

ALL ABOUT ADJUNCTS

W. DAVID EAST¹

Introduction

This is supposed to be a collaborative session where I will introduce the topic, but we will be talking to each other. The topic is adjuncts and the use of adjuncts. Let me begin by saying I probably have only one insight that might be at all useful in this. I will share it early but then I want all your insights, and if we just talk to each other, this should work.

The Magic of Co-Teaching with an Experienced Adjunct

Sometimes it really is better to be lucky than smart, and I figured that out after I had taught a capstone course that I created for about five years. It was a corporate acquisition through a management-leveraged buyout, which teaches both the corporate transaction and finance, which I wanted to do. We limited enrollment to sixteen students, and we constantly had a waiting list. Students were giving excellent feedback.

A partner that had recently retired from a major law firm came to our dean and said, “Well, they put me out to pasture, but I am not ready quit. Do you have anything over here I can do to help?” He had been a deal lawyer at the firm, so the dean saw a great opportunity, and loved the courses that I was teaching, so he asked me if I would have this retired partner teach a course. I was not willing to turn him loose with this course on his own. Instead, we taught as a team, and it was magical. That's the best insight I can give you.

If you can pair an adjunct—with experience in the area—with a full time academic, it will be magic in the classroom. At least it has been for us every time we have been able to do it, because the two people have different kinds of credibility and different experience. I can make sure we don't miss an academic teaching point. I have taught so many different things that I can make sure we get back to the basic contracts issue, and I know when it was taught in their Contracts course or courses. I can make sure we don't miss a property issue, a secured transactions issue, a payment systems issue, or a bankruptcy issue, and so forth. Of course, one of the benefits is that you get into this after you've taught for nineteen or twenty years, and you have become the utility infielder.

Still, I can make sure we catch the teaching points, and I can remind them where they studied this before. They learn very early that when I ask “Now you remember this from Contracts 2, don't you?” the answer is “Oh no, we have never been taught that at all.” But they do know, and I just make sure we tie in where they have talked about it academically with the practical application in our skills course.

But the adjunct who is out there doing this, or who has been doing this for a living for 25 years or 30 years or more, knows the deals. The adjunct knows the options, he or she

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knows the real issues, knows what the clients are concerned with, and what the law firms are concerned about in deals like this. They can make it real. I can make it academic any day, but they can make it real, and we just bounce back and forth.

And it has never been a struggle. It has never been a competition. We agree up front that we will interrupt each other. We will finish each other's sentences. We will do whatever it takes to make sure that we get across from both of our perspectives everything that we think we can teach them, and it has worked so well that I have replicated it in the other capstone courses, except for one where I have an adjunct professor teaching real estate who was a bank loan officer and then bank president before he became a real estate attorney. So he knows the lending law background and the lender's perspective, as well as the real estate background.

We have an international business capstone that also involves intellectual property issues and joint venture agreements, and, to their delight, I paired a full-time faculty member who teaches International Business and who wanted to teach one of these courses, and an adjunct who is an intellectual property lawyer for a big computer company in Houston and who does, of course, a lot of international work. Between the two of them, they were a perfect match to team-teach a course, and they have had the same experience that I have had. Again, it was magical in the classroom because of the different perspectives and backgrounds. Now, that's about the only thing I can tell you that I know that works, but that leaves lots of questions.

QUESTION AND ANSWER SEGMENT

QUESTION FROM ERIC J. GOUVIN

Adjunct Pay

Before I make a comment, I want to let everybody know that I am Eric Gouvin from the Western New England College School of Law. I chair the adjunct faculty committee for the ABA's Section on Legal Education and Admission to the Bar. This year we're working on a project called "Best Practices Report for Adjunct Faculty," so I was interested in this panel, but I was also interested in knowing whether any of you have anything going on in your shops that you want to share with us that we can include in our report – if you are doing anything innovative. I like the idea about co-teaching a lot. But my question is this: do you pay the adjunct or does it come at the expense of another course, or does your dean make the money appear?

DAVID EAST

Yes, we pay our adjuncts. Our deans have valued the Transaction Skills program to the point that they actually let me arrange to pay our adjuncts more than we pay our regular adjuncts in academic courses, because we not only tie them to two hours of class per week, but we tie them to several hours per week worth of individual meetings with drafting teams and individuals. That's the other thing that, when it hit me, made the course ten times better all of a sudden.

