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American University Washington College of Law Disability Rights Law Clinic

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WORKING THE DIFFICULT ISSUES: A ROUND TABLE DISCUSSION

ASSISTING LAW STUDENTS WITH
DISABILITIES IN THE 21ST CENTURY:
BRASS TACKS

PANEL 5: WORKING THE DIFFICULT ISSUES:
A ROUND TABLE DISCUSSION
Washington, D.C.
Thursday, March 8, 2007

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PANELISTS CONTINUED ON NET PAGE

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PROCEEDINGS:

ANNOUNCER: The following podcast is a production of The Washington College of Law at American University. Any unauthorized use or distribution is strictly prohibited.

RICHARD UGELOW: Let me welcome you to the final session of this wonderful conference. Thank you for coming and I really want to thank you for staying through to the last panel. I am sure it will be worthwhile for you. We have really an all-star cast of panelists here including the earlier-mentioned Kathy Schwartz from American University's Academic Support Center—who already received her applause.

KATHY SCHWARTZ: Yes, I really appreciated it.

RICHARD UGELOW: And she paid Kevin a new spot.

KATHY SCHWARTZ: Right.

RICHARD UGELOW: Also here today are—I am doing this because I know this is being podcast so I want those who are not here to understand who the panelists are in the background—Tom Beck who is a partner at Jones Day; Elaine Gardner, who is Director of Disability Rights at the Washington Lawyers Committee; Howard Kallem from US Department of Education Office of Civil Rights; Julie Sandine, Assistant Dean for Student Affairs at Vanderbilt University; Linda Schutjer, Associate General Counsel from George Washington University; Donald Stone, Associate Dean for Academic Affairs at the University of Baltimore; and me. For those of you who are old enough to remember Fred Fielding and Arthur Miller's programs on PBS where Arthur Miller would have his three-piece suit on and would go up to the panel and be right in their face and say "Justice Scalia what do you think about that?" I am going to try and replicate that without the three-piece suit and Justice Scalia.

But I will be asking questions of the panel. They will be based upon some factual scenarios that we have worked out with the panel. We are going to start at number one. I think they have all been distributed to you. Does everybody have the hypotheticals?

We are going to start with the first one. I am going to just briefly summarize it. It is about a student who has a migraine headache while taking an exam. This second year law student fails the exam because of a migraine headache during the middle of it, and then asks for an accommodation. This is not a far-fetched example because it is actually

based upon a case that Tom handled. I am going to ask Tom to expound upon it, and then we will take it from there. I want to encourage everybody to participate in the questioning of the panel. This is an interactive panel so let's everybody stay awake and feel free to jump in.

THOMAS BECK: Yes, Richard, when I saw your hypothetical it was sort of *deja vu* all over again. This takes me back to two or three years ago when I was working with the Law School over at George Mason and the professors and the administration there in a case called *Constantine v. George Mason University*. This was a student who had taken a Constitutional Law exam, was given a failing grade in that exam, and then, after the fact, came back and said, "Oh I was having a migraine headache that day and taking medication for my migraine. The combination of migraine headache and the medication prevented me from performing as I otherwise would have performed on that examination. Please do something. Expunge my grade. Give me another chance."

In that case, as in this hypothetical, I think there were a couple of principal questions that arose immediately. I was not involved in that case when this communication was initially going on with the student, but a couple of questions clearly arose then, and as the case progressed. The first was "Is this a disability? Is this a student? Is a migraine headache a disability that we are obliged, legally at least, to accommodate in some fashion or form?" There was a little bit of a question about that.

There was a lot less dispute about the second question, at least on the minds of the defense team in that case. It was: "are we legally obliged to do something for this student being apprised of this putative disability after the fact?" The legal answer to that question is clearly no. If I were advising a client in that situation today, I would tell them: "this student should have informed us ahead of time about this putative disability and engaged us in an interactive process to try to find a way to accommodate it."

We might have questioned whether there was a disability, or we may have just accepted that there was a disability and moved to accommodate it. But in this case we have a student who comes in after the fact and, whether genuinely or not, is justifying the failing grade. The university or the law school may wish to exercise some discretion in giving the student some sort of relief, but it would not be legally obliged to do so.

RICHARD UGELOW: Let me ask Elaine. You are representing this student; what would you do?

ELAINE GARDNER: Well I think the first question is whether the

student has a disability. You might be confused when looking at the cases because they are all over the place. There is no simple answer, but I think you have to keep in mind that it seems that the courts look at disability and even the defendants look at disability very differently in the employment context versus the educational context. I think that if you go into an employment case and your disability is migraines, you are not going to win. People do not win with migraines as a disability in the employment context.

You cannot get past that very difficult hurdle of proving you have a substantial limitation in a major life activity. In the higher education context on the other hand, there are a lot of disabilities that are accepted, without even discussion, as disabilities that are completely not accepted in the employment context. For example, ADD. I mean a lot of people lose on ADD in the employment context. They cannot prove that they have a disability. Learning disabilities, some people lose, they cannot get the protections of the ADA.

Migraines I think would be another one. Depression is another one. But often the schools will accept these as disabilities and accommodate them and not really right off the bat move to dismiss based on the fact that this person does not have a disability. I do not know why, but I think it is just because of the culture of post-secondary education. They are not as strict about disability.

RICHARD UGELOW: Let us assume for this panel that this student has a disability. Can we all agree on that? So Dean Stone what are you going to do with this student now? The student has not told you beforehand that he or she suffers from migraines.

DONALD STONE: I guess if the student came to me, they would probably come to me with a grade challenge claiming that the grade was awarded in an unfair way. I would try to be fair and try to balance this student's disability and what happened during the exam, with the other students who took the exam without having any accommodations or without any issues that were in front of them. I suppose I would determine whether or not the student had a disability. In all likelihood, I would be convinced the student did and give the student an opportunity to take a make-up exam. Of course that means that they would have to take a different exam, in all likelihood.

RICHARD UGELOW: But the professor says "I'm not going to do that!"

DONALD STONE: Ok.

RICHARD UGELOW: “Hey, I had this student in my first year Contracts class. This student did mighty fine, thank you very much.”

DONALD STONE: Well I guess I would listen to what the professor had to say, but assuming I was convinced with some form of documentation that the student did, in fact, have a disability, I would require that the professor give the student a makeup exam.

RICHARD UGELOW: You would make me prepare a whole new exam for this one student?

