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James Franklin Scherr

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Interview with James Franklin Scherr by Jeff Schulze

November 3, 1998

JMS: I thought we'd try to get some background information. You're a third generation El Pasoan, is that correct?

JFS: Right.

JMS: You graduated from Coronado High School?

JFS: I see you've done some research on me.

JMS: Yeah, I did a little bit of reading up. And that was what year?

JFS: 1971.

JMS: Okay. And where did you get your undergraduate degree?

JFS: I went to University of Texas

JMS: At Austin. And what about law school?

JFS: University of Houston.

JMS: What year was it that you began practicing law?

JFS: 1976. January the thirteenth.

JMS: And how old were you? You were pretty young, weren't you?

JFS: I was 22. Do you want me to give you some background?

JMS: Sure, whatever you'd like to add.

JFS: I was born and raised in El Paso, my mom was born and raised here. My grandmother was one of the first graduating classes from El Paso High. Her father came from Louisiana- she was born in Shreveport- but he was here and he set up a little store on Overland Street- where Star Western Wear is. He was a merchant down there. He lived up in Sunset Heights, up there in the old homes, up on Upson. I wasn't born and raised at that time- that's when my grandmother was a child. So I grew up here in El Paso.

JMS: So after your college education was it more or less

your intention to return to El Paso and start practicing law?

JFS: It was real interesting. When I went away from high school I didn't want to come back to El Paso. I thought, 'Well I want new horizons, I want a whole new world,' and I want to see what the world has to offer, and I went down to the University of Texas at Austin. I got married my first semester in law school, or in college actually. And when I was there I found I was really a lot more secure in my roots. My daughter was born, Rhaelynn, my first year of college. And I ended up working, going to college, finishing college in two years, then I went to law school, finished it in two years. I took the bar exam before I finished law school. I was also working while I was going to law school because I needed to support myself and my family. When I started practicing law I was the youngest lawyer in the state of Texas at the time. And I decided to come back to El Paso. I had worked with some law firms in Houston. At the time it was called Fullbright and Crooke. There was an attorney there by the name of Jaworski who had worked for the President of the United States, Richard Nixon. Defended him at Watergate. It was definitely not my idea (laughs). I

decided that ain't the place for me, so I came home, hung a shingle, opened my own office, didn't have a single client, and tried to figure out how to practice law.

JMS: So once you got here you started your own firm?

JFS: Yeah. Well, I started my own practice. I didn't have a firm (laughs).

JMS: So would you say that your experiences working back in Houston really made up your mind to go into Plaintiff's work?

JFS: No, because when I came to El Paso I was a tax/real estate attorney.

JMS: Okay. And what led you into doing Plaintiff's work?

JFS: Well, I got involved in politics here in El Paso. And I started meeting a lot of people. I called on somebody by the name of Lalo Coral. Lalo, who later became my investigator, told me I really should learn how to help take care of people and represent people. They need somebody...that people needed somebody like me who's

young, aggressive, really bright, from the establishment, so to speak, to stand up for the rights of the people. That would have made a very good practice. I was like 'I don't know nothing about this. I don't understand this, but it sounds very good.' Lalo says, 'Well, I'll take you by the hand and teach you. I know Workers' Comp.' Lalo had worked at ASARCO. He had fallen off the smelter, the smoke stack. He'd fallen off the smoke stack and had broken his back, and lived to tell about it. He had handled his own Workers' Comp case. So he started helping friends of his at ASARCO, and he said 'I can teach you how to do it.' We hit it off, we were best buddies, so I started doing Workers' Comp with him.

JMS: So you were trained in Workers' Comp by someone with no legal education?

JFS: None whatsoever.

JMS: I guess I'd like to ask you a couple of questions about your political career since you kind of entered it pretty early. I guess I was wondering if there was any specific event or anything in particular that really sparked your interest in politics, or encouraged you to

get into politics- especially at such a young age.