I figured out that it wasn't enough to teach them a document and then have them turn in their draft of that document and grade them on it; what they needed was for us to meet with them and review their draft of the document and tell them what they did well and

what they needed to fix, and to give them some guidelines about how they can fix it: go look at this form, go look at how it was done in this precedent. The adjuncts were expected to participate in those meetings, and it sometimes takes a lot of hours per week outside of class – at times, 40 hours per week. You're working on just this stuff. So I let the deans let me lobby successfully for more money for the adjuncts.

ERIC J. GOUVIN

That's awesome.

DAVID EAST

Coming from a freestanding law school does have its advantages. Our president and our dean are the same person, so we don't have a university president to report to, and we don't have a university that could look to us as a cash cow.

ERIC J. GOUVIN

I had some of those same experiences. You can achieve some of this without paying for it just by asking people to come in, but it might not be the same person for the whole semester.

DAVID EAST

A guest lecturer?

ERIC J. GOUVIN

Something more than a guest lecturer. The ABA Business Law Education Committee had this thing called the law school initiative where we were trying to create templates.

COMMENT

Our situation at Emory is that we have so many sections of contract drafting courses and so many sections teaching deal skills that we cannot have adjuncts teaching with professors. But what we do is we train our adjuncts. Before a professor can teach Contract Drafting, that professor sits in for a semester. Before somebody can teach Deal Skills, they sit in for a semester, and then our Deal Skills courses are co-taught by two adjuncts, and we always pair an adjunct who has taught with an adjunct who hasn't taught. We have emergency situations where that doesn't happen, but that's our model for the courses where we have multiple sections, and that works well, I think.

ERIC J. GOUVIN

That sounds great, actually, but I'm not sure how many folks have a course, like your Contract Drafting or Deal Drafting where you have got lots of sections being taught by adjuncts.

In Secured Transactions, for instance, I want the students to appreciate the business context of this particular group, so I had them read some outside materials about banking. I would have a commercial banker come in and close a loan at the end of the semester by having a lawyer come in and go through the closing and it's just like David was saying. The academic part is essential to gaining the mastery, but students are so thirsty and hungry for the practical aspect. How do you actually do it? What is the role for a lawyer and for the lender to play versus the role for the board member in an emergency?

COMMENT FROM CAROLYN BROERING-JACOBS

I'm Carolyn Broering-Jacobs from the Cleveland-Marshall College of Law. We use adjuncts in a wide variety of ways. One of the things that I did last year based on an idea I got from Tina Stark² was to team teach with an adjunct. I thought I would do it once, but it worked so well that I think I will do it again and again.

I also have had experience with two adjuncts team teaching, and that didn't work as well. I found that the adjuncts who taught in teams seemed less accountable and available to the students. They used a tag-team approach, and it didn't work as well as a more collaborative teaching team, but perhaps better planning on my part would have produced better results for the two adjuncts teaching together.

To get to the point about pay, many of our adjuncts who work for big firms have to turn the money over to the firm anyway, so most of them don't care about the pay.

DAVID EAST

Nobody's going to retire early on what we pay adjuncts, are they?

CAROLYN BROERING-JACOBS

No.

ERIC J. GOUVIN

Especially if they attended that law school, it can be a big development opportunity – a friend building opportunity. They feel so great that you thought to ask them to come back.

CAROLYN BROERING-JACOBS

Exactly. They really love teaching, so the pay doesn't seem to be a big issue.

COMMENT FROM CAROLE HEYWARD

I'm Carole Heyward, also at Cleveland-Marshall College of Law. I think one of the things that might be important with the adjunct issue with the person that taught this class was that it was short, so it didn't require the whole semester. It was a short, intensive class.

CAROLYN BROERING-JACOBS

Last fall we had ten adjuncts teaching a whole host of upper-level writing classes for the full semester. Using adjuncts for upper-level classes is the way that we have managed to keep our first-year courses small so that the first-year students get a lot of individualized attention. Most of our full-time legal writing faculty teach in the first year, and they only occasionally teach upper-level courses.

² Tina L. Stark is a Professor at Emory University School of Law and the Executive Director of Emory's Center for Transactional Law and Practice.

DAVID EAST**Recruiting Adjuncts**

We use adjuncts for what I think of as intermediate courses like Contract Drafting – we teach both of Tina Stark's books³ with our adjuncts, although just as she mentioned, the first time it was taught was by somebody who wanted to teach the course. Nobody after that has been turned loose unless they teach with an adjunct at least once, because you have to train people on how they can make the most of these course materials and how to respond to various student issues and questions.

We also have a different type of intermediate level class that is like the capstone, except that, while students have to markup documents and they get a review session, they don't have to turn in a final, vastly improved draft. We just work them through what the deal looks like, the reasons for it, and the documents. This course came to us as a proposal from an attorney who wanted to teach it as an adjunct.

