used to be driving to work when everybody was driving home from work. And while that was difficult for me physically, what it did was give me a lot of compensatory time to use during the day.

In 1978, I was listed for the first time on the American Arbitration Association's labor panel as an Arbitrator, and I began to get selected for cases in New England. I was fortunate because I was already a known quantity among practitioners in Massachusetts.

By 1982, my outside arbitration work had flourished and continued to grow. I was still working full-time for the State. There came a point where I had to decide whether to give up the security of a paycheck and hope I could succeed as a full-time independent arbitrator. In a way, the decision wasn't that hard. When I first started my State job in 1974, my annual salary was \$11,000 dollars. I remember I was so excited about that that I went out and bought a washing machine.

**MG:** No dryer? Just a washer?

**RG:** I couldn't afford the dryer. First things first. Eight years later in '82 I was making around \$20,000 dollars a year at the Board. And I was making about another 20K as an arbitrator on my own.

**MG:** And at this point, where you had to make this decision, were you single, married? What was your status?

**RG:** I was a single mother at that time. My daughter Julia was born in 1980. That was a big factor as I considered staying in the security of my State job.

**MB:** So how did you decide?

**RG:** I felt I had already come some distance towards building an arbitration practice on my own, and I thought it was worthwhile to try to go the full distance. My parents lived in the area. I was single but my parents were supportive and they encouraged me to go for it. I was surprised by their encouragement, since they always expected that poverty was just around the corner.

**MB:** Well, you did tell me a story about your father putting the brakes on a purchase that you wanted to make.

**RG:** Calling it putting the brakes on it is a very apt description. Because shortly after I left my state job, I needed a new car. And I thought well, a BMW would be nice. So I told my father that

I had my eye on this BMW purchase and he said, “Bobbie, why don’t you wait until you see if you can make like \$40,000 dollars a year before you go out and buy that BMW.”

**MB:** So did you ever get that BMW?

**RG:** I did very well even that first year, but I did not buy the BMW. I pretty quickly made up for the loss of my State job, though. I don’t know how it happened except that my availability became well known and I was just so fortunate to be selected by people who already knew me.

**MB:** So, you make it sound so easy and I know it was not so easy for people to get established so quickly. You are an amazing success story in that. Why do you think people selected you?

**RG:** Well I do think that people selected me largely because they knew me as a mediator. They were willing to give me a chance. As you know, being selected for a case is the hardest part of the job. We know we have the intelligence to be good but we need to be given the opportunity to show it. And that is the hardest thing for somebody who wants to break into the field. How do you get picked when people don’t know you? And how will they know you if you’re not exposed to them? It was a dilemma 35 years ago and it’s a dilemma today.

**MB:** And it was harder then because there were restrictions under the Code of Professional Responsibility for Arbitrators that we were not allowed to advertise or solicit work. Right?

**RG:** I can’t imagine that I ever would have done that even if it were allowed at the time. Most of us who are successful arbitrators didn’t get to be successful by advertising and soliciting work. We became successful because parties recognized us, recognized our names from one source or another, and were willing to give us a shot.

**MB:** So you didn’t have pens created with your names on it and hand them out in hearings? That didn’t work? No?

**RG:** No, I didn’t do that.

**MB:** Would you say then that you feel like you were just at the right place at the right time?

**RG:** Exactly right. Another thing that enabled me to gain instant recognition was the fact that there were very few women doing arbitration and mediation in this country in the 1970s and early ‘80s. There were some absolute stars and we know who they are by the stories that we know about them. They were the real pioneers. In New England, there were very few women who were well known. And people who didn’t even know who I was, knew that there was a woman. And they would say who’s that woman who arbitrates and somebody would answer, well you either mean Marcia Greenbaum or you mean Roberta Golick. Marcia was the real leader in the New England region, did wonderfully and still does.

**MG:** So you believe being a woman was helpful?

**RG:** Overall, yes. There were pros and cons to being a woman. We've talked about some of the cons in terms of trying to break in. But it was definitely a plus to stand out from the world of men who really dominated our field in those years.