JFS: I was a government major at University of Texas at Austin. I was always interested in government. I guess I was kind of a follower of the Beatles. You know, I remember Revolution #9. I got into some of the concepts of freedom, the concept of living in a perfect world, the concept of utopia, and the idea that as humans we could do better in our world and that we could make a utopia exist in our world. I got into studies about that...(telephone rings) I even had my own dreams about how that could be accomplished in real life. So I looked at different ideas. Well, at that time there was a lot of disruption. A lot of people fighting against the war in Vietnam. I thought about what it would be like if we changed our system of government in the United States. You know, I really liked some of the town meetings that were taking place. Very interesting things. The SDS for example- Students for a Democratic Society. I came to the realization that it's better to work through the system than against the system. It was a good system in the United States. It gives people the opportunity to...they can speak up against the system. So I got involved. I worked in George McGovern's campaign against Nixon, and I cried the night McGovern

lost. I remember sitting there, the guy running for governor today, Gary Mauro, was the campaign manager. I didn't know him at the time. I just remember seeing, 'It's a landslide! Nixon's won every state! It's a landslide! The greatest landslide in the history of the United States!' And all I could think about was how stupid people were that they were just goose-stepping and following the leader. Because Nixon to me personified evil. He personified greed. He personified negativism. And I didn't particularly favor Nixon. I followed Watergate like a hawk. I watched every moment I could on Watergate. I read every minute there was on Watergate. And basically learned a lot. So when did I really get involved in politics? I guess it's ingrained in me. I've always been involved in wanting to see our government, um, be a part of the government.

JMS: As far as your actual campaign and seeking the nomination and that sort of thing, did you find that your age played a factor? I mean did it help or hurt you at all?

JFS: Detrimental. Because I didn't know anyone. It was interesting. I came back from a hearing, I'd done a traffic ticket. You know I had some big, a big law

practice back then. Big stuff was going to the courthouse for a \$50 traffic ticket. At that time I didn't realize it was my sister-in-law, named Jody, who worked with my ex-wife. Jody had gotten a speeding ticket and I won the ticket. Man, I was hot (laughs). Got it dismissed, so I came back and they had opened up a brand new seat on City Council. I hadn't really thought about it much, but I knew it was going to be running at large, city-wide. You know this is an opportunity to get involved. I'd always wanted to be a part of the city. So I went and I told Jody and Susan, my ex-wife, 'Get on the phones! Call every radio station, call every newspaper, call all the TV stations! I gonna announce tomorrow I'm running for City Council!' They said okay and hung up the phone and called everybody up. All the press came the next day, they had all these lights all over the place, big conference table. I remember seeing all these lights on me. It was the first time I'd spoken publicly. I used to hide in law school so I'd never have to repeat anything or recite anything. So the hardest question I've ever been asked in my life of a public nature was asked when Ed with the El Paso Times with his beard, red hair, looked at me after I read my speech, and I had it all planned, and he hit me with this question.

'So why are you running for office?' And it just shocked me. I hadn't thought about why I'm doing it, in trying to respond to the public. So I just spoke from my heart. I said...I gave my answer. Because it's important for all of us to be a part of the system. Because for me this community is my home, my life, my family's life, it's something I want to do something about. And I want a voice in how it's run. I want to have an ear as a representative to listen to what the people have to say and just because my ideas may be different doesn't mean that that's what's best for the community. Cause I'm not gonna dictate. So I ended up running. My big concept was 'an open ear to City Hall.' So I ended up running. I didn't have any organization at all. I hadn't been in politics. I came out in the press and I announced I was going to have a meeting with my campaign staff that night. Fortunately, Derek Smith, who went to high school with me, called me that day and said, 'You're running for office? I wanna help, I wanna help!' I said, 'Come on down, Derek. We're having a campaign meeting tonight. Show up.' 'What time is it?' 'Seven o'clock.' 'Where?' 'My office.' 'I'll be there.' Fortunately Derek showed up cause I now had a campaign manager. We ended up winning the election by the largest margin of anybody who ran. I was really

fortunate, cause it was a really tough, contested race. I went in against- at that time the city was run by a ticket. You had a Mayor, you had his six council people, they were all riding on the Mayor's coattails, they were all raising money together, they had advertisements. It was like a party, partisan races. And I was totally independent and running against the ticket. As a result of that election, it basically destroyed the ticket system, and there hasn't been another ticket running for mayor since.

JMS: So could you explain how you ended up on the City Council's list as the Mayor from 1979 to 1981? You're listed as Mayor on the list- on the official list.

JFS: Really? On the official list I was listed as Mayor? Well that's probably because the guy who was Mayor everybody hated (laughs). His name was Tom Westfall. He was a retired FBI man who wanted to make a name for himself, and he came here on the concept that City Hall was corrupt. He got elected and he got booted out the next time. So he didn't last but one term. I was Mayor pro tem, I think, is what happened. And I probably had more to do with organizing and running things.

JMS: So it's just kind of selective memory?

JFS: I didn't realize I was listed as mayor. I was Mayor pro tem.

JMS: What about...do you have any particular memories or anything of significance from your time in office?

