

**Transcription of the Oral History Interview with
Roger Haydock
April 26, 2007
Washington, DC**

OGILVY: Welcome.

HAYDOCK: Thank you for inviting me.

OGILVY: My pleasure. We are in Washington, D.C. This is an oral history project interview with Roger Haydock, and Sandy Ogilvy is the interviewer.

Roger, I always start with the question, What was your first exposure to clinical legal education?

HAYDOCK: Well, at law school, at DePaul University in Chicago, 1968, I was clerking for Legal Aid Bureau in Chicago at the time. And a lawyer who suggested if I wanted to do some real lawyering – we didn't have a law clinic at DePaul, but University of Chicago had a law clinic – and so I volunteered there as part of the Gary Palm's program. So I spent some time working with clients down at the University of Chicago.

OGILVY: How did the law school allow you to do that?

HAYDOCK: I didn't get any credit; I was just volunteering my time. And, you know, Mel Goldberg, who later became a colleague of mine, was one of the supervising attorneys, and they allowed me to be able to work with them on cases. So that was my first active involvement in clinical education.

OGILVY: What do you remember about that?

HAYDOCK: Well, I remember being excited, because clerking in Legal Aid was just a vast difference between what was happening in the classroom, especially in those days, and what was happening in the outside world. So just the

chance of actually learning some skills, meeting people, meeting clients, having clients tell you these wonderful stories, and being able to help people – that notion of the law as a helping profession became true for me at that time. So that was part of the excitement. And then the public service aspect, which was – these were the years of the war on poverty and legal services programs, so exciting times to be a lawyer in the legal services area.

OGILVY: Now, you had gone to Saint Mary's College.

HAYDOCK: I did.

OGILVY: Where's that?

HAYDOCK: In Winona, Minnesota. And it was a – actually I left – DePaul had a three-three plan, so you could come to law school after your third year of college, and your first year of law school counted for your last year of college.

OGILVY: I noticed that.

HAYDOCK: I snuck out early, missed all the frivolity of the last year as a senior and started law school – was sort of anxious. I had had a friend who did that, so the two of us together went to DePaul. So I was a year ahead of my other classmates who went on to law school as well. But it was – those were exciting times, they were. You know, sort of that social milieu where we were anxious to do stuff – we weren't sure what exactly, but we were anxious to do stuff.

OGILVY: Did you have an idea when you went to law school how you were going to use your degree?

HAYDOCK: I did. The notion – I was in the seminary to be a priest for a while, and so some of those same notions of counseling, helping people, serving others, reaching out sort of kept that same philosophy in more the secular world. So it carried – and worked out well for me to find a position after law school where I could do that.

OGILVY: Did you work then as a volunteer both years, both the second and third year of law school?

HAYDOCK: Yeah, I clerked – well, the University of Chicago, I did that, and then I got a paying clerkship job at the Legal Aid Bureau during the summer, and then during the school year. So I was doing that. And some lawyers there allowed me – I wasn't able to actually do things that a lawyer could do directly to the clients, but they allowed me in their strategy and thought process, and let me do some of the discovery stuff that sort of shaped some of those lawyering skills. They were good, dedicated, committed lawyers.

OGILVY: What did you do after graduation then?

HAYDOCK: I had the privilege of getting a Reggie Fellowship, and then I went to St. Paul, Minnesota, practiced with Legal Services of Ramsey County, and it was just exciting times. We were at – the Reggie program had a month-long training program at Haverford that year, and there were like a hundred of us, and we were the best and the brightest – they made you feel

that way – and it was just very empowering to be with all those – you know, then we were going to scatter around the country and change the world as we could. So it was an exciting time.

OGILVY: Have you stayed in touch with any of your class?

HAYDOCK: Just the ones who actually ended up in Minnesota primarily. But, no, we haven't had a reunion. I talked to some of the Reggie folks over the years, but haven't had a formal reunion.

OGILVY: I'm trying to recall – was that one of the earliest Reggie classes?

HAYDOCK: It was one of the early ones, because I graduated in '69, so that would have been the summer of '69, because it was Woodstock, so I know it was about the time of Woodstock and some of the folks left the mission of becoming a lawyer to go to Woodstock – (laughter) – sort of that struggle.

OGILVY: So you practiced –

HAYDOCK: Practiced with Legal Services for three years, and then went on full-time faculty at William Mitchell College of Law to start up their clinical program basically.