DONALD STONE: Well, I do not think it would be fair to just let the student take the same exam again. I just do not think that would be fair. So I suppose the [other] option I have would be to give the student a pass. Just to change the grade from a failing grade to a passing one and not do anything more or have the student do a makeup exam. What strikes me about this issue really is what happens with this particular student, who takes an exam the following semester. In some cases the student will take the exam and not have any problems during the exam and will be fine. Other times the student will take the exam and, in the middle of the exam, get a migraine and need to know what to do during the middle of the exam. I think that is the most challenging part about this.

Unlike some disabilities where you can plan in advance and give extended time or a separate room or a different format of the exam, the need for accommodation will depend on how the student’s health is on the particular day of the exam. There needs to be some process where a proctor is alerted to a student with a disability that may or may not come for relief, to figure out right at that moment during the exam what, if anything, to do about it: require the student continue taking the exam, or give the student an excuse and ask the student to come back when healthier to take the exam. I think that is the challenging part.

JULIE SANDINE: Well, I, of course, would be very sympathetic with the student. But I would have to explain that because we were not notified about the disability in advance, and we did not have the documentation or the notice such that we could make the necessary arrangements for accommodation, should the need arise, there would not really be anything that we could do about that particular grade.

The school has a very clear policy about grades, and there are only specific situations where grades can be changed. Students cannot just take a

makeup exam for an exam that has been failed. That basically is the policy. So the student could certainly take the course again and take the exam, and if the same situation arose, then of course accommodations could be provided for that situation (assuming the notice and documentation had been previously provided). I certainly would be sympathetic with the student, but unfortunately we would not be able to change the grade for an exam already taken.

RICHARD UGELOW: I am a student at George Washington University. I now have an F on my record that I should not have. I suffered this disability during the exam. It was not my fault. What are you going to do?

LINDA SCHUTJER: Hopefully we would win. I think we would. I mean I think if there was a final determination of the grade, it is not a situation where the decision is open in anyway and I think the point has been made previously. I think we would prevail if they were to sue us.

RICHARD UGELOW: Does George Washington, or American University, or Vanderbilt have an obligation, since this is an unusual circumstance? Do we not have any empathy for this student?

LINDA SCHUTJER: Well, I have empathy. Prior to a lawsuit I certainly would say pretty much what Vanderbilt's representative is saying, that: "It is unfortunate, and you should have taken the steps you needed to put the accommodations into place, like documentation." I would recommend to the law school that to the extent possible, and I believe they do have policies with respect to people who may be in the middle of an exam get a stomach virus or something, to treat it as an isolated illness-type situation.

Going forward, the student would just hopefully do better, and be able to explain to an employer down the road that, in fact, they were not taking their disability seriously early on in their law school career. However, now they take their disability more seriously, have gotten the proper documentation, and proper medication, and they have resolved their earlier issues.

RICHARD UGELOW: You are harsh.

THOMAS BECK: Richard, are we representing now that there is a lawsuit?

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RICHARD UGELOW: There is a lawsuit.

THOMAS BECK: That is where I usually come in. I just want to observe that institutions tend to get a little less empathetic as soon as that lawsuit gets filed. The empathy level tends to decrease.

LINDA SCHUTJER: That is why this is prior to the suit.

RICHARD UGELOW: The student has filed a complaint with the Office of Civil Rights. What are you going to do about it?

HOWARD KALLEM: Oh, well, talk to the student and get all the information we need. Then we will wait about nine or ten months.

RICHARD UGELOW: Then you will have a baby, and—

HOWARD KALLEM: And then they will have graduated by then, or gone on to another profession. Then it would be moot and we could administrate it. No. This is not being taped right?

RICHARD UGELOW: No.

HOWARD KALLEM: Everything that was said I pretty much agree with; the fact that this student did not identify in advance and did not follow the university's procedures that are provided to allow the student to come forward and alert the university or college to what might happen. Like Julie said, [alerting the university is important] so that it can set up procedures in advance, and so that if the student is having a migraine in the middle of the exam then everybody knows what to do. This will hurt the student considerably, and this sort of after-the-fact identification of a disability, assuming it is a disability, would it not be the kind of thing where we would think that a school would have to make any adjustments unless, as was said, she got food poisoning in the middle of the exam. If they made an exception in that case then they would have to treat the student with a disability the same way. No disparate treatment. The one wrinkle that I would flag for George Washington and American University, in particular, but not to George Mason, and not as to OCR, are two cases in the district: *Singh v. George Washington University*¹ and *Steere v. George Washington University*.²

1. 439 F. Supp. 2d 8 (D.D.C. 2006).

2. 439 F. Supp. 2d 17 (D.D.C. 2006).

LINDA SCHUTJER: They are on appeal.

HOWARD KALLEM: Yes. The judge, same judge, came very close, I do not think he quite got there, but he came very close to saying that, at least in some circumstances, a college would have to consider an after-the-fact-identified disability. In those cases, the students had performed very poorly in medical school and were in the process of being dismissed from the program. Before they were actually dismissed, the students received what they believed to be diagnosis of disabilities and they presented that information.

The district court had some language which seemed to be saying that because the decision had not been finalized yet—they were still in the process of being dismissed—that the university had to consider the disability information. I think this case would be different because the kid has gotten a final grade. It is a bad grade. He is challenging it now, but the grade itself stands. Also, in both of those cases, in a subsequent decision the students were determined to not have disabilities at all. This goes back to whether a migraine is going to be considered a disability.

RICHARD UGELOW: Kathy.

KATHY SCHWARTZ: A couple of thoughts. Since the student did not document prior to the issue, at the time [of the exam] the student is not being considered a student with a disability, and therefore cannot ask for an accommodation around that, or it would be a retroactive accommodation. Therefore, if we separate the legal decision from practicality and the possibilities and creativity that have been brought up on various panels today, it is possible that the professor in the class would not object to doing something for that student. Perhaps the professor would, in fact, welcome giving the student another opportunity to prove what they know in the class.

The first step should be for the Dean of Student Affairs to talk with the faculty member and find out whether there is some relief we can offer this student. Sometimes that happens, and that is the best scenario that could happen in this case prior to the student now officially documenting. Every university, as David pointed out this morning, should have a grievance procedure and before it goes to OCR, before it gets to the courts, it should go through the university's grievance procedure and see if there is any relief there as well.