This responds to one of the other questions about how we find adjuncts. You can go and recruit them, but the truth of the matter is that some of your best adjuncts are people who come to you because they want to teach. You have to get lucky. But this was a man who is a junior partner at a big Texas law firm, and he had some extra time. He's in real estate, and he had a little extra time – we would all understand why in the last couple of years – so when he said he wanted to go teach, the firm agreed to support that idea. He was teaching a real estate finance-type course, but I didn't turn him loose, because that comes under our Transactional Skills program.

I arranged my schedule so I could team-teach the course with him, because I wanted to know what was in this course, what he was teaching, and how successful it was going to be, and what and how the students would learn. It was a great course, and the students exceeded my expectations and his, I'm happy to say. But I was able to arrange it with one other thing I managed to do, which has nothing to do with adjuncts, but is critical to these programs—getting other experienced fulltime faculty involved.

I had another faculty colleague that I helped to recruit and hire fifteen years ago or more who was available to help with our transactional skills program, and he told me that a couple of times. He taught about one transactional skills course per year, and he had taught several different things, but he was happy to settle into a consistent rotation, so I got him to team-teach the Corporate Transactional Skills course with my favorite adjunct. Now he will be available once a year to teach that course, and I will be available once a year to teach with another adjunct; and I am going to teach an Energy Capstone course next spring.

But for the adjuncts: if they come to you, then you probably have a good one, but I don't turn them loose until I team-teach with them or I make sure that they team-teach with somebody else that I have great confidence in. I do ask for recommendations sometimes, and I will go ask somebody if they'd be willing, but I have found really good success by them coming to us.

That is what we are all trying to do. We are all together trying to create this area, and we are deliberately trying to feed each other's ideas.

³ TINA L. STARK, *DRAFTING CONTRACTS: HOW AND WHY LAWYERS DO WHAT THEY DO* (Aspen Publishers 2007); TINA L. STARK, *NEGOTIATING AND DRAFTING CONTRACT BOILERPLATE* (ALM Publishing 2003).

QUESTION FROM CAROLYN BROERING-JACOBS**Training Adjuncts**

Yes, unfortunately I have little wisdom to offer, but I am interested in what people suggest about training adjuncts. I think we are going to be bringing in adjuncts to teach a brand new course for the first time. While I may be able to team teach, I don't know that we are going to have the ability do that consistently. I am wondering if people have suggestions for training adjuncts when you are just getting a course up and running and you don't have the ability to team teach.

DAVID EAST

Pick a textbook for the course with a really superb teaching manual. Tina's books⁴ both have superb teaching manuals. There are a number of plain contract drafting books that have excellent teaching manuals with them. That is key number one. If you can get books with really good teaching manuals and with some adjuncts that have some experience, then you can turn them loose, and although they wouldn't teach it as well as the first time as they would teach it the third time they teach it, they will be fine.

COMMENT FROM MARK FAGAN⁵

As the token adjunct, let me offer some thoughts based on what you have said. First if of all, I team-teach with Tamar Frankel,⁶ and we are both in the classroom for about 80 to 90 percent of the time. I think that makes a huge difference versus the tag-team approach, because we have the continuity in presenting content to the students. In our case we are providing different disciplines: she is providing law, and I am providing policy, which has a little different flavor from what you are talking about.

Adjunct Contributions to Course Materials

But I have a couple of specifics: one is developing your own materials, even if it's just supplemental to a core textbook, and I think it is a very powerful way of engaging the adjunct.

DAVID EAST

That's a very good point, because in all the capstones we have, the adjuncts have been major contributors to the course materials and the contents. That's very good.

MARK FAGAN**Adjunct Connection**

That's how we have done both of the courses. I agree with you that having people come to you is probably a lot better than you going out and recruiting, and that makes some sense. The one thing – having done this, at least for three years now – is the lack of connection to the school itself. For me it's not a major issue, because I spend most of my time at the Kennedy School, but even after three years of being an adjunct, I'm wondering where the connection is.

⁴ *Id.*

⁵ Adjunct Professor at Boston University Law School and Senior Fellow at the Kennedy School of Government at Harvard University.

⁶ Tamar Frankel is a Professor of Law at Boston University Law School.

COMMENT

What would make you feel more connected? Faculty meetings?

MARK FAGAN

I don't want to go to the faculty meetings.

DAVID EAST

Do you want to be on a committee?

