

*Honesty • Diligence • Persistence*

## **The Honorable Anne K. Bingaman**



*It takes the most character in appointive government jobs—  
and it is actually easy if you don't want another job.*

*—Anne Bingaman*

**I**n a marvelous essay tracing the course of his life, Mark Twain recounted how getting the measles at age twelve contributed greatly to making him an excellent author. He attributes the path of his life and career to seizing circumstances as they came. Anne Bingaman, lawyer, businesswoman, and entrepreneur, believes that such a thing—what she calls serendipity, or opportunities coming from unexpected events—has similarly shaped her life.

As with Mark Twain and measles, Anne sees her serendipitous life beginning with a trip she took with her parents to San Francisco when she was nine years old. On that trip, they saw the Stanford campus. While they were there, her parents said strictly and quietly to each other, “This is where very smart people go to school.” Anne never forgot that day at Stanford and

her parents' comment. At some point not long thereafter, Anne formed the conscious goal of going to Stanford. She did it, admitted from Central High School in Phoenix to the Stanford Class of 1965. While there, she lived on the Stanford Row, in a former sorority house, on the very street where her family had driven so many years before.

After graduating from Stanford in 1965, Anne enrolled in the Stanford Law School that fall. The next year, because there were seating charts in law school, Anne was assigned a seat—by chance—right next to a very handsome and outrageously funny man in the class, Jeff Bingaman by name. What Anne chose to do with that chance event was to buy tickets to the San Francisco Opera and ever so casually ask him to go. He did, events took their course, and a few years later, shortly after the bar exam, they married in Phoenix.

Marrying Jeff led inexorably to life in New Mexico, a state that, very honestly, Anne had associated only with Highway Route 66 prior to moving there. But she immediately loved it, and had the great good fortune to practice law there for almost fifteen years before moving to Washington, D.C. At the time of the Bingamans' move to New Mexico in the spring of 1969, there were few lawyers there. Only 800 members of the New Mexico Bar practiced law, including ten (yes, ten) women. Today, 800 lawyers probably could be found in a single building in downtown Washington.

Shortly after her arrival, the second-largest firm in the state hired Anne, making her the first woman in New Mexico to be hired by a major firm. In 1972, at the request of all twenty women who comprised the total female student population at the University of New Mexico Law School, Anne became the school's first female law professor. Again, Anne's talent was in the right place at the right time, Anne received tenure within three years, taught nine courses, and wrote a book and several law review articles.

Ultimately, Anne decided that she did not want to spend the next thirty years teaching and writing. She resigned as a faculty member in 1976, an unheard-of move at the time. She had no real plan as to what she would do, because law firms in Santa Fe were still not hiring women. Although she was offered a job by her former firm in Albuquerque, Anne but did not want to commute two and a half hours a day, every day.

At that point Anne's father intervened. He came from a long line of small business owners, and he had always told Anne and her brother to start their own businesses. This was a turning point in Anne's life. "Try it for a year. See what happens," her father said; "I'll pay your rent." Anne seized this opportunity and opened her own law office: Anne K. Bingaman, At-

torney at Law, Santa Fe, New Mexico. She sent out announcements to the Santa Fe bar, all 120 of them, and three days later got a call from Judge Donnan Stephenson, who had retired from the New Mexico Supreme Court to help Judge Harry L. Bigbee prepare and try the United Nuclear case against General Atomic and Gulf. Again, by serendipitous timing, Anne was opening her firm just as a prestigious judge in her state was retiring, bringing her the opportunity to work with him on a multinational lawsuit.

Anne met with Judge Stephenson. After describing the facts of a complicated billion-dollar case for several hours, Judge Stephenson, over Anne's heated objections, told her that she would be on the antitrust case for United Nuclear against General Atomic and its partner, Gulf Oil. Anne was horrified. She spent several days and weeks of arguing with the judge and finding qualified antitrust firms to take this part of the case. He adamantly refused. Finally, she decided it was either do probate and real estate closings in Santa Fe, or give this a try.

As it turned out, Gulf was the only U.S. company in an international uranium cartel that it had operated until at least 1973. It had bought up all of United Nuclear's New Mexico uranium production while secretly a cartel member. Gulf had bought the uranium to keep competing supply off the market, because competitors would undercut the cartel price. Very clean, very straightforward, very legally correct. Again good fortune was Anne's when she hired two paralegals to help her prepare her case, only to discover that they were exceptionally bright and, in effect, able to act as her law partners as they dug into the facts of the uranium cartel and Gulf's role in it.