JFS: Plenty. Plenty.

JMS: Anything jump out at you that you'd like to discuss?

JFS: One of the biggest accomplishments was being flown to Washington and receiving from President Jimmy Carter a Presidential award, being one of two people in the country on a local, state, and national level in the field of energy efficiency and conservation. I ended up receiving an award from President Carter, which I proudly display in the entryway. It was a pretty big deal for me. It was 1980, so I was 26 years of age when I flew out to receive the award. I'd been asked by President Carter to serve as Vice-Chairman of the Department of Energy board in energy conservation. I was Chairman of the State of Texas Board on Energy Efficiency. So I did a lot of background work to help

write the Energy Efficiency Act from the late seventies, early eighties. That was one of my important accomplishments. I was chastised by that same Mayor I told you about that was booted out of office. It was real interesting because...(interruption). We were talking about how Council was different. At that time, when I first got elected, was at large. You represented the entire city. So City Council representatives, who we called Aldermen, had administrative power. They were like heads of the departments. And I was the head of the Public Works and Planning Department. So I had a big role in terms of determining the future growth and development of our city. For example, I was gonna tell you about this Mayor got real angry at me cause I'd helped build the west side swimming pool, the west side recreation center, what's now the baseball, soccer field out there. You know, I put all the money together, helped build it, put the nutrition center in over there. At the time, there were no streets. You couldn't get there. Okay? The only way to get there was to go through this long route down Carousel, Festival, through the housing authority. So people weren't using them. All the people on the west side that were trying to get to the swimming, west side rec center, kept complaining to me, at that time I was the west side

Councilman, that we need to get a road. Got permission from the Army Corps of Engineers to build it right next to it. Well, the Mayor came down on me and said...he was supporting my opponent. I was up for reelection. But the Mayor, former FBI, asked the FBI to investigate me. They made a big public deal, and asked that I get impeached from office for misuse of public property. I was really devastated by that because all that I was doing was trying to accomplish a need that had to be fulfilled that the city had properly planned for. Even the property owners out there came together and said 'We support Scherr in what he's doing.' Derek and Schaefer had this property. They were all going to donate their land to get a new road, to get the road. So the Mayor held this public hearing at city hall, to ask that there be an investigation done of the property. Over 500 people showed up at the meeting. They're in there, 'We're in favor of Mr. Scherr's actions.' The town was on my side. You know, I didn't know what was going on. I ended up winning the election against the Mayor's hand-chosen favorite guy, that all the establishment was backing to beat me. I clobbered him. We got the election won just with that. It was kind of funny.

JMS: So was that all you did, two terms?

JFS: I served three terms. Then I ran for U.S. Congress. Richard White was our Congressman and announced that he would not seek reelection. At that time I was 28 years of age. So I said I'll either have a life of politics, or a life of business and private life. So I took on the race and went for U.S. Congress. And we had a lot of competition- a county judge, our state representative, the head of the Mexican-American Democrats, the guy from, who was supported by the DFW, the Army, all of us ran. I was very fortunate. I did not win. I did extremely well in the race. I was the youngest person running for that position. Ron Coleman got elected and I'm glad that he did. It was the choice for me- either politics or private life. I made it clear I wasn't gonna run again, so that's why I quit. I retired at a young age, and was very happy.

JMS: Is that the end of it, you think?

JFS: As an elected official? It's all I've done so far.

JMS: Were you still practicing law at all while you were Alderman?

JFS: Sure, yeah. I had to make a living cause at the time City Council paid \$400 a month.

JMS: And you're still active as a...I heard you were still a pretty significant campaign contributor to the Democratic party.

JFS: I'm very, very active.

JMS: Is that just on a local level or on a nation-wide level, or...

JFS: Well, I was President Clinton's Finance Chairman for West Texas and southern New Mexico for the last two elections. So I'm very active.

JMS: I guess we can talk a little about your legal career, unless there's something you wanted to add about your political experiences.

JFS: There's plenty of stories and things that were done. How old are you?

JMS: Twenty-three years old.

JFS: Imagine when you're twenty-three going on twenty-four right now and you decide you're gonna run, and you get elected. You're sitting up there on City Council and you're a city father, and you're calling the shots of what happens in your city. You're determining zoning changes, police department activities, fire department activities, every aspect of the local life. Ordinances of what trucks are allowed to come into town, how high buildings can be built, whether you let trains come through, what your speed limits are on the street, anything that you can possibly think. Nude entertainment clubs- whether you let those in your city. Where you're going to have downtown activities, how you spur the growth of your city, where sewer, gas, electrical, telephone services are going. Every aspect of life you're calling the shots on.