OGILVY: Tell me a little bit about the practice. What sort of things were you doing?

HAYDOCK: Well, the exciting part about the practice was I was doing – I was a consumer expert. We had divided up the world into housing and consumer and welfare primarily. So I was a consumer person. And here at Catholic University started a legal services training program, and so Dick Carter brought me here for a while to be a fellow in the consumer area to develop materials for the training program on a national basis.

And that led to – piqued my interest more in changing law school training, because Dick was just excellent at creating the materials – simulated settings for people to learn skills and substantive knowledge at the same time. And that became sort of the basis, at least in my judgment, for much of what we were doing in the initial classroom work for clinical education later – became some of the theory and materials that we used. So that spurred me to think about teaching. And I always wanted to have some aspect of teaching in my life.

And then I became an adjunct part-time professor at William Mitchell while working at Legal Aid, and taught a course on consumer law, and then that led to – evolved then to where we had law clerks at the Legal Services to help the clients, and then that led to my full-time position at Mitchell to start up the clinical program.

OGILVY: I want to talk about that in a moment. But I want to talk a little bit about the materials that you were developing here as part of the training program. Can you just describe –

HAYDOCK: Well – yeah, they were – I mean, I think what in conversations with Dick in the beginning that we were trying to use the case file-based method to teach substantive knowledge about consumer law. Truth in lending was a developing area then, so to try to create, craft, case problems of which you could then learn the substantive law, and also learn interviewing, counseling aspects, depositions-taking in the discovery area, and then as well as trials. So it was that. And we had – you know, Mike West from

Boston came on as a fellow, Howard Reben, who was in Maine, came down, and the three of us together were developing those materials.

OGILVY: I've seen some videotapes that came out of that project as well.

HAYDOCK: Yes.

OGILVY: Were you doing any of that?

HAYDOCK: Yeah, we did some videotapes. And I can't recall the consumer ones as much as -- because I was also working on a civil litigation CLE program, and I recall we did beginning videotapes with that. I recall the client interviewing and counseling ones and the initial sessions, and then some on depositions. But we were just youngsters in the law, and there weren't that many mentors around Legal Services at the time. So when I look back at those initial videotapes of they were more how not to do something than how best to do something, because we were learning by doing ourselves.

OGILVY: Do you still have copies of it?

HAYDOCK: I do. I got some on three-quarter-inch cassettes back in Minnesota, but I don't have any machine to play them on. So I'll have to track them down.

OGILVY: Yeah, I'd love to get those.

HAYDOCK: They're at Mitchell in some boxes, but I'll make a note to track them down.

OGILVY: I'll remind you. That will be great. Good.

All right, so then, after that, the next step again was what?

HAYDOCK: Well, after the Legal Services combination here with the practice back in St. Paul, then I went on full-time at William Mitchell.

OGILVY: How did you get the call there?

HAYDOCK: Well, I had been teaching part-time, and John Brough, who was with me at Legal Services, we were teaching a course and we both had an interest and went to the dean and said, "Here's what we're thinking of doing." He had the questionable judgment to hire me to teach contracts, which was probably my lowest grade in law school, but then develop the clinical program. So I taught contracts and civil rights for a year. And then he gave us a budget, and the next year we had a full-fledged clinical program. I was there and Rosalie Wahl, who later became Minnesota Supreme Court justice, she was doing criminal and I was doing the civil program. And we had got the – so the history of it – and Mitchell was a wonderful place for clinical education because the faculty were either former practitioners or were doing some practice on the side. The student body had a large number of second-career folks, so that they had a sense of the world about them. And so sitting in the classroom learning didn't make as much sense as doing things. So it was an incredibly supportive environment and we were able to get funding. Sadly, one of the neighbors of the law school had died; they left us this house, so for our clinical program we had a house which we refurbished then for our clinical programs with a classroom in the lower level and a little bar on the side for late night activities. So it was an exciting time back then.

OGILVY: How close was the house to the –

HAYDOCK: Just across the – it was next door, next door literally. So it was part of the school.

OGILVY: Is William Mitchell an old law school or relatively new?

HAYDOCK: 1900. It's over 100 years old.

OGILVY: Had they had any history of clinical legal education before you arrived?