**MB:** But I would imagine if your experience was similar to mine, you walked into many rooms where you were the only woman in the room. Is that right?

**RG:** For sure. Not only was I the only woman, but I was often the youngest person by decades when I walked into the room.

**MB:** Describe that.

**RG:** Well, I bet that there is not a female arbitrator in this country who has not been mistaken at one point or another for the court reporter. Sometimes I wanted to say, "You might have been expecting *Robert* Golick but today it's *Roberta* Golick and I'm your arbitrator."

**MB:** Wow, I never thought of that. You think some people might have selected you without noticing the "A" at the end of Roberta?

**RG:** I can only tell you that I still get mail from parties addressed to Robert A., period, Golick. Dear Mr. Golick...

**MB:** And what about witnesses? Did they ever think that you were perhaps not the arbitrator or treat you differently because you were a woman?

**RG:** Witnesses tend to treat the arbitrator like the arbitrator is god. And in fact most arbitrators think they *are* god, so they enjoy it. But, witnesses, I think, are told before a hearing begins that this is who the arbitrator is and it's not a good idea to get on her bad side. It's often very evident when witnesses go out of their way to hold doors for us and smile a lot when we make eye contact. I think we arbitrators know what's genuine and what isn't. But witnesses treat us quite nicely as do attorneys. Everyone treats us nicely until they get their decision, and then it might be a different story.

**MB:** But that's not true every day, Roberta, is it? There are times, I'm sure, when advocates pushed back on you especially because of your youth. And if that happened, how did you deal with it?

**RG:** Well, I remember being pushed back, not in an arbitration case, but in a conversation that I had with an advocate when I was still at the Board. It was my first year working in the field and I challenged an advocate about an issue where I believed he was being unethical. Of course, as soon as you use the word ethical in a challenge to someone, you know it's war. And he let me have it. I was so upset thinking I had done the wrong thing by challenging him that I began to cry, which of course made me feel like a total idiot and made me wonder whether I was capable of making it in this business and how I'd be able to deal with people who made me want to cry.

That was many, many years ago. As I gained confidence in my own abilities and the correctness of the positions that I took, I learned that a lot of those attacks are just strategic ways for people to try to get an upper hand in the process by undermining our own confidence as neutrals. To this day, parties still occasionally try to argue with me about evidentiary rulings. To be a good arbitrator one has to know when to say to the parties, "This is my ruling; I've made it; let's move on." And it's just astonishing that people calm down, move back into their appropriate roles and we move forward.

**MB:** Was 1975 the last time you cried in a professional setting?

**RG:** Well, I thought it would never happen again and I held my tears for about 35 years. But it happened again in the course of a mediation a few years ago.

So by then, I was a well-seasoned, one might say nearly over the hill neutral, and yet it did happen again. I was serving as a mediator for a successor collective bargaining contract for a bargaining unit of nurses and their hospital. The nurses' bargaining team was huge. They had a policy that allowed anyone who was remotely interested in how bargaining was going to sit at the bargaining sessions and participate in the mediation. It was very unwieldy work with a large vocal group. In any event, I had been going back and forth between the Union's caucus room and management's, and was getting absolutely no place with the union team. The hospital was essentially bargaining against itself. I'd bring something to the nurses and the nurses were just saying No. Finally, the employer said, "We're not doing this anymore. You need to come back with something. They need to move."

So I went back to the union bargaining team, urged them to please make some kind of a move. And like a volcanic eruption, they were all over me accusing me of simply working for management, being on management's side, not helping them at all, being useless. How dare I tell them they had to move when their position was fully justified. I was so taken aback by the vitriol. Well, the first thing I managed to do before the tears came was explain to them what my role was and what I had been trying to do. And I explained to them that I was not an enemy, that I was trying to work with both sides to make this work, to get *them* a collective bargaining agreement. I said won't affect my life at all if they don't have an agreement but it will affect their lives.

I got that explanation out and of course they didn't budge and I went across the lobby of this hotel to go inform management of this situation. I walked into the room and I was still holding myself together and when I sat down -- this was of course a much smaller group -- the management team said to me "So what happened?" And rather than be able to tell them that I had failed to get any kind of movement from this group, I burst into tears. And they said, "Were they mean to you too? They're horrible to us."