JMS: Was it pretty stressful for you? Do you think you dealt with it well or did you ever feel you were in over your head?

JFS: No. I never felt that way. I always felt like I was doing the right thing. I really researched it. What I ended up doing is I ended up saying...Today we still have them at City Hall. They're what's called

legislative review committees. What happens is every Monday at City Hall they have a meeting and they invite all the department heads in to go over every item that's going to go on the agenda so that you make sure you are thoroughly educated and apprized of what's going on. It's something I had set up- it was like a pre-council meeting. It was really good. And I really feel like I had a great impact, you know? Historic preservation- that's a program I put together. Energy conservation- I put that together. EMS- you know we didn't have EMS in El Paso. That was my project. There were just lots of things that I did. The south freeway- the freeway on the west side drainage...When I had been on City Council, the water went through peoples front door and out their back door in Chaparral Park. It just went through the houses. So I put together a \$40 million drainage program back in the 1970s with the organization the Army Corps of Engineers. They helped solve the drainage problem. Like that big drainage thing right underneath as you come off of Mesa street exit heading westbound to Sunland Park there's that big drainage structure that becomes a lake- that was all stuff that I put together. Sunland Park Mall- I basically helped put that thing together with the developer. It's just a lot of projects that you do.

It's really interesting. Of course I'm a very active guy. I was into everything. I had all this energy, and nobody was slowing me down and nobody was telling me what to do because I was the boss (laughs). And I had fun. It was really good. And I made things happen.

JMS: As far as your legal career, I've heard you mention some general trends. I heard you mention that it's getting more difficult to win product liability cases and I think I read that El Paso juries are pretty conservative as far as the amounts that they award. I was wondering if you wanted to elaborate on one of those or maybe any other trends you've noticed in your years in the local legal world.

JFS: El Paso cases have always been much lower than the rest of the state. El Paso's the poorest big city in the state and one of the poorest big cities in the country. El Paso's verdicts are always very low. El Pasoans have good hearts, but when you tell somebody a million dollars in El Paso, that's lots and lots of money. When you tell that to somebody in Houston or Dallas, they do billion dollar cases and they're used to these. So El Paso juries have traditionally been very conservative. But what has happened is that with the advertizement

that's being done by the insurance companies- insurance companies, employer groups, people who are the ones that get sued for wrong-doing- are the ones who are paying for the advertizement. They are the ones contributing big bucks to the legislators to change the laws to make the little people that get hurt, they cut their rights out. So as a result, you're getting the legislators who want the big money from big business and insurance companies changing laws, making it harder to bring claims for people that got screwed by wrong-doers and you're getting judges who want contributions as well. Their money comes not from the little guy, but from big business and insurance, out there basically squashing the little guy. And that's exactly what's happening in the system. It's getting worse and worse, the people are very money hungry. They're interested in how much profit they can make. A lot of businesses just care 'what's the bottom line?' If they're not making enough profit they're going to cut peoples' jobs out. You see big corporations laying off lots of employees, downsizing, so they can make more money and raise more capital to expand. Well, there's a second side to that, and it's all those people that get laid off. It's those people whose children's, husband's lives are displaced, that are put on the poverty lines, and are having to

get welfare checks to be able to support themselves. It has to be balanced out. We live in a socialist society, and we realize that. It's very important for us in a socialist society to take care of the downtrodden, the poor, the disadvantaged, the handicapped, the people who need help, because if we don't, the downtrodden, the poor, the handicapped are going to rise up. They're gonna look at those that have. There's a lot more of those who are downtrodden and poor than there are those that are rich and wealthy.

JMS: I know you've had some pretty significant settlements against some pretty big companies. Do you ever worry about that sort of thing having an impact on the local economy? Maybe businesses will look at these settlements and think, 'Well, I don't know if we want to develop in El Paso because their juries are lenient' or whatever.

JFS: That's hogwash. That's insurance propaganda. If that were the case, places like Houston where they have a \$10 billion verdict on the Pennzoil v Texaco case, you wouldn't see a single company wanting to go to Houston. Yet Houston's economy is the most vibrant economy in the state of Texas. Why? It doesn't have anything to do

with lawsuits. Lawsuits don't affect anybody's mind-set. What affects people's mind-set is business, industry, opportunity, quality of life. You know what's happening in El Paso? Those people who helped make El Paso sold out their businesses to out-of-city concerns. As a result, El Paso's now a downtrodden community itself. We're labor. We're just a blue-collar labor town working for people who call the shots in other cities. All the banks used to be privately owned. Now there's no major bank locally owned. There used to be all these different local companies. They don't exist anymore. They've been bought out, sold out, people who were at the top took their money and ran and those people at the bottom are just displaced. They get laid off. They've got to go find a job in some warehouse or some company that's transporting stuff in Mexico.