HAYDOCK: They had a good history of what we call simulated skills training, because they had a lot of adjuncts teach there over the years, and they brought that richness to the school. So they had that background, but not directly any clinical experience.

The University of Minnesota, which was nearby, had started a clinical program. Bob Oliphant, who was a mentor to me, helped us develop the program at Mitchell – was very open, very helpful to us in terms of what worked and what didn't work. So that – at a time when the faculty of the two schools weren't talking, we were talking at that level. So it worked out well.

OGILVY: What was your initial design? How did you structure it?

HAYDOCK: Well, the relationships with Legal Services, so our source of clients were Legal Services' clients, and then there were – I was a full-time faculty, we got some funding so we could hire some Legal Services lawyers to spend half-time – so we had two half-time Legal Services lawyers – and then I was full-time, and we basically were supervising four to six students a semester initially in the general civil class. And then the classroom

component largely consisted of the Legal Services training materials and the initial videotapes. Then we made our own videotapes as well. But that simulated classroom setting and then bringing to the classroom the richness of the cases and clients then as a basis for discussion about that. And then we gradually began to develop materials. That led to some – then Little Brown and West publications on pretrial litigation and interviewing and counseling and trial advocacy as well.

OGILVY: When did that start happening?

HAYDOCK: I think the first book we published in Minnesota was 1974. And then, as I recall, Little Brown published our discovery practice and motion practice book late '70s, early '80s. And at the same time we were doing a book with West on trial advocacy, and John Sonsteng and I were doing that. David Herr was a contributor on our motion and discovery practice book. He was a student at Mitchell and then after some years of practice we became co-authors and developed those materials, and then did some – and then John and I – Sonsteng – became involved with NITA, made that transition to the trial advocacy world with the text on trial advocacy with West, and then cases and materials we developed with NITA. And videotapes. We spent three years – three summers in Boulder crafting videotapes of all sorts of the wide range of trial work that we did working with some of the gifted lawyers and made some interesting tapes.

OGILVY: Did the Criminal Division or whatever start about the same time?

HAYDOCK: It did. Rosalie started – she had basically the same sort of format with the relationship with the local Ramsey County public defender, later started the Prosecution Clinic as well, but it was mostly public defender work in the beginning, sort of the same: we had some adjuncts who we were giving some supplementary salary to, and then she was doing full-time work on misdemeanors on the public defender’s side in St. Paul. And then we developed a Consumer Law Clinic, so we just focused on cases that dealt with consumer law; Civil Rights Clinic – we were bringing in, again, the richness of the Twin Cities was that they had good lawyers who were good teachers as well as practitioners, so Civil Rights, Bankruptcy Clinic. We developed a small Estate Planning Clinic in the beginning, and then military -- because of the Vietnam War we had a Military Law Clinic dealing with some discharge issues. These were all -- for veterans – these were all additional clinics.

OGILVY: Early?

HAYDOCK: These were all early – 19 – so this was ’73 we started the clinic, so the mid ‘70s, by the end of – as I remember we were doing the CLEPR reports and we had over a dozen separate clinics. We had a Felony Clinic, an Appellate Criminal Appeals Clinic, and had developed just a wonderful range of experiences for students eventually. And part of that – we had the benefit of having students who were demanding that. We had some very active student groups during those years at Mitchell, and they went to the dean and said, “We want more of this.” And Doug Heidenreich, who

was the dean, was very open to that. And so he gave us some funding and we got some funding from the community. Eventually we got some funding from CLEPR just to develop and explore that. And a lot of it was volunteer time from some of the attorneys who we had made relationships with, either former Mitchell grads who liked to give back to the school and just – and some of the firms would also contribute some of their time as well. So it was just – it just worked well magically. Part of it was the enthusiasm the students brought, the openness of the faculty who did it, because we were on tenure track. This wasn't a question of us being – we were in a separate, across – next door to the school, but we were integrated into the curriculum, and we were blessed with not having any of the issues. We'd go to the annual clinical NLAD meetings, and we didn't have the problems that clinicians around the country were facing. So we were just blessed with that.

OGILVY: To hear you describe it, I mean, you've got to be one of the largest early clinical programs.