And of course I felt terrible. I felt like I was just such a failure in the process and so unprofessional by showing my emotional response to this attack on me. But what happened after that is what's really most interesting about this story. When I went back to the union caucus to tell them that we were done with mediation, they asked me to sit down and they gave me a new position to bring to management. We ended up walking out of there with a three-year

agreement. By the end of that process they were hugging me and saying I walked on water. They said I was the best mediator they had ever had and they told me they would see me in three years when the contract expired.

**MB:** How did you respond?

**RG:** I told them I was changing my phone number.

**MB:** All right. So let me ask you about arbitration in general. Do you think that you bring anything particular to the process as a woman that's different from what a man would bring?

**RG:** It's hard to answer that question without making stereotypical assumptions about the differences between women and men. People have told me that an arbitration with a woman is often different from an arbitration hearing conducted by a man. Some have said that they feel that women listen more attentively and are more patient. I just think it's a case by case assessment.

**MB:** Putting aside being a woman, do you believe that there is something about your own personality that is especially suited to be an arbitrator and if so what?

**RG:** I am a peacemaker. And a puzzle solver. So those are probably the two traits one needs to be a successful mediator and arbitrator. There are many opportunities to be a peacemaker in arbitration. I often play an active role in trying to get things resolved at the arbitration level. That's something that I know is part of my DNA -- that desire to see things get resolved. The puzzle piece of it is a really fascinating piece that tends to come into play in contract interpretation cases. Many of our cases involve straightforward disagreements about what the contract means. One side thinks the language means one thing. The other side thinks it means something else. Those are the cases I view as akin to a puzzle. Each side provides me with pieces of the puzzle. At the end of the day, those pieces need to fit together in some way that allows me to make a decision about what the contract means. That to me is a mental challenge rather than a personality challenge, and I love them both.

**MB:** What if this knowledge comes to you during the hearing? Would you stop the hearing to say let's talk outside, I have an idea of how to settle this?

**RG:** That sense of where a case might be heading can begin to form as early as opening statements. Parties might not want to hear that, but it's true that we begin thinking about where pieces fit from the very beginning of opening statements. Because we are told what we are going to be hearing about. That's not evidence, but it's a promise of what will be told to us over the course of the hearing. And a lot of information comes in at that point. We're given the collective bargaining agreement to be following along in terms of what provisions are in play. And right from the beginning we might see problems or issues or avenues that might be explored to resolve things at an appropriate time. In my experience, most parties would rather see things resolved than end with an arbitrator's decision.

**MB:** Let me jump to the writing of awards. So, when a hearing is done, you write a decision. Tell us your process of how you do that.

**RG:** When the briefs come and I re-open the file, I begin to re-live that case. For me it's like walking back into the hearing room. I'm reminded who the people are. I'm reminded of my impressions of the hearing as it unfolded. And that's when I do my serious studying of the parties' positions and the evidence and start my writing.

**MB:** It sounds like you enjoy that going back in time and reading the briefs and transcripts again.

**RG:** I find it helpful. There are arbitrators who will tell you that they have never read a transcript. They take notes, they rely on their notes when it comes time to writing the decision but that they don't want to read 300 pages of a transcript before issuing their decision. I look at it as reading a play and I really do depend on the transcript in cases that have them, as the most reliable source of what people said. I also will have made notes for myself during the hearing, such as "DBH".

**MB:** And what does that mean?

**RG:** Well, it could mean two things. It could mean Don't Believe Him. Or it could mean Don't Believe Her.

**MB:** So you take quality notes. Notes that the parties could not see.

**RG:** Definitely don't want the parties to see.

**MB:** All right, okay.

**RG:** I have another little note.

**MB:** Yeah, what is that?

**RG:** That's GMOOH.

**MB:** And what does that stand for?

**RG:** Get Me Out Of Here.

**MB:** Well, back to the decision writing. Do you like writing?

**RG:** No.

**MB:** Do you think that's problematic, for an arbitrator not to like to write?

**RG:** I know I write well so there's some comfort there. But the reason I don't like writing is because it's such a challenge. And it *should* be a challenge. It's the most important part of decision-making, in my opinion. I know that the analysis of a case is incomplete until it's written and it's written well. There's a reality test in the writing process that requires us to express ourselves in a way that will enable the parties to understand how we got to where we are and why. And if that doesn't work in the writing process, we know that we're going down the wrong path.