Over time, after pouring over the facts, Anne's strategy became clear: move for sanctions under Rule 37 for failure to answer the Cartel Interrogatories and failure to produce any Canadian Cartel Documents, which United Nuclear had requested before a Canadian secrecy law was passed, but which GAC/Gulf had neither revealed nor produced. On March 2, 1978, the trial court entered findings of fact and conclusions of law and granted Bingaman's motion for default judgment and other sanctions under Rule 37. The default judgment was valued at \$1 billion based on uranium prices at the time it was entered. The New Mexico Supreme Court upheld the ruling in its entirety, with certiorari denied by the U.S. Supreme Court.

By the spring of 1978, Anne and two new law partners had been hired by several other companies who were plaintiffs against Gulf and GAC, because their uranium also had been bought by Gulf while secretly part of the cartel, just as United Nuclear's had been. Over the next several years, Bingaman's law firm represented Ranchers/Houston Natural Gas, Exxon Nuclear,

and Sohio/Reserve, all in cases alleging the same antitrust cartel violations that United Nuclear had originally pursued, and other cases as well.

Looking back, Anne recalls those years in Santa Fe as the most wonderful years of her professional life. She had a truly great law firm, with outstanding lawyers, brilliant paralegals (thirty-two in total—Santa Fe turned out to be the best market on the planet for hiring paralegals). This could only have happened to a solo practitioner in the sparsely populated state of New Mexico, where, by 1977, Anne knew and was known by many lawyers, including Donnan Stephenson and Judge Bigbee—who had given her the biggest chance in her professional life, the one that shaped her entire future career.

As Anne describes it:

“It totally changed my self-image. It changed my own view of myself. I saw myself as heading a law firm, being in charge. Women in those days had a very different self-image than this. When I got out of law school, I didn’t have an image that I was going to start a law firm. It just never crossed my mind. It wasn’t that I dismissed it. It just didn’t occur to me. Anyway, marrying Jeff, moving to New Mexico, and starting my own law firm were the really key things from which everything else flowed.”

The Santa Fe years were wonderful, not just professionally but also personally: Anne’s son John was born in Santa Fe in 1979. Her son’s birth profoundly changed her personal life. During John’s childhood, largely spent in Washington, D.C., he was Anne’s boon companion. Just as Anne had the strength of character to open the first woman-owned law practice in Santa Fe, she also had the good judgment to make time for her son when she was blessed with a child. She knew how to keep the balance, to keep her family a priority in principle and in practice.

After Jeff won the United States Senate race in 1982, and the family moved to Washington, D.C., Anne’s courage in agreeing to help Judges Stephenson and Bigbee fight Gulf brought still more good luck. It defined for her a field of law to practice in the Federal City that was important, relevant, and understandable to that town’s law firms. Anne joined the Washington office of an Atlanta law firm, which Stu Eizenstat headed, continued to do antitrust litigation for nine years, and then had the immense honor and good fortune to be appointed by President Clinton as Assistant Attorney General for Antitrust in the Department of Justice.



Anne served as Assistant Attorney General for Antitrust for three and a half years, from 1993 to 1996, under Janet Reno, and again, a serendipitous event occurred—this time in the form of the Telecom Act, which Anne had never even heard of when she was sworn in as Assistant Attorney General in June 1993. The Antitrust Division's ranks had grown to include as many as fifty lawyers devoted solely to administering the AT&T Consent Decree, the 1984 ruling that had broken up AT&T and prohibited the Bell Operating Companies from entering into the long-distance market. The Telecom Act, which was considered by Congress in heated debates and even more heated lobbying for almost two years, from January 1994 to the fall of 1995, turned out to heavily involve the expert views of the Consent Decree lawyers within the Antitrust Division, since it was the AT&T Consent Decree that would be replaced by the Telecom Act. Because Anne was the then head of the Antitrust Division, she was honored to be the Administration's witness in eight Congressional hearings about the effects of various permutations of the Telecom Act, and to represent the Administration in meetings with Senators and Congressmen who wanted to discuss the Administration's views on the proposed Act.

Anne describes the test of character that one faces in public service, the constant bombardment of people trying to sway one's efforts to faithfully execute one's duty:

“It takes the most character in appointive government jobs—and it is actually easy if you don’t want another job. Antitrust was what I was qualified to do, I had done it for twenty years, and I thought I could honestly offer myself to the President of the United States as a candidate for that job, and I could do it. I never thought I could do another job, and I never wanted to do another job. And in interagency fights—there are plenty of them, over trade issues, over all types of stuff—there are myriad opportunities to cave and to sell out the best interest of the very agency you are sworn to protect and defend, and whose laws you are to faithfully execute (in my case, antitrust law), in order not to anger important people at another agency and get a reputation as a pain in the neck and unreasonable.