HAYDOCK: We were. We were at that time. Georgetown had a large offerings of courses, but we were one of the larger ones in terms of numbers of students, numbers of credits – these were all credit courses that the faculty approved and allowed us to craft, create. We started the Judicial Intern Clinic. We had a Legislation Clinic – and still do – where students could work with lobbyists, because St. Paul was the state capital, so it was convenient. And, again, Mitchell had this history of being willing to bring

in adjuncts. And we were able to bring in some really gifted teachers and practitioners to work with those students.

OGILVY: And how many of you were full-time faculty members at the school?

HAYDOCK: Initially Rosalie Wahl and I were the two full-time, and then we brought on graduates and full-time contract teachers, so Legal Services attorneys instead of being paid half-time were paid full-time, and they were still on the payroll with Legal Services, but we were paying in effect their salary and benefits. We had two of those, and then we gradually had another when Phebe Haugen came on, then we had John Sonsteng came on. So we had four full-time people by the late '70s. Then Rosalie went to the Supreme Court and we replaced her.

But part of the mix was the reliance on adjuncts to teach either identifiable courses. And the model we tried to create was to provide – help them with developing the classroom materials so that they weren't left on their own to develop some of the classroom substantive and skills materials, and let them do what they do best, which was supervise the students in the actual cases, and then come to the classroom. So we helped design that and had sort of a fairly good model for doing that.

OGILVY: Were the clients then the clinic's clients or were they the agency's clients?

HAYDOCK: They were both. I mean, it ranged from – we have active intake at the law school campus itself for certain clients. The Legal Services -- criminal and civil clients through Legal Services were at their offices, as we had some dedicated office space there that we used. But our initial

Immigration Clinic, Military Law Clinic, the clients came to us. We were on a bus route in St. Paul, so it was a fairly – it was not as easy as going downtown, but people were able to get to us fairly easily.

OGILVY: What was your student population at that time?

HAYDOCK: We had expanded. Mitchell was probably 400 students when I started there, and then by the end of the '70s we were close to – we had doubled that in size. It was the beginning decade of the women generation. There were very few women when I started there, and then by the end of that decade it was a good third. And then within a few years it was about half. And the law school demand had increased by then. We had moved to a new facility in the mid '70s, so we had the space to become a larger school and went from a purely part-time program with a small full-time program to a much larger full-time program with still a substantial part-time program. And now we're about 1,000 students in the mixed milieu of full- and part-time students.

OGILVY: And how many of those students would do a clinical program?

HAYDOCK: We had – we tried to – I can't recall the exact numbers, but we try to at least have about 150 clinical placements per semester, so we could do about 300 students a year, and the notion that students could at least have, if they wanted, they could have one clinical experience. And some of them, because they were – particularly some of the part-time folks who were having a job didn't feel – and if they were clerking for a firm didn't necessarily feel the same need for that experience. So some students were

taking multiple clinics. And we had a full – large numbers of student directors. I'd say on average in the beginning we probably had about 20 student directors. And we had some desks and offices. So they were instrumental in helping monitor the cases, files, and do all the things that we had to do before there were computers and all those neat little things practicing law with carbon paper. And they were – and, again, those student directors, as we looked into about five years, we'd contact them and they would come back – many of them, not all, would come back and be an adjunct and help supervise some students in their areas of specialty.

OGILVY: Did you find a need to develop a specific program for the part-time students or not?

HAYDOCK: No. We had – well, the students, the part-time, they'd have a full-time job – we needed to have some flexible scheduling because court cases, court hearings, we couldn't change those. We could do client interviews in the off hours and the evening hours, but it worked out fairly well. They were interested enough if they had a job with some flexible hours. And there were some who were clerking for firms, and the firms recognized that they could benefit by doing this as well, so they were open to that notion. And it was – I mean, Bob Oliphant was doing that at the university, and so the legal community was sort of used to that notion. And then we had a large program and so it wasn't – I mean, people who participated at a different range – we had a Judicial Intern Clinic, so we had students placed with judges who clerked for them for credit, and so we got the judiciary

involved at the appellate level. And it's a large enough but small enough legal community where people knew what we were doing and were generally supportive of it – bar association groups or sections and that.

OGILVY: Were these separate but equal clinics? Was there an overall director? Or how was it structured?