Before I write one word of analysis in my decisions, I write a detailed outline of all the points I intend to make. That lets me see on paper whether my analysis flows before I commit to writing.

**MB:** So, Roberta, tell us some of the things that you like most about arbitrating.

**RG:** The thing that I think all arbitrators will agree on is that every single day is different. We go to different places every day. We're with different people every day and no matter what anyone says about this case being just like that case, it's never true. There's always a wrinkle. There's always something that makes one case different from another. So it's never boring. And another positive thing is that you can wear the same thing from Monday to Friday. You know, you can really get by in this business with a three-dress wardrobe.

I also love site visits. Often the parties recognize that it's important for me to actually see the place that is being discussed. It's always helpful, not just to educate me about the particular business that I'm hearing about, but it really helps me follow the story that's being told as to what happened in that location. One of my favorite site visits occurred when I had a case up in Maine where they used to have a very active paper industry. And I would go to these cases and hear about incidents that occurred at the paper machine. So I kind of pictured something the size of a Xerox machine until they took me on a site visit where I saw that the paper machine could fill a football field. To see the site in person gives me a better perspective of what the case is about and of that particular occupation. So site visits are great. I always love going to jails, particularly because I have the freedom to leave them. But it gives you a sense of the atmosphere that people are working in. And it gives you the ability to see things as they really are rather than simply in our imagination.

**MB:** Did you have any unforgettable site visits?

**RG:** Well they're all memorable because that's the purpose of them but I do remember one that was particularly memorable. It involved a grievance where the employees in this particular unit claimed they were entitled to a hazardous duty differential of \$10 a day because they had to work outside and much of their work involved climbing towers that were 80 or 100 feet in the air. I got a call the day before the hearing telling me that I should bring sneakers to the case the next day and I thought well okay, maybe we'll be doing some walking where it would help to have comfortable shoes. So I brought my sneakers and dressed appropriately and went to the case. It turned out that these employees who had to climb these towers wanted me to do it so that I could appreciate how hazardous the work really was. This was early in my career when I was still trying to make as good an impression as I could make. I am desperately afraid of heights and

climbing an outside tower into the air 80 or 100 feet was just about the last thing I wanted to do but I didn't want to admit that I was fragile.

**MB:** So did you do it?

**RG:** I did. When I finished the case I was as convinced as they were that climbing these towers day in and day out was indeed hazardous and worthy of a ten dollar a day bump. So I sent my decision sustaining the grievance... and I added ten dollars to my bill.

**MB:** Moving on to another topic, when the parties select you, they select Roberta Golick the person, so there are sometimes things about you that the parties might not know or events in your life that the parties are not aware of. Can you speak about that issue?

**RG:** That's a very important issue and it's one that I think about a lot. Some arbitrators would like to believe that they are approaching their case as an empty machine, where the facts and the arguments are fed into this machine for processing, and at the end of that process, the arbitrator will have the correct answer. Others take what I believe is a more realistic view, which is that we are human beings and that we come to this process having lived lives, having lived in families, having grown up rich or poor, having been educated, having feelings and emotions and responses on visceral levels beyond simply the processing of information. Our goal when we are making decisions is not to let our past lives and personal judgments distort our judgment. I think our goal is to be mindful of who we are and to make sure that extraneous feelings are not dictating the answer for us. Impartiality is the cornerstone of our profession.

**MB:** What do you do when you have an extremely difficult case and you can't see your way to an answer?

**RG:** I find that going to sleep helps. Some of my best thinking occurs at about six o'clock in the morning. I can go to sleep in a total quandary, and it's as if during the night, my brain does its work without the distractions of waking life. I can't tell you how many times the path to the answer seems to have been cleared during the night while I slept.