Basically people are looking for a reason to roll you, right and left. But I didn’t have any trouble with that. But where it would be hard, very hard, is if you were bucking for a higher job. Because with every promotion comes a whole new round of input about what is this person like: do they have good judgment? How do they work with others? Because if you’ve been fighting people—not that I always fought them, sometimes we agreed—but things just come up where antitrust is opposed to other interests, to trade interests, to another agency’s view, and you just have to be willing to go to the mat and let the chips fall. It doesn’t mean you are always going to win. But you’ve got to fight as hard as you can for the interests that you are charged with protecting.

To do your appointive job well, you can’t be seeking your subsequent government job. That’s the truth. Because you would be personally conflicted between your own ambition and protecting the interests that you are charged with protecting.”

Through the Antitrust Division and Anne’s involvement in the Telecom Act, she became absolutely fascinated by the telecommunications industry. So much so that, rather than go the traditional route of joining a law firm after leaving government service, she decided that twenty-eight years of law practice had been wonderful, but that it was time to do something else. She decided to seek a business job instead.

Brian Thompson, CEO of LCI International and the nation’s fourth-largest long-distance company hired Anne as president of the Local Services Division, competing against the Bell Companies for local customers. Anne had a marvelous time and worked with wonderful people. But, even for Anne, luck is a fickle mistress, and in early March 1998, only fourteen months into the job, Anne found out that LCI had been sold over the week-

end to Qwest, based in Denver. Anne had nothing against Qwest, but she wanted to be at company headquarters, not flying to Denver every couple of weeks for a one-hour meeting with the CEO and other executives. And so Anne did not take Qwest's offer, but left the merged company on July 1, 1998—again, with no idea what she would do next.

Anne decided to turn her attention to the rural telephone company business. Again her timing was incredibly lucky. That fall, GTE announced the sale at auction of 1.4 million rural lines. Anne qualified in the GTE auction, along with two friends of hers from LCI, and a new company was formed. Anne focused on four states, did due diligence, hired consultants, raised money on Wall Street from private equity companies, and, with a group of prominent Hispanic investors, won at auction all of GTE's lines in New Mexico, Oklahoma, Texarkana, and 300,000 lines in Texas, for a total of 550,000 lines, in a \$1.7 billion transaction. The deal was signed with GTE on September 4, 1999. They hired a COO, opened corporate offices in Dallas, and went from eight employees in January 2000 to 1,750 on September 1, 2000. Perhaps 800 of those were former GTE employees, but the rest were new hires. It was an incredibly exciting experience, and Anne served as the company's first CEO and Chair of the Board from September 1999 to the end of 2001.

In January 2002, the company had grown from a pure startup to full-fledged and well-functioning rural telephone enterprise, so it was time for Anne to go home. She returned to Washington, now the non-executive Chair of the Board of her company, Valor Telecom—but it was far from a full-time job. That spring, Anne decided to start another company.

Anne settled on an audio conferencing business for major law firms, with an emphasis on software that linked to law firms' billing systems, to avoid manual re-entry of charges on client bills, and several other software features. They went to market on February 1, 2003. It was slow at first, because as it turned out, IT staff at many law firms did not have audio conferencing high on their list. But Anne and her employees persevered, and by 2008, Anne had as clients all the lawyers in 40 percent of the top law firms in the U.S.

At that point, at the urging of her son John, who now works in private equity in New York, Anne decided, with great reluctance, to sell the company. Anne did so on August 12, 2008—just thirty-three days before bad subprime lending ultimately paralyzed Wall Street, producing a massive exodus of clients, drastic losses in stocks, and devaluation of assets by credit rating agencies. Since that infamous September day, when Lehman Brothers

investment firm filed the largest bankruptcy in U.S. history, few are selling anything. Anne had been saved once more by her good fortune.

Anne had originally planned to start another business after selling her conferencing company, but as events have unfolded since September 2008, she realized that this is not the time nor environment to start another business. She now spends much of her time with her old friends from Central High in Phoenix, and with friends in D.C. and New York, working out with regularity and planning family trips, including a rafting trip with twenty friends down the Grand Canyon in June 2010.

Like Mark Twain, Anne sees her life as marked by good fortune flowing from seemingly insignificant events such as Twain's getting the measles. Also like Twain, Anne was quick to seize opportunity out of each unexpected turn of fortune.