DONALD STONE: I was going to add that one of the challenges is

going to be that this particular student may argue in the future that: “Exams bring out stress, cause stress, which causes migraines to become more pronounced during the in-class three-hour final exam.” This student’s request might very well be, and I am curious to hear the reaction from the panelists, for a take-home exam in the future, claiming that migraines are most pronounced during that stressful exam period, and that all his or her final exams should be in the take-home format.

RICHARD UGELOW: What are you going to do about that?

JULIE SANDINE: I just wanted to comment on this other aspect. I would find the student’s claim to be more legitimate if the student came to me during the exam or immediately after the exam and said “I was suffering. I had pain. I am really worried about how well I did.” But the fact that the student waited until after the grade was received suggests that the grade was more of concern, and now maybe the student might be able to use this as an excuse or reason, or maybe he has even rationalized to himself because he hates the fact that he did so poorly on this exam. I have to say that I do not think there are many professors who would feel as much sympathy if a student only complained about this medical difficulty after the exam grade was produced as opposed to immediately after the exam.

THOMAS BECK: Ditto. Yes. That is exactly the right consideration. We had a student who did not, during the exam, say, “Oh I am having a problem,” or “I am having trouble concentrating,” or “I am in great pain,” and did not say it the next three or four hours, and did not say it the next day.

We had a student who appears to have known about the Disability Resource Center and the avenues that were available to make these sorts of concerns known. This student was someone who appears to have known about these things and waits until she gets a failing grade and then says, “Oh, yeah, by the way, I was having a migraine that day.” There was an effort to be sympathetic, and there was an effort to bend over backwards, actually, to accommodate this student. But I must say there was not a great deal of heartfelt feeling that this was someone who really had suffered a disability within the meaning of the law, or perhaps within the meaning of common parlance, and needed to be accommodated for that reason.

RICHARD UGELOW: Let me change the facts slightly. Dean Stone, a student comes to you before this exam, months before this exam. Starts having migraine headaches: “they are bothering me, what are you going to do before the exam period?” What are you going to counsel the student?

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DONALD STONE: And the student presents some documentation about their medical condition?

RICHARD UGELOW: I have gone to a doctor. It is migraine headaches. They cannot trace the cause.

DONALD STONE: Yes.

RICHARD UGELOW: They have just started. I am in my second year of law school.

DONALD STONE: Well, I generally get these cases after the fact. They generally go to somebody else in the law school asking for guidance.

RICHARD UGELOW: Ok. Kathy Schwartz.

DONALD STONE: Ok. All right.

KATHY SCHWARTZ: They often come to me first.

RICHARD UGELOW: Ok. Give us some guidance.

KATHY SCHWARTZ: If they go to the Dean of Students, first they send them over to me. I am a learning disabilities specialist, not a specialist for other disabilities.

RICHARD UGELOW: It does not make any difference.

KATHY SCHWARTZ: Right.

RICHARD UGELOW: What can you do for this student?

KATHY SCHWARTZ: Well, we are going to get documentation at that point.

RICHARD UGELOW: What do you tell the student?

KATHY SCHWARTZ: I tell the student that they need to get documentation.

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RICHARD UGELOW: What if the student says “I do not have medical insurance.” And we say to them “Go to the school health clinic?”

KATHY SCHWARTZ: No we do not take documentation from the Student Health Center nor do they provide documentation. They have to go outside. If this is a student under treatment, say for migraines, the student has a doctor.

RICHARD UGELOW: Everybody else agree?

LINDA SCHUTJER: A school can waive that. That is just optional. But they can absolutely require that.

RICHARD UGELOW: Let us say that nobody sends the student, depends on the student, goes to the school health clinic and the health clinic says: “We cannot find anything. We cannot document it.” Then the student comes to the exam and has this migraine during the exam. Does the result change at all? Is the school on notice?

HOWARD KALLEM: It all comes down to the documentation. The school has no obligation unless the student has followed the school’s process. If the process requires documentation, it ought to be required to engage in that interactive process to determine whether any modifications are needed until the student has come forward with the appropriate documentation.

RICHARD UGELOW: I want to change the facts again slightly. Instead of a second-year student, this is a student in the last semester of law school, about to graduate, would have graduated but for this failing grade. Does that fact change anybody’s approach to this?

MALE VOICE: I do not think so.

RICHARD UGELOW: Any urge to help this student out just a little bit?

RICHARD UGELOW: Does anybody here want to help this student out?

MALE VOICE: There is a hand.

MALE VOICE: There was a possibility mentioned that the student could possibly take the course over and show it. I mean, what are the possibilities of not recording that grade, and just waiting until the next time a test is given, and letting the student sit for that one?

RICHARD UGELOW: There is a hand over there.

FEMALE VOICE: We have spent a lot of time on this one scenario. Can we move to the next one?

RICHARD UGELOW: The next one is dear to my heart. Of course it involves a clinical setting. I teach in the Civil Practice Clinic. This scenario involves a student who comes in. Our students work in part in teams, as most clinic students do. There is collaborative effort between them. They have a case that is going to trial. When they applied for clinic, they asked for this case, and they knew that they would have a case that was going to trial, and they would have to write a paper, a brief for the court, and that there would be deadlines.

All this is known to the students beforehand. There is full disclosure of the clinic requirements. It is voluntary to take clinic and it is voluntary to take this particular clinic. As you see from this scenario, one of the students did not pull their weight. That student did the legal research, but did not give it to the partner, and comes to the clinic supervisor and says, "I am depressed. I cannot finish my part of the brief." Now we have a real client here so there are lots of different obligations. We have an obligation to the court, we have an obligation to the clients, there is an obligation to pedagogy of the law school, an obligation to the supervisor, and there is an obligation to the partner of the student. How do we deal with this? Anyone want to take a crack at it?

THOMAS BECK: Richard I will take a crack at it because I am a supervising attorney for a clinic over at George Mason and so I am aware of a little bit of a revolving door phenomenon with students who handle litigation cases in a clinic setting. Here, if I were in my normal role of advising the institution about this, I would give them pretty quick advice. I would say, if properly substantiated, this is probably a disability that we ought to make some effort to accommodate and not fight a lot about. The accommodation here probably should be that, recognizing that the nature of the clinical setting, this student cannot meet the fundamental requirements of this particular class. Let us allow her to withdraw from this class without any adverse impact on her grade.

RICHARD UGELOW: You are a little late for that.