**MB:** Do you ever take notes in the middle of the night?

**RG:** Sometimes! I keep a pad of paper by the bed and a pen, but of course I can't turn the light on and disturb my husband. So I aim for the paper with the pen and in the morning I try to decipher what it is that I thought was so brilliant at 2 a.m.

**MB:** Have you ever started to write your decision and realize that there is some essential piece missing, some fact, some issue that you would have liked more clarity about.

**RG:** I'd say earlier in my career it happened a lot, probably because I was less experienced and also because I was less confident about asking questions about things I didn't understand. Through the years I've become diligent about asking necessary questions. It's not shameful to say I'm sorry I didn't understand what you said or I couldn't follow that. I'll interrupt witnesses if need be when it's not making any sense to me.

**MB:** What do you do if you're in a hearing and you have one side of the table, very experienced, very good at advocacy, and the other side, not so much? Do you as an arbitrator feel the obligation to intervene and do anything about that?

**RG:** It's not my role as the arbitrator to elicit essential information. It's the parties' roles as advocates to make sure I have the essential information to decide a case. When I find an imbalance in the playing field at arbitration, I feel it's my role and my job to make sure that people are treated fairly and that each side has its full opportunity to present the case it wants to present. But beyond that I'm not going to assist one party or the other if they're not good presenters on their own. I don't think that's our role and I wouldn't want to be thought of as an arbitrator who sees a weak party and goes to bat for it.

It's very rare that that an arbitration is perfectly evenly matched. It's delightful when it is, especially when both sides are brilliant and cordial. It's a lovely way to spend the day. But I've had cases where both sides are evenly matched and they're both frustratingly incompetent. Most advocates, by the time they come to arbitration, do know how to present a case. Some may be more clever and more creative than another, but a good case will generally shine through even if the parties are not evenly matched. It's not the case that the smarter advocate wins the case.

**MB:** Have you ever had a situation where a party comes back to you after receiving your decision and expresses some dissatisfaction?

**RG:** I'm happy to say that the number of times that that has happened in my life can be counted on one hand. It's very rare. I once got a letter from a losing side -- this was in the days when people did write letters -- that started off with, "I know it's not generally appropriate to tell an arbitrator when she has made a mistake." And it went on from there. It was a punch in the stomach, and I didn't see those folks for a few years. And then, lo and behold, they probably got madder at other people and so they picked me again and I've been doing work with them ever since. And we still talk about that case. We laugh about that situation. You might say I elevated sacred legal principles above common sense.

**MB:** Now you've had some very high profile cases. I'm assuming that sometimes the press has tried to contact you or written about you in the paper or on the internet. Have you ever had that situation?

**RG:** Yes, that does happen. When we're involved in cases, we certainly don't discuss anything that's going on with the press. And I can't think of any instance where I would have discussed a case after my decision issued. They have the decision. They do with it what they will.

**MB:** Many years ago you issued a groundbreaking decision in Connecticut dealing with same sex benefits. Can you talk to us about that case?

**RG:** Yes. I'll start at the end of the story which is that that case is now moot because the law in Connecticut has changed. But when I had that case, domestic partners were not legally entitled to receive benefits from a state employer. And they were also not legally entitled to marry or even

have civil unions at that time. That case came to me came as an interest arbitration between the State of Connecticut and a collaborative of all State employee unions. Not as a grievance arbitration. That's a critical distinction. Domestic partner benefits was one issue that the parties could not resolve at the bargaining table. At least they couldn't agree on it publicly.

The question put to me in that interest arbitration was whether domestic partners should be entitled to health benefits. I applied the traditional criteria used in interest arbitration, and I ruled in favor of the collaborative unions. Needless to say, my decision got tremendous coverage. Most of it was positive I would say. But it was revolutionary at the time.

**MB:** Was it difficult for you to decide a case that was that important?

**RG:** The merits of the case weren't difficult to decide. What's difficult always is the knowledge that this one is going to hit the press. It's part of the business and we have to accept it and go on. You do what's right. My Connecticut case was quoted for a number of years. It died down when the world caught up with my decision.