HAYDOCK: I was the overall director, and Rosalie was – I was civil director, she was criminal director. And then when she left I became the overall director and supervised and created and did more administrative work once we developed – once we got more faculty involved. And then we were gradually able to get some of the regular faculty to teach clinical courses. So we had folks who were teaching torts who were doing some supervision of students in civil procedure or contracts. They would come in for a semester, supervise a few students, sometimes teach a classroom component of the course as well. They didn't stay as long as we'd like because, as you know, it was hard work. Being in a classroom had a certain ease to it compared to the notion of clinical education. But it was a valuable experience and many of them were open to it.

OGILVY: Is that still true today?

HAYDOCK: It's true today, right. We still rotate people through a number of the clinical courses – not as many as we would like, and because of the scheduling systems it was – we were probably more flexible back then than we are today with scheduling and class loads, so it was a bit easier back then than it is now.

OGILVY: Over the years, if you were to trace the changes in pedagogy that you saw, can you kind of describe them? I think it's difficult, because it's evolutionary and it's kind of hard to point out the changes.

HAYDOCK: Yeah. I think sort of the highlights of the changes – I think the clinical education of bringing the case files into the class was the obvious way of doing it. But I think for us the difficulty was structuring that in a way so that you could get through a curriculum of the skills and the topics you wanted to get through rather than haphazard sort of case file what-may-come approach. And so for me those early years with Legal Services developing those materials, and then the opportunities that Little Brown and West gave us to publish those materials, and the NITA work, developed the basis for that. So if you look back at the – besides the casebooks that Bellow and Moulton developed, just the skills training materials that were developed, and over the decade or so it took to develop those became very helpful to the students. And that combined with the videotaping we did. So you could read about it, you could show them good lawyering, not so good lawyering. They could do it. You could videotape them in segments. We tried with most of the clinics to do some simulation as well as live clinic to prepare them for the particular event, and then blend that with the actual event itself and the actual experience of client representation was a great package. And we had the good fortune of being able to get enough credits that we could have two or three or four credits a semester in a clinic, depending on the number of hours they were

spending keeping track of their hours and the time in the classroom. So we were fortunate to have the flexibility to develop some of those courses and materials.

OGILVY: If you walked into your clinic today, how differently would it look?

HAYDOCK: It's interesting, because it's very close to what it was probably by the end of the 1970s or early '80s. I mean, I don't think – if a student walked in from then to class now, they'd say, *déjà vu*. Now, the materials have changed, and I think we're better off at selecting the materials. And the topics are a little tighter, and class discussions are a bit more focused, I think, and the ethical issues are a little bit better defined. But I think structurally it's pretty well the same that way, because it was – for the early years I think we realized this was a good learning experience and a good learning model, and it's true for – it was true then, it's true 20, 30 years later.

OGILVY: Right, yeah. You mentioned you got some CLEPR money early on. Were you involved in any of the CLEPR meetings?

HAYDOCK: I remember Buck Hill Falls was one, and we were involved. And the thing about CLEPR – we didn't get initial CLEPR money because we were – we had too much money. The school was so supportive of the clinical education that Pincus wouldn't give us money at first because we had enough. It was only later that I made him feel bad about something that he gave us some money. But it was counterintuitive. We had too much support from the school. He said, "Other schools out there are

really struggling. You don't need it." So at least I was director by then.

Then we got some – is it Title – the funding from --

OGILVY: It was Title IX and then Title XI.

HAYDOCK: Title XI. And we started I know an Elder Law Clinic out of that. We started some new clinics based on that funding, because they were funding – largely funding new programs. So we hired some folks to get in some areas we hadn't been in before.

OGILVY: Did you have any direct contact with Bill Pincus?

HAYDOCK: Yes. Yeah. He came – well, Bob Oliphant and he were friends, and so we met together in Minneapolis sometimes at some of the meetings, and my frustration not getting money in the early years led to some contacts with him as well.

OGILVY: Do you have any impressions?

HAYDOCK: Well, he was in some ways ahead of his time in terms of the notion of the value of this – not just for making more lawyers but for the public good and the public service notion of it. I think that mission always that we are not there just to train lawyers to be better lawyers, but also to serve people, and to balance that, because I think the different transition from Legal Services was that we're there to serve the client, and then in the clinical setting we're there to serve the student. And sometimes there was a mesh, sometimes there was a conflict. But he opened me up – I recall some – there was a broader picture than just training the students who are here to

make the world a better place as well, that mission we came in with as Reggie fellows.