THOMAS BECK: I do not think we are. Based on my experience and based on my reading of the situation, I do not think we are. I think we can let her out of this class because this disability arose, or at least her understanding of this disability and the diagnosis of it arose, as far as I can tell, after she got involved in the class. If that is the case, I would advise the school to let her out with no adverse impact on her grades. I would say, "Let's shuffle in another student here quickly or let us allow her partner to go ahead and carry the ball by himself for a while," because I know that is how it often happens in the clinical setting in law schools.

RICHARD UGELOW: Everybody?

LINDA SCHUTJER: Well I agree. When I looked at this I felt like, I am not a clinic person, but it seems to me that there are different aspects of the clinic experience. Maybe there are pieces she can participate in without even leaving the class. The client is the clinic's client. And the clinic is going to have to deal with representing the client. Maybe that means getting somebody else from the clinic, another student in the clinic, to help out. I do think, providing that she has given you proper documentation, that you do have to accommodate her and law schools certainly do have an obligation to provide accommodation in the clinic setting, either within specific clinics, or by providing enough different kinds of clinics so that the law school can deal with students who have different needs. So I think you are exactly right.

HOWARD KALLEM: Well I would not be so quickly convinced that depression was a disability. It would have to depend upon the documentation. You can have depression and it could not be serious enough to rise to the level of a disability. I think again the university would be well advised to make sure that the documentation was in place. The problem is that might take some time and the semester is going along. So it depends on how quickly she can get that documentation.

It will also depend upon what she was seeking. Before I shuffle her out of that class I would want to talk with her to see what she wants. She may well want to stay in the clinic, and it may be that you can make room in the clinic for her to stay in the class, finding things to do that would not involve time frames. If not, and if that would be a fundamental alteration of an essential requirement, such as if meeting time frames is a central requirement, then she may not be qualified to be in that particular clinic.

DONALD STONE: I have taught in clinics and I would look at it as a teaching moment. I would do a couple things. For the student with a disability, I would establish some additional conferences with that student so I could be on top of the case more than I might with other students. I would establish shorter deadlines. I might assign some cases to that student where there is less at stake.

The role of clinical education is dual: to teach the student and to represent clients. I have that struggle going on in the clinic. I have to protect the client but my goal is to teach the student. I think it is also a teaching opportunity for the partner. I think it would be important to share with the partner and talk with that student about his partner and share with the partner about the student that has a disability. Either I would have the student share that or I would share it.

MALE VOICE: Can I?

ELAINE GARDNER: This is one area where I would jump in.

MALE VOICE: A famous attorney jumping out of her chair.

ELAINE GARDNER: I think that is really problematic. The likelihood is that the partner is going to guess anyway that there is something going on. I just do not think that you can tell, if the student herself does not want that divulged. I just do not think under the Privacy Law you can divulge it. It is awkward because then what are you going to say? But I think that you just cannot say anything.

LINDA SCHUTJER: Also under DC mental health laws you would be limited. You cannot convey that kind of information to her partner. You could certainly, as a teaching moment, say: "Look. This is a problem you could have for the rest of your life, and it does rise to the level of a disability. You are going to have to fight your battles going forward, and it might be nice to take this opportunity now." But I would never tell my people to talk to the other people.

JULIE SANDINE: I agree that disclosure would be inappropriate. If the student wanted to give an explanation that was more generalized in nature or something like that, that would be all right. But it seems to me that one of the threshold questions would be just how debilitating the depression is. If the student is going to be unable to do a large part of what the clinical experience requires, then we would not be able to give her the

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benefit of that class. She would not be able to learn in the same way that she would otherwise be able to. If she is so ill that she could not benefit from the class experience, it might be best for her to wait until her condition is stabilized such that she would be able to benefit. Then she would not bear the consequences of worrying about a W on her transcript, or an F on her transcript, or something like that.

ELAINE GARDNER: Richard, one other thing about the whole learning experience is, and I mentioned this before but I really think it is important for students to understand, when they get out of law school the disabilities that their law school recognizes are not necessarily going to be disabilities that are protected out in the workforce. It is very, very likely that a depression that is recognized by a law school as being a disability is not going to be recognized outside of the law school as a disability.

FEMALE VOICE: That does not necessarily change with the law school, too.

ELAINE GARDNER: No, of course not. But I think it is something that students should understand because, especially, say with a learning disability or something, they go through twelve years of high school, of college, and then go through a graduate program, and they are always recognized as having a disability. They get out in the workforce and they cannot believe that it is going to be very difficult to show that they have a disability.

JULIE SANDINE: Right. It feels like a situation where not only do we need more information about the depression and whether it is a disability, but also on how great the impact is. The hypothetical talks about how they are working out medications. It could be a month from that point until the student is functioning much better. The student might like to stay in the class with that possibility.

It could be that the partner perhaps picks up more of the responsibility at the front end of the course and re-writes the documents for this first court appearance and then the student with the disability perhaps could pick up more at the later end so they are balanced, but she could still have a part in it.

RICHARD UGELOW: General Counsel Schutjer, you are the supervisor here. The student comes to you. All you know is: "I am depressed." What do you do? You do not have documentation. All you have is the student's word this time and it takes six months to get

documentation.

LINDA SCHUTJER: Well I would send the student to Christy Willis, who does a great job dealing with our students with disabilities and getting proper documentation in place.

Well you gave me a good opportunity here because, I am sorry, I am terrible with names. Mr. Kallem mentioned something about taking awhile to get the documentation and it is my understanding that we have to accommodate during that time period. We would do what we could do during that time period pending getting the proper documentation.

RICHARD UGELOW: I am just a lowly professor supervising these students, and all I know is we have got this brief due, and the other student who is not disabled is at a loss.

LINDA SCHUTJER: Right. So what would you do about somebody who had complications in pregnancy? What would you do about somebody who had a car accident? I think we have to remember there are lots of different scenarios where people have problems. People have accidents. People have experiences, and you just have to deal with those. I mean, as I said, the client is the client of the clinic. The clinic is going to have to shuffle and deal with it.

RICHARD UGELOW: Do I have to treat all disabilities the same? Separate disability?

HOWARD KALLEM: There is a principal of different treatment. There is no such thing as temporary disability. You have temporary impairments.

MALE VOICE: Correct.

HOWARD KALLEM: And if you give somebody a break when they have a temporary impairment, or a death in the family, or anything, then you have to treat the person with the disability the same way. It is basic civil rights stuff. You cannot treat them differently. Disparate treatment. I want to go back to the thing you raised about when somebody comes forward with a bare claim they have a disability. I do not believe you are required at that point to provide any adjustments or modifications to them. If it is a more self-evident, obvious kind of thing, and it is really more of a question of how it affects them than it is whether a disability exists or not, then you may want to start providing some fairly basic services and

modifications.