JMS: I don't know if you like to talk about settlements, dollar figures, but I was wondering if there are any cases that were particularly significant to you for whatever reason?

JFS: One of the most significant cases in my life was Mendoza v Contico. A U.S. company called Continental Sprayers from St. Louis went to Juarez and opened a

very first class, very nice plant. They operated out of El Paso and Juarez. General Motors came into Juarez, hired a bunch of people, a lot of their employees left. So Continental Sprayers decided they would be adventuresome and try to find a better way of getting cheap labor than Juarez where they were paying \$28 or \$30 a week wages for a 50-hour work week. What they did is they decided to go to another town. They went to a town called Palomas. Palomas is located on the border between Columbus, New Mexico and Palomas, Mexico. It's the only site where the U.S. has ever been invaded. That's where Pancho Villa invaded. The reason for it, it's a lawless community. Contico went to Palomas, set up a horrible system. They rented an old building from allegedly one of the reputed drug lords of the community. They went in and just hired labor as cheap as they could get it, and if people didn't like it, they fired everybody, laid them off, and hired other people. There were no other jobs in the town. And Contico treated the employees harshly. What Contico did in terms of handling the payroll for the employees, though there was a bank two blocks from their office, they decided they would bring the payroll from Juarez in cash by courier. What they did every Friday at the same time on the same route is they would drive a car

from Juarez 90 miles through two checkpoints carrying \$2000 cash, Mexican pesos, which was payroll for 100 people at \$20 a week, and they would bring it on the same route like a wagon train to Palomas. They would lie at the checkpoint. When asked what they were carrying they said they weren't carrying anything. They used a driver and a bookkeeper to carry the money. Cash, every week, same route. Pretty stupid. One week, the driver and the bookkeeper didn't make it. They sent out a search party and found the car burned. They opened up the trunk and all they found were skeletons of the bodies. They were so badly burned that the skin and internal organs had been burned to a crisp in the trunk. It was horrible. The company didn't tell the press what really happened. They said they didn't know what happened, who killed them. It turned out the company knew, had gotten a report from the police department exactly what happened. That daughter had been taken out and beaten until they tried to rape her. The driver tried to intervene- they shot him. Stuck him and the daughter in the trunk of the car, poured gasoline on it and burned them alive. I thought that was so atrocious. There's got to be something we can do in America to prevent U.S. companies from being so cheap that they won't spend the money to use a bank two

blocks away for payroll. I went through hell with that lawsuit. It was a very, very contested case, I got chewed up and spit out by the Court of Appeals who wouldn't listen to what the facts were. I got chastised in that case. Eventually, we went to trial. We won. Well, I took it up to the Supreme Court, overturned the Court of Appeals. We went to trial and I tried that case. By the time we finished the final argument, that jury would have given us anything we asked for. There were jurors that said, 'We would have given you \$25 million.' We ended up settling the case with the defense lawyers. Finally settled and agreed to 1) to set up a scholarship fund in the name of that daughter in Mexico and 2) to erect a statue in the name of that daughter in Mexico. That was very important. We were saying that we as Americans will not stand for double-standards. To me that was an important case.

JMS: What about the Levi's case? Is that the highest settlement monetarily that you've ever received? The \$10.6 million?

JFS: Yes.

JMS: When was that exactly?

JFS: It was about \$10 million. Excuse me, I don't know what the total amount was. I'm under a gag order, frankly, not to reveal the total amount. So I can't reveal the total amount. But it's been in the papers, so you've got that information.

JMS: I heard that you were considering lightening your load as far as your legal practice went and pursuing other interests. Is that something you're thinking of doing?

JFS: Yes. Right now I'm working with my uncle who I love very much in Los Angeles. He's extremely talented. He's been playing the piano since he was four years old. He's written about nineteen different productions. So I'm working with him on doing something in the entertainment business. I'm looking forward to helping him.

JMS: That's about all I've got unless there's something you'd like to add.

JFS: Thank you very much for giving me the opportunity to talk.

JMS: Well, thanks for giving me a lot to work with here.