OGILVY: You also mentioned that you attended some of the national conferences that AALS sponsored. What was the value of those to you, and what was your participation?

HAYDOCK: Well, the value was camaraderie, collegiality, support. And I probably recall the dinners and the socializing and the war stories – have some vivid recollections of those dinners. I can't recall much of the substantive conferences or what happened in the talks, if we ever paid attention to each other or thought that we were all smarter than each other anyhow. But it was the camaraderie that – as I said at Mitchell we didn't have sort of some of the same problems some of these folks had in terms of second-class status and all that. But in terms of the challenges we had in what to teach, what not to teach, those were good times, good social meetings.

OGILVY: One of the – not one of – the oldest regional conference is the Midwest Conference.

HAYDOCK: Yes, right.

OGILVY: And I assume you were in on that from the beginning?

HAYDOCK: I was in on that, although I wasn't as active – I think we had Eric Janus, who replaced me as clinical director at Mitchell around the mid '80s or so, when I still taught clinic but also did more simulation -- and he was more instrumental in that. But our current – Peter Knapp and Ann Juergens, Nancy Ver Steegh – we've got a current faculty which are big supporters

of that. Again, I was talking with them earlier about -- because it's -- I can't recall the timing -- that's still upcoming in May -- they would look forward to the social events. So times haven't changed. It was fun about that.

OGILVY: I think one of the hallmarks. Everyone who knows about that knows about the dancing that goes on at the Midwest Conference.

HAYDOCK: Dancing. And we used to do bowling in some of the early years too. But it got too competitive. So I think dancing seemed the more appropriate venue.

OGILVY: When did you start your transition out of the clinic and into other activities?

HAYDOCK: I stayed -- I gave up the directorship in about -- in the mid '80s. I became more involved with NITA and the simulation. And then John Sonsteng and I began to develop what we still teach at Mitchell now, what is called the practicum, which was the notion was to bring, to create -- to have students practice law in the law school in a law office setting. So we would take 24 students a semester -- and initially it was a 10-credit immersion course. So they were there for 10 credits. Now I believe it's around six. And they practice law. We had law firm stationery, we had dedicated space where they had the desks. They had three or four together in a partnership. Sometimes they would split up, sometimes they'd stay together.

And what we did fairly well was to take some of the best of clinical and some of the best of simulation so that, for example, we had a DUI client who would call them at home 11:00, 12:00 at night. Back then – the law has changed since then, but you had an opportunity to call an attorney before you took a breathalyzer. So they had to give him advice on the spot as to whether they should or should not take the test, what they should say or not say. The next day that client who was simulated would show up in the office, and they'd have the script and they'd say that. And then we were able to get the courts to allow us to schedule that client in court. So they go down to the courthouse, so standing in the well with real defendants, and the case would be called, and then they would have to make a presentation to the judge, and the prosecutor had a file on this – we had good cooperation with the prosecutor. So we had that sort of experience trying to be of a more uniform experience and still have a little bit more control over some of the learning experiences and blend that together. So we created that with some criminal case and the civil tort case, estate planning case – topics that we weren't able to do in the clinical setting. We tried a fee-based clinical course for a while, but there was just too much competition and concern from the Bar Association that we were taking money away. And our director of development thought that if we were taking clients away from alums, they're less likely to give money. So there was that sort of issue. So we'd try to take areas that we weren't able to do in a live clinic setting, and give students those experiences so

that when they began practicing they could – you know, they’ve already written a will, appeared in court on a DUI, sort of a general practice scope that we had.

I think I recall in the beginning for the 10 credits we probably had about eight major problems. And Janus stayed closer to that and developed some case files that are just rich with ethical issues and opportunities for students to learn. And unless you knew differently, the client coming in or the appearance in court, you wouldn’t know it was simulated. It was pretty well done.

OGILVY: It sounds like a logistical nightmare.

HAYDOCK: It is, and an expensive nightmare. And so it takes a full-time administrator as well as faculty and a phalanx of adjuncts, many of whom it is role-playing what they are doing so they don’t really have to teach. They’re just being lawyers or being a judge. And then many, if not most – most of them, not all – we bring into the classroom afterwards to debrief the students, so they critique the students from their perspective about how things went, how they didn’t go. And the simulated clients will do that as well.

OGILVY: Where do you recruit them?