LINDA SCHUTJER: I agree. It would be case by case.

HOWARD KALLEM: So, certainly case by case. I do not know how this person would present her depression. It might be, go one way or the other. Again that is why I previously stated that it depends on what she is asking for in terms of what she wants: whether it is continued participation in the clinic, or to be or not be penalized for what happened and be allowed to drop the clinic. It may be easier for you to take some action in regards to her situation while giving her the opportunity to provide documentation without jeopardizing any client's rights or not. Again depending on what she requests.

ELAINE GARDNER: It is a good opportunity for consultation collaboratively with DSS, with the Legal Office, with the professor, with the student and figure out what are the best options.

RICHARD UGELOW: The student moves on. The student successfully completes this course. Well, completes the course. Let us resolve this brief incident. The faculty member six months or a year or two years later receives a request for a job reference about this student. The student has put down, as they often do, that they worked in clinic. They put you down as their supervisor and you are asked to submit a letter of recommendation or performance. What can you do? Let me just leave it like that. Anybody have any thoughts?

KATHY SCHWARTZ: Well you can talk to the student first.

RICHARD UGELOW: The graduate.

KATHY SCHWARTZ: Right. But the student is asking for this letter of recommendation. You can talk to the student and explain this was my experience at the time. Do you really want me to be the person who is recommending you?

RICHARD UGELOW: The way it usually plays out is there is no choice. The employer asks, "Tell me all the places you have worked, and who your supervisor was." Then they send a letter to all those individuals. What is my obligation, if any, at that point?

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DONALD STONE: I guess the first question is, I guess I am being optimistic, whether the student received some form of accommodations within the clinic. Got whatever the accommodation might have been, and, with those accommodations, did well in the clinic. So now I am being asked to write a letter or recommendation. On the one hand, I could say, "The student did very well." Which is true.

On the other hand, I could say, "The student did very well with the accommodations we provided that student." That second part is something I would not, of course, want to do. So I guess my choice is to not respond to the call. Or to say the student did very well if that is the case, and leave it at that.

RICHARD UGELOW: Let us assume that we are at the end of the semester when this event occurred and there was not time to provide an accommodation.

DONALD STONE: Well is that any different than a student who does not have a disability who did poorly in the clinic? Then I get a call, and they ask, "Can you tell me how the student did in the clinic?"

RICHARD UGELOW: Let us contrast this with the student who had the traffic accident.

HOWARD KALLEM: Ok.

RICHARD UGELOW: There I could write a letter and say, "The student had a traffic accident which affected his or her performance." But other than that, they did fine. Here I cannot say that.

DONALD STONE: Right.

RICHARD UGELOW: Can I say something about why the student did not do well?

HOWARD KALLEM: You could always, if the student said it was okay, you know, you talk to the student and the student said: "Sure you can release that information." Then of course you can. You can say: "Oh, due to extenuating circumstances, due to circumstances beyond the student's control, the student had some problems." That does not give away anything. As a general principle though, and this goes back to the first example.

Anything that happens before a student is identified as having a disability and documents it, any performance, any misconduct, that you can hold the student accountable for, it is water under the bridge. But going forward with the documented disability and accommodations, it is a different story. So you can talk about what happened up to that point if you want to; any problems there might have been.

RICHARD UGELOW: Everybody? Would you identify yourself for the record?

BOB DINERSTEIN: Yes, for the record, Bob Dinerstein. One of the things I think we are not quite getting at, which goes to this, is there a teaching moment present here. A lot of us in clinic would say that one of the key things we teach students is to be reflective about their lawyering and about their experience. It does seem to me with the student who has that, picking up on what someone said, one thing one would want to do would be to talk to her about how it is going to affect her, not only in the clinic, but also as a lawyer later. It might be that if you had that kind of conversation and thought that although she did not have, say, insight to that at first, she developed it over time.

But two years later, and you get that call, and you have to say something about their performance, even if the actual performance is not up to snuff. You feel like you have to say that, you could also say something like, "But in engaging this person in conversation, it did appear that she learned a lot from this experience." Of course, if you have later information to suggest that she has been able to deal with it. I would try to use that reflection piece also to really push her on her desire not to talk to the partner.

MALE VOICE: Right.

BOB DINERSTEIN: Because part of the issue is if I tell the student's partner, and say, "Look we have to do this for the client. You partner, you file the brief, you go ahead." But I cannot tell you anything about why this happened. I believe, and I agree that is what the law is, that you cannot disclose the disability information. That student is going to draw his own conclusion about what happened to the first student. The student had intuited that there was something going on. The way that we could make him sympathetic, maybe we just lead him to think, "Well she just dropped the ball and I had to pick it up."

So that student, the student with depression, has to think about the fact that this is something that may well happen in the workplace throughout his or her life. She needs to think about how to handle that. I am not saying

they should necessarily disclose, but they should think about how the law may not answer the question, “Is it the right thing to do?” as a practical matter.

RICHARD UGELOW: What about asking, I think you touched upon this, but my first inclination might be to ask the student, “Have you discussed this problem, not the disability but the difficulty of finishing the work product, with your partner? Because you are in this together.” One of the things we teach in the clinic is collaboration. And it is an essential part of the clinic experience. Do we encourage the student to discuss the completion of the brief with the partner?

ELAINE GARDNER: That is really not a legal question. Yeah I think that because she wants to be a lawyer she is going to have to learn to work on a team. And I think she is going to have to discuss that. But as far as disclosing her disability, that is her choice.

RICHARD UGELOW: This goes to your earlier point that what goes on in law school may not reflect—

ELAINE GARDNER: Right.

RICHARD UGELOW: —what goes on in the workplace.

ELAINE GARDNER: Although in the workplace, if she has a supervisor and she discloses that, she has depression, the supervisor cannot share that information. That aspect of it is exactly the same. But I think that she would not be well advised not to talk to her partner. I mean, she has got to do that. It is part of the collaborative experience.

RICHARD UGELOW: And the supervisor would not be able to talk to the collaborative partner? Okay? Anybody have any other questions? About the clinic experience? Let us go on to externships.