**MB:** And speaking of prominence, you've been selected for several Presidential Emergency Boards. Which means you've been selected by the President of the United States to sit on an arbitration panel and make a decision. Could you describe for us what that process is?

**RG:** Well ultimately it's still the same as a regular interest arbitration case although our decisions are not binding. And when you say that the President selected me, it's fanciful to imagine that the President actually considered whether Roberta Golick would be good on the panel.

**MB:** I thought you had letters from Bill Clinton and Barack Obama.

**RG:** I do, but I'm pretty sure their signatures were done by machine. So, yes. I've sat on a few Presidential Emergency Boards in the railway industry. We sit as a panel of neutrals. Our role is to make recommendations to the President on how a labor dispute should be resolved. Working with other arbitrators is actually a very interesting and different experience from what we do as solitary arbitrators. When you sit as a single arbitrator as we do in 99% of our cases, we run the show, we're in control, we tell the parties what they have to do, we rule on evidence, we write the decision by ourselves and we issue it and we're done. When working with colleagues, it's just a remarkable experience to see how our peers process the very same evidence that we have. And we approach things differently. It's terribly fascinating to see how others think and to talk collaboratively about what a decision should be versus sitting in our ivory tower and thinking entirely on our own. It's a great experience.

**MB:** Do you ever have times in a hearing when you have difficulty keeping a straight face?

**RG:** Yes that does happen. Thank goodness it doesn't happen frequently.

**MB:** Can you tell us a situation you remember?

**RG:** Well I can tell you the clean one. You know, it might just have depended on the time of day, but I was on a discharge case where the human resources person's name was Mr. Muncheon. And on cross-examination, the union advocate deliberately kept calling him Mr. Munchkin. Every time he did it, it got worse and worse for me. I was ok at the beginning but towards the end I was practically choking.

**MB:** I won't ask you how tall the person was. Could you tell us about some of your permanent panels and how does that differ from the work you do on an ad hoc basis?

**RG:** Ok. Well of course 'permanent panel' is a misnomer since you're only as permanent as your last case. But there's a difference between permanent panels and ad hoc cases in terms of the relationship with the parties. With permanent panels, the parties know that we understand their business. That institutional memory is something the parties rely on. The parties also know how we think and we know how they think. So in permanent panels, the parties know to trust our comments and our observations, and they appreciate that, so it makes for a much more open and efficient hearing with many more opportunities for resolution.

**MB:** So Roberta, you mediate and you arbitrate, and sometimes you switch hats in the same case. Can you tell us about that?

**RG:** What typically happens is I'm selected as an arbitrator. But the parties know that I have a bent towards resolving matters and they often ask me at the beginning of the case if I would assist in trying to resolve the dispute informally through mediation. I'm always glad to do that, but I reserve the right to step off the case if mediation fails and I don't feel I can remain neutral based on what I've heard in mediation. The parties are also free to ask me to step down. But frankly, I can't think of one time when that has actually happened. When parties genuinely want to resolve a dispute, it will be resolved.

**MB:** Which process do you prefer, mediation or arbitration?

**RG:** When I'm mediating, I wish I were arbitrating so I could just tell the parties what to do. When I'm arbitrating, I wish I were mediating, because it would be so nice to leave at the end of the day with a settlement in hand and not have to make a tough decision.

**MB:** You will be delivering your presidential address next month at our annual NAA conference in Minneapolis. What do you plan to talk about?

**RG:** The title of my talk is The Human Condition: It's Impact on Arbitral Thinking. In essence, I intend to address the conundrum we all face as we strive to achieve an appropriate separation between our life experience and our arbitral responsibilities. I intend to talk about the role of empathy in our decision-making process.

**MB:** Thank you, Roberta, for an enlightening conversation.

**RG:** And thank you, Margie, for asking great questions.

Roberta Golick Interview  
Interviewer: Margaret Brogan (MB)

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**Link to President Roberta Golick's Presidential Address – 65<sup>th</sup> Annual Proceedings:**  
<http://naarb.org/proceedings/pdfs/2012-13.pdf>