HAYDOCK: We have largely volunteers. Some of the universities – some we had actors we would get. But we’d get people who will just repeat – they enjoy the experience. Some are gender specific and age specific, so some of them were friends or relatives that we brought in for variety. So part of

the challenge is identifying them and bringing them -- scheduling their lives in such a way that they can come in. It's worked fairly well. The University of San Diego teaches that same course, but it's such an expensive course and such an administratively heavy course that few law schools are willing to take that on, because it takes -- well, it's practicing law in a class in a law school setting. So it's exhausting. And then all the written materials -- and things are easier now with the computer-based system, but the files, paper files in the old days -- so it was a struggle there. Even the stationery was hard to make up.

We had -- I remember we had one law firm -- we had one student leave school one semester, so we had a mock funeral in the practicum, had a little memorial service. So we tried to make it as -- they were gone.

(Laughter.) They had left us. They weren't coming back. So we tried to bring in some realism. And we had, I recall in the beginning we had a Supreme Court justice come and swear all the students in, give them the same oath they would take a year later after the bar. So we'd try to make it as realistic as possible, and gave them ethical dilemmas that were just conundrums that we didn't know the answers to, but challenged them. And some had different standards of where that line was to be drawn.

And it was easier to do that when you had a simulated client, because you couldn't do that in a clinic setting as much. Sometimes it would happen, but they'd be more spontaneous. These were planned, so they were easier

to control. So that was part of the – crafting those materials, working with that, developing that, moving on then.

And then became active in the ADR movement in the early '90s up until today and blending – bringing that back to the simulated courses and clinic courses so it's not just the litigation as the primary source of the students learning; that it's a mix of the mediation, negotiation, arbitration, administrative hearings – offering that panoply and how those skills differ from litigation skills. They still believe, because they still take civil procedure in the first year, that litigation is the way to resolve disputes for many of them, but hopefully we can shape that a little bit and make it more realistic in the different age of practice that we face nowadays.

OGILVY: How much are you doing with arbitration?

HAYDOCK: We blend in arbitration into our basic – the traditional trial skills course, which was a predecessor to the clinical courses, is now a blend of arbitration, administrative hearings and bench trials. Jury trials are then saved for an advanced course. So we just focus more on basic skills in dealing with professional decision makers basically arbitrators, administrative law judges and judicial judges, and how do you influence that.

I think that this switch, if I think the earlier question you asked, is that the focus has gone away from how lawyers – you know, what works for lawyers in terms of skill presentation and focusing more on how to influence decision makers so that how does the decision maker make the

decision, and what can you say or not say, and how do you say it to influence them one way or another? We have better information about that and a better sense of what might influence them. So that focus has changed I think over the years from just doing things for the pure fun of it, that it felt good, and that the crust was – felt good too – well, how does the listener – how does the audience adjust to that? You can do that with jury focus groups, but it's a little easier – not easier, but to focus on professional decision makers trying to understand what influences them. So we did some surveys and studies trying to isolate how they make decisions, what factors influence them, and then try to teach to those. So we'd focus more on that than just the skills.

OGILVY: That's really interesting. Obviously as long as we've been teaching legal writing, we're doing that, but it's taken a long time to get into the oral arena.

HAYDOCK: Yeah, it has. It has, surprisingly so. And it's – part of it, I think, is the difficulty of figuring out how decision makers make decisions. What does influence them one way or the other? You know, is it the laws, the facts, is it equity, is it a mix of that? How do their values play? Are they likely to make a decision contrary to their values? And, if they are, because they believe in precedent, how does that – does precedent trump values? Do values trump precedent? And how to make the case when you present that to them has helped.

And, oddly enough, when we brought in – some of the television programs by and large are unrealistic. Occasionally we get some good lawyering show and they script these cases, and you can learn from that environment as well. So that's not just real lawyers they can see, scripted cases and transcripts of cases that are based on some real cases, because what I think – but that's brought – at least television and some of the movie videos we show it's brought brevity, that you can do an opening statement in three minutes and ask the decision maker what they remember, and they'll remember more from that than they would a 10-minute one. Well, there's value there. Whether it's effective in the result or not is another issue. But there's a value in that, and so that you can package things in a way that – more concisely – and have people believe that. It's one thing -- because if you look at the development of legal writing that, be concise – but we still have 20-, 30-, 40-page briefs. And so it doesn't really carry over to that. And so how do -- because people still need – they've got to have two more pages to say this. Well, how does that play out in an oral presentation or for direct or cross-examination? How much of that direct really is going to have an influence on the decision maker that we think? So that's part of the challenge.