Let us touch upon what one of the earlier panels discussed. The law student is diagnosed with carpal tunnel syndrome and is interviewed for externships. She does not disclose her disability during the interview process and she gets the position. Then, because of the carpal tunnel syndrome, can not perform one of the essential elements of the externship.

Now in this school, the students secure their own externships. The school may provide a list but does not place students. The students place themselves. So given those circumstances, what are the student’s obligations?

KATHY SCHWARTZ: Well the student has an obligation to find out first what the job responsibilities include. Especially if they are looking for their own positions. But no matter what the placement is, they should learn, and this came up in the earlier panel on careers, students should really ask very pointed questions about what responsibilities are included in the work. If the employer made it clear that there would be a fair amount of work at the computer, it would not be a good match for somebody with carpal tunnel.

HOWARD KALLEM: It was also made clear at the earlier panels that students want to work at the Department of Justice or the Equal Employment Opportunity Commission. While they may ask, “What am I going to do?”, they may not be fully told that you are going to be—they may be told, “Depends on that we have at the time.” So it may not be clear that they have to do a lot of typing or writing or whatever it is. But once they get there and that is what it turns out to be.

KATHY SCHWARTZ: I still go back to counseling students; if that is the answer you get, you need to ask a little further. And if you are at the point where you know it is going to impact your disability, if you get that information and then you go into a job and are doing different things that you were not told to expect, that is a different situation. But the student really had some responsibility to find out what she was going to be doing.

LINDA SCHUTJER: But if a student has carpal tunnel in an undergraduate or law school situation, they probably are used to—I mean there is a lot of typing. All our law students have laptops. That is how they take their notes. I mean there is a lot of typing. I am guessing they have got some voice recognition software or something that they are already using.

I would also counsel anybody who is going into an employment situation these days, you are not going to have a secretary taking dictation. It is just not going to happen. So hopefully they would have gotten the right kind of advice from their law school. Be prepared to let them know what you are going to need. You are going to have to put into place the same kind of accommodations which you previously, well you are already using, in the workplace.

RICHARD UGELOW: Could the student ask somebody to do the typing for her or him?

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LINDA SCHUTJER: They could ask.

KATHY SCHWARTZ: It sounds like an essential function. I guess it is. Is that right?

RICHARD UGELOW: You are a lawyer. Is it an essential element to be a lawyer?

THOMAS BECK: Can I chime in on this? It may not be an essential function of being a student. But it is an essential function of doing this job it sounds like. So there is sort of an interesting kind of a hybrid situation here where we have a student who is a student in the education context but it looks to me like we also have an employee who is in the employment context. I first looked at this hypothetical that way. Again my first thought was, this is where I come from because I am defending clients in these cases, is this even really a disability? I think there is a very serious question, if you wanted to fight about this, this may not be a disability at all. Particularly under the *Toyota* case from four or five years ago in the Supreme Court.

But if we get past that and assume it is a disability, I do not think the student had an obligation to inform this externship employer prior to taking a position. But then if the student wants an accommodation, the student clearly must initiate a discussion and engage in an interactive process. Then we get to the question, at least from the employer's perspective, "Is it an essential job function for this person to be able to do all the typing I need for him or her to do? Or is that not an essential job function, so I need to get some voice recognition software for this person. Or get this person more secretarial assistance."

RICHARD UGELOW: Jones Day hires a student. Do you ask in your interviews, "Can you type for long periods of time?"

THOMAS BECK: No.

RICHARD UGELOW: Okay.

THOMAS BECK: No.

LINDA SCHUTJER: Usually typing is not going to be an essential job function in itself. Usually getting the information onto the computer is the essential job function.

THOMAS BECK: I know. That is right.

LINDA SCHUTJER: So that is why, I mean the voice recognition would be the perfect solution in this case, because that would be the accommodation that would enable this person to do the essential job function.

RICHARD UGELOW: Now whose responsibility is it to get the voice recognition software? Office of Civil Rights, tell us.

HOWARD KALLEM: I would think that—I would ask some questions. This is, some of the items which were touched on earlier today. Is the student getting accommodations? Is this a required part of the student's program? Is the student required to participate in this externship?

RICHARD UGELOW: No.

HOWARD KALLEM: Okay. Is the student getting academic credit?

RICHARD UGELOW: Yes.

HOWARD KALLEM: Is the student getting paid by the employer?

RICHARD UGELOW: No.

HOWARD KALLEM: But they are getting credit. The point is that Section 504 applies to all the programs and activities of an educational institution. If the student is getting credit from the institution for this, I would argue that the externship is a part of the school's program and therefore the school would be ultimately responsible for making sure that the accommodations were provided. That would include paying for the accommodations. Now you could argue that there was an employment relationship between the student and the law firm. Then the law firm would have an independent obligation. As well they could work it out. But I would say that if they are getting credit for it, it remains ultimately the school's responsibility.

DONALD STONE: The only thing I would add to that is that assuming the student is getting credit; I would not believe all externships have to be accessible to this student but that the law school has to offer a variety of

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options for a student with this particular disability. So that there would be less typing at least in some of the externships.

HOWARD KALLEM: Right.

RICHARD UGELOW: Right, it is the student's choice to work at the Department of Justice. Let me change it slightly. This is a student who has always wanted to work at a non-profit organization doing civil rights work. And she winds up at—

LINDA SCHUTJER: Oh she will be accommodated. There will not be a problem. That is not a problem.

RICHARD UGELOW: How much does voice recognition software cost?

LINDA SCHUTJER: Also, I feel that there is a dual obligation here. I am going to shift it right back over to the school.

RICHARD UGELOW: Okay. But if the student then goes to the Department of Education, as an extern or intern—

HOWARD KALLEM: We have got the software already.

RICHARD UGELOW: You have got the software because, as Judge Tatel made the point earlier, the government is a great place to work because they have the resources. So what is a reasonable accommodation for the government may not be reasonable for other employers in other areas.

LINDA SCHUTJER: I think that a volunteer does not become an employee. I mean I do not think a volunteer, if she is not getting paid she looks like a volunteer to me. That would make it much more the school's obligation. I do not think she would be an employee.

KATHY SCHWARTZ: Just speaking from the schools here that are apparently being told to foot the bill, given that say we provide twenty-five different externships as possibilities, and maybe even provide counsel saying, "Look these five are with small non-profits. They will not have the kind of funding that a Jones Day might have to give you the kinds of accommodations that you have historically gotten. Why do you not try and

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go for something, like something with civil rights or what not, where they might have those things in place?"

Yet, she picks one that does not have those kinds of accommodations. At that point, I am just wondering, given that we have given her accessible options, why would the burden then shift to the university?

ELAINE GARDNER: When I was at Gallaudet University, we had a clinic. There was student who was deaf from an unnamed law school here in town. That law school was the only law school in town that did not participate in my clinic, but they sent her over to my clinic rather than letting her take any of the regular clinics in town because it was the cheapest thing to do. I always felt that she had the right to do any clinic she wanted to.

RICHARD UGELOW: Just like any other student.

ELAINE GARDNER: I do not think this is that different. I think she should be able to choose what externship she wants, and the law school should have to pay for it.

JULIE SANDINE: I was just going to say that in order to accommodate her, the old fashioned dictation and use of support staff to type up whatever needs to be typed would seem to be a possibility, too. Or maybe I am not understanding exactly what typing she is having to do.

RICHARD UGELOW: Additionally, the price of voice recognition software has come down. It is built into Windows now. The Windows version is not perfect, but it is certainly serviceable. So this is not going to be as expensive a proposition as I think you are making it out to be.

JULIE SANDINE: Furthermore, it is a resource the school could use later.

LINDA SCHUTJER: Many schools have multiple site licenses for Dragon and it may not be a real issue in providing this.

RICHARD UGELOW: Let us go on to the next one. A great deal of sentiment that we have talked about it. This is a student who has provided documentation of learning disabilities to the disabilities support office. The learning disabilities include dyslexia and dysgraphia. Difficulty in producing legible handwriting at age appropriate speed. It impacts both

reading efficiency and writing skills. The student requests a number of accommodations, such as extended time, double time and a half, extra breaks, electronic text and use of a Kurzweil 3000 scanner, proofread of papers and the services of a reader scribe for all examinations. Under what conditions should such accommodations be granted? And if so, what would be the documentation needed to substantiate the request?

KATHY SCHWARTZ: I am happy to jump in on this one. You got to my field finally. While this is a fairly long list of requests and accommodations, a little longer than most students with learning disabilities, or even with ADD, it is not out of the question to consider all of these. The documentation would have to substantiate a pretty significant learning disability, a major impact, more significant than your run of the mill learning disability.

There is one thing I question here—well two things I question. Double time and a half is not a typical number. Time and a half is the rule of thumb. For students with really significant learning disabilities we usually look at double time. Double time and a half . . . I am not sure where that number comes from. It is pretty unusual. So I would question that one. I would look to the testing to see if there is substantiation for something more than double time. If a student is using Kurzweil, that is a text to speech, correct?

RICHARD UGELOW: I think.

KATHY SCHWARTZ: The student then is able to use electronic material and listen to it. So the exam can be administered that way; therefore, you do not need a reader at the time of the test. You can use the electronic reader to do that. So that is the only other one I would question. But the rest, with severe dyslexia and dysgraphia, might be appropriate.

RICHARD UGELOW: Everybody agree?

JULIE SANDINE: I would agree. Of course, the documentation would have to substantiate everything. And the one caveat would be that with regard to the proofreader for papers or the scribe for examinations, that person would just have to serve the function of spell check or similar technology, and not be in the position to change in any substantive way or reorganize the paper in any way. Rather, the individual would only serve as the human complement of what a spell check or grammar check would accomplish if the person were able to use that.

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RICHARD UGELOW: This goes back to the point made in one of the earlier panels about a scribe I guess.

JULIE SANDINE: Yes.

RICHARD UGELOW: As opposed to an editor.

FEMALE VOICE: Right.

RICHARD UGELOW: Who pays for this accommodation?

SEVERAL PANELISTS: The law school.

RICHARD UGELOW: Are the limits on how much the law school has to pay?

HOWARD KALLEM: Theoretically. If you are talking about an undue burden, there is a place in the law for that. But you are taking a look at not just the law school's budget, it is going to be the entire university's operating budget. You are going to have to show that it would be too expensive and there is practically nothing here that is going to be that expensive.

FEMALE VOICE: Nothing here.

RICHARD UGELOW: Has the law school ever denied, or any of your schools, ever denied any accommodations for being too expensive?

FEMALE VOICE: Well we certainly have said if we have something in place, and they have asked for something else as their preference, we will say, "Look, we already have this in place. We are not going to go out and buy that because you like that better."

LINDA SCHUTJER: I think one of the points I wanted to make with respect to this hypothetical is just because a person says, "I need a Kurzweil 3000." Not being at all familiar with the machine, if there is—

FEMALE VOICE: Acme 3000.

LINDA SCHUTJER: —an Acme 3000 that is half price and it does the same thing, we are not bound by what the student specifically requests. As

long as there is something that would serve the purpose.

DONALD STONE: I would say that these accommodations, I think we all agree, are fairly reasonable and fairly routine. I think the more challenging one, which is probably on the horizon, is the change in exam format. I am a law professor. I write exams. I write a three hour essay exam for my law students. I have a learning disabled student who makes a request for a short answer exam.

I have to decide, or someone has to decide, whether or not there is going to be a real fundamental alteration in the educational experience that they are receiving. I think those are the more difficult ones. I guess I would be curious to hear the opinions of the panel about whether or not an exam format change from a traditional essay exam that sort of tests certain things, can be modified to accommodate a learning disabled student.

RICHARD UGELOW: This came up earlier. How would the office of civil rights react to that?

HOWARD KALLEM: I think Irene may have said it, it is an educational decision. There was a lot of talk this morning about deference. OCR and the courts give deference to educational decisions. We will give deference if the decision is developed correctly. We take a process approach. So, we ask, was it developed in advance? Did a group of knowledgeable persons who contributed to the decision have full information? Additionally, we ask whether they gave it careful consideration and whether they documented their consideration and the results. If you follow that sort of process, and you determine that in fact there is something about the essay format that is essential to demonstrating knowledge of the course, then we are going to accept that.

RICHARD UGELOW: Who is the burden on? Does Dean Stone have the burden of saying, "I have determined that this course should have a written essay exam and not short answer?"

HOWARD KALLEM: If Dean Stone comes to us and says, "I have determined," that would be a red flag for us because he came alone. There is any number of OCR decisions which set out the steps of this process. It has got to be an informed decision by a group of people with full knowledge about the course, or what they are trying to achieve in the course or exam. A group that has considered what other schools do, perhaps, or what has been done in the school traditionally. If you go through that kind of informed process, we are probably going to respect

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your educational decision.