OGILVY: Where's your future then? What's next?

HAYDOCK: Well, yeah, it's been – it's been a wonderful career, both in terms of teaching and practicing and writing and some of the court work. I've got now some special master work, and we've started the Academy of Court-

Appointed Masters. Some help to the judiciary. We started the National Arbitration Law Student Competition, sponsored by the National Arbitration Forum and the ABA Law Student Division, so that students get more attuned to arbitration in the future as a way of resolving disputes. So doing – working on those projects and looking forward to developing more of that. But there’s a return to still -- returning to the roots; that is, supervising the student with the consumer client. I had one two years ago that had the same exact legal issue we had back in 1974.

OGILVY: What was that?

HAYDOCK: It was a utility termination case by the city water department that turned off -- and we sued the water department for a due process hearing. And so a client comes in, water service turned off, no hearing, no opportunity for a hearing, no notice. Called the city attorney up, and they said, “Yeah, I heard about that, but I never—” So we had to dredge the case up and brought the court order out, and it was déjà vu all over again.

OGILVY: That’s amazing.

HAYDOCK: It was. It was. I thought, wow, it was the circle of life, coming back to the issue that had already been litigated. So at least we didn’t have to push as hard on this one.

And then sitting in the classroom in preparation sessions and listening to students, you know, being wild-eyed when their clients tell them this tale of woe, and are they telling the truth? Are the – you know, it’s just – the excitement they bring is – it’s still enjoyable.

OGILVY: How did you actually pick up that opportunity to supervise since you kind of moved away from it?

HAYDOCK: Well, I had – well, because at Mitchell we've got some flexibility that we can do that. With the credit hours they allocated to us we have some flexibility. And, as we say, we just show up, and so supervise some students in the clinic, time permitting, and helping the other attorneys who are doing the classroom portion of it as well. And then doing some *pro bono* mediation and arbitration work on the side – doing some of that. Taking – currently I'm on leave from Mitchell for a while, but plan to return and do that. And there's a -- I taught civil procedure for a number of years, and you know there's a siren call to teach in the classroom that makes things more peaceful and a little more controlled, but there's still an absent feeling of saying this isn't really teaching -- the roots are – or the learning by doing and getting your hands dirty and getting students excited and having them fall apart when things don't go well. That's – that you can't – that's missing from the classroom. So it's – that's part of the attraction and part of the reason why sometimes you don't want to do it, because it's heavy and time consuming. And even at this stage there's emotional reaction to people you're trying to help when it doesn't work out well and you lose and they've lost and it's a big loss and you have to move on to the next one and try to help somebody else. So that emotional roller coaster is not precedent when you're talking about the Erie case necessarily, but it's part of the value of teaching.

OGILVY: Yeah, that's great.

I don't think that I have any more questions. Are there any areas that we haven't touched on yet that might be --

HAYDOCK: I think we had the one question you asked me to think about ahead of time, which was the future of clinical education. So I think -- what I thought was that -- I sort of have a mixed view of this, that I think we've -- over the decades we've integrated the clinical education into the curriculums at many schools, but I have some concern that it's not expanding as much as it should be, and has retracted at some schools, and that simulation has replaced -- and people who taught it for years think that simulation is easier to teach and better and a little more -- and I had gone through that process, had been one of them, so I know that feeling -- so some concern that it's not going to continue to provide not just good training for students, but also the public service side of it that we're doing the role model for students that you do this in law school and you do this in practice. There are people out there who don't have access to attorneys -- and not just people below the poverty line, but lower-middle-income and middle-income folks -- and we're not either providing them services or reaching out to them. So I hope that clinical education can develop, whether it's fee-paying clinics, or providing some service to people who don't otherwise get services now, that that continues to expand, and that the fervor that many of us brought to it in the beginning continues on with

the next generation of law professors and lawyers that replace us and they're smarter – but not better looking than we were.

OGILVY: Thank you very much.

HAYDOCK: You're welcome.

OGILVY: It's been a delightful conversation.

HAYDOCK: It has been for me too. Thanks, Sandy.