RICHARD UGELOW: Dean Stone teaches first year Civil Procedure. Dean Sandine teaches the same course.

HOWARD KALLEM: Uh-huh.

RICHARD UGELOW: She gives a short answer question exam.

HOWARD KALLEM: Yes. This morning, again, Professor Lerman was saying, “She wants to give people a break, and she is going to give them a little more flexibility than everybody else. Who is going to insist on a particular method?” She is undercutting the school’s argument that giving an essay test or an attendance requirement, or whatever is an essential function, because she is teaching the same class and saying, “Yeah well for me, that is not so important.”

FEMALE VOICE: The student should be going to www.ratemyprofessor.com. You know? Way, way before they register.

JULIE SANDINE: I just have a question in that regard then. Since professors generally have discretion to determine their course content, the subject matter to be covered within the class, and also the mechanism by which to determine how well a student has mastered the material, how would it be helpful to go to a group of faculty members who do not really know all of that specific information, in order to determine whether or not a short answer exam would be a viable alternative pedagogically for an essay exam?

HOWARD KALLEM: What you do is, you pull all the people, as part of that decision making process, you pull all the teachers together and you let them argue it out. It may be that one teacher will say that, “I am going to teach my course differently. We are not going to focus on A, B and C so much. We are going to focus on D and F.” You could come up with a reason, a good reason, for why her class might be taught or graded differently.

But it has got to be, not just an arbitrary, “I am going to do it differently because I feel like I can and I want to.” It has got to be a discussion. It has got to be an informed decision. If you do that, and make those distinctions, and have a rational basis for those distinctions, then we are going to accept that.

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RICHARD UGELOW: Dean Stone is lucky. He has got Mr. Beck representing him. How are you going to represent Dean Stone?

THOMAS BECK: Because Dean Stone does not want to shorten his answers?

RICHARD UGELOW: He wants to give the essay. Academic freedom?

THOMAS BECK: That is the phrase that jumped into my mind. I will take Dean Stone's case and I will tell my firm, I will argue to my firm, "Let us see if we can take this on a pro bono basis because this is about academic freedom. In my view." There has got to be some point where regulators stop second guessing how professors and how schools exercise their discretion to measure the performance of students.

RICHARD UGELOW: He is jumping out of his seat.

HOWARD KALLEM: Well no. If they go through the right process, we are not going to second guess. That is what the OCR and courts generally will not question either. You just have to show that you had a good reason for your decision. Remember in Boston, in that case, they did not have that process. But you know what the court did? They let them do it after the fact. And they did. And they were able to justify after the fact a number of their decisions. And the court said, "Ok. Now you did it right. Now you can go ahead and do what you wanted to do all along."

KATHY SCHWARTZ: The courts give so much more leeway to educational institutions than any other institution as far as discretion goes. I think that the educational institutions are in a lot of ways in a better position than anybody else.

RICHARD UGELOW: Let me ask, General Counsel here from George Washington, how are you going to advise your clients here?

LINDA SCHUTJER: I actually agree. I think that we would have to look at what other schools are doing, and what other folks are doing in the department. I think, did you say that it was Civil Procedure? I do not remember what class we were talking about. Well some classes, I think, lend themselves more to short answer versus an essay. Civil Procedure seems to be more a short answer versus Constitutional Law.

RICHARD UGELOW: Let us change it to Constitutional Law.

LINDA SCHUTJER: Oh well. Well the point being, I think you do have to look at what other people do. I mean my problem with some of the professors has been that, “I know the law. I am a doctor. Say I know the medicine and I have been doing it this way for forty years. I am going to keep doing it this way.” I think we have to evaluate, the university has to evaluate. Because it is not the professor, I mean the professor may be named, but who is going to get sued? It is the institution.

RICHARD UGELOW: Who is going to tell Dean Stone, “You must trash your essay exam and write a hundred short answer questions?”

LINDA SCHUTJER: Well if nobody else will, I will.

RICHARD UGELOW: What are you going to say to that?

DONALD STONE: Well I am going to have a hard time defending it because the bar exam does it that way. One day is a multiple choice set of questions. The other is a set of essay exams. Essay questions. So I would say, well Criminal Law for example, what I teach, has to be done in an essay format. But then another professor who teaches criminal will say, “But the bar exam is in multiple choice format. At least one of the days is that way.”

So I would throw up my hands and probably give in. But maybe what will really happen is that student before the semester will be placed in the class where the professor is more accommodating. I do not know if that is the answer or not. In the course that is a multiple choice exam.

RICHARD UGELOW: In the sixty seconds we have, let us have—the student still says, “I want a multiple choice exam.” But both professors give an essay exam.

DONALD STONE: Yes. Okay.

RICHARD UGELOW: Now what? Office of Civil Rights.

HOWARD KALLEM: Again, did they go through the right process in making that decision? And if they did, fine. If they did not, we will tell them that we will cut off the federal funding.

RICHARD UGELOW: They say, “You cannot do that. This is a essay exam course. You cannot make us do anything else.”

HOWARD KALLEM: Well we may not be able to make you do anything, but as was said, our case is against the university. And we can tell the university that it is their responsibility to deal with those independent-minded professors.

RICHARD UGELOW: I think we could all agree, that this is very typical. Thank you very much.

THOMAS BECK: Seems to me if you press them long enough, they tend to give in.

DAVID JAFFE: Well before you break, this has been a wonderful opportunity for me. I want to again say that I appreciate all of you that have come out from as nearby as the fifth floor below us, and as far away as Hawaii to spend the day with us.

I think it has been really informative. We do plan to have some transcripts of this. We hope to have one of our journals publish them in the next couple of months. So we will have a formal recording of it.

Before I send you off—I have a PSA in a second, but I want to kind of end where I started. Those of you who are still here, who are from law schools around the country, do consider, and trust although it was a labor of love, and took some effort, this is doable. This is manageable around the country. So do take away with you the notion of reaching out to me or to others who have been on the panel and consider perhaps in another year or year and a half hosting a similar conference, so that we can keep this spirit going. Bringing individuals together.

Then just a very quick PSA. For those of you who are not dashing off, I promised to do this. Our Equal Justice Foundation is having a chocolate bash that has been going on for about an hour and a half. It is back in the lunch area. In the student lounge. For those of you who can attend, I think it is a five-dollar donation and there is a lot of chocolate that has been donated by local merchants. So feel free to go over. Thank you again. We look forward to seeing you all again soon.