MARK FAGAN**Adjunct Participation with Faculty Candidate Review**

We joke about that, but the first step is, at least for you, every week there is a faculty presentation, a lecture, and adjuncts ought to be there. If nothing else, it helps build a bond and get them better attuned to what the school is trying to push. I will suggest another step, and you will probably laugh at it, but I think may actually have merit, and that is being on the faculty candidate review sessions – at least the job talks and the lectures that they give. It provides the school with a different perspective. I do not need to have a vote but would like to be part of the system.

DAVID EAST

That is a very helpful suggestion, and I think that is something we all battle. I was an adjunct for a while before I decided that this is what I ought to be doing, and I didn't feel connected at all to the community college I was teaching at. I showed up to teach, turned in the grades, and got paid, but otherwise I'm not sure anybody knew what I was doing there.

CAROLYN BROERING-JACOBS**Regular Adjunct Meetings**

I have a simple suggestion. Last week, for the first time, I had a meeting of a group of adjuncts who teach a similar course, and they absolutely loved it. At the end of the meeting, all five who attended said, "Let's do this again and let's do it more often." Before the meeting, I worried that the adjuncts wouldn't want to be bothered, but it turns out that they were really hungry to connect.

COMMENT

I was just wondering about periodic lunches and about sharing insights, frustrations, and experiences.

RESPONSE

That's what we do. We have a lunch at the beginning of the semester and a lunch in the middle, but I have only had adjuncts for just this past spring semester teaching three additional sections of contract drafting and we would go to lunch. I would have my notebook under the table taking notes of suggestions that they were making, and it felt more like a collaboration, even though I had taught the course two times before. I had the syllabus and the PowerPoint presentations for classes, as well as teaching notes, the course book, and the graded assignments prepared so I can sort of hand them the course but then we could evaluate it as we were going along. How did this exercise work in class? Did you feel like the students were getting it? What are some options and alternatives that we can offer to teach this skill? So I thought that was very helpful.

DAVID EAST**Adjunct Offices**

And I have done a couple of things that have helped with our adjuncts. One is they have an office. We assign them a shared office in the Transactional Practice Center and put their name on the door, and we assign them a faculty secretary. It is always my faculty secretary. So there are people there they get acquainted with, and that they can rely on. And – at least the ones that I use most often – I take them to a faculty meeting and introduce them to the faculty, because the fulltime faculty are going to see me around with the adjunct in the law school, and they are going to wonder who the adjunct is and why am I with that guy or that woman, and I explain. That seems to help them feel a little more included.

Now, two of our three main adjuncts are alums so they already feel included. Another key in selecting an adjunct that will be happy to connect with the school: Pick one who did not graduate from a competing school. The guy I teach with most often went to Yale, and we don't compete with Yale. We are not going to compete with Yale, so he has no hesitancy in doing anything that he can to help us, realizing he's not doing anything to undercut Yale. He's just trying to help us, our students, and our program, so that can matter, too. But things like that you learn after a while – what seems to work.

COMMENT**Breaking Bread**

I am going to throw in a couple of things on the morale point. Food helps. Breaking bread. We have a dinner at the beginning of the year at which full-time faculty and adjunct faculty get together and have a nice dinner. A few years ago we instituted something that was actually quite successful that started out with our full time faculty. We really pride ourselves in the quality of our teaching, and we realized that it is basically a solidarity activity, so we decided to have a colloquy amongst ourselves each year at the end of the year. Then we thought that the adjuncts would probably enjoy this and benefit from it, so we inserted that into our evening program and invited them to participate with the full time faculty. They really liked that. It validates them as teachers and as members of our learning community, because they were also “breaking bread” with the full time faculty.

Adjunct Awards/Recognition

Our student bar association, about five years ago, started awarding an Adjunct Faculty Member of the Year Award along with the Professor of the Year Award, and that was another morale booster. It turns out that some of the students' favorite professors are adjuncts. We always invite them to graduation, and while not many of them come, I think being invited matters. There are certainly a lot of other things we could be doing, but that is one of the things we are trying.

The main methodology we are using for this report is to – we had a big survey, and over 50 percent of the law school responded to this – get the anecdotes and specific innovative things people are doing, which will make it more real.

MARK FAGAN**Adjuncts & Grading**

One area that adjuncts really struggle with is grading. They have no problem teaching, but not having the level-setting that comes from having been in the institution for

a while how do you level set, what is the expectation, and what is the grading curve? That is very mechanical and mundane perhaps, but pretty important to the students – and that's a concern that I think other adjuncts also feel. I'm not quite sure how to deal with that. What are your thoughts?

DAVID EAST

Well, the truth of the matter is that, at least in our school – and I suspect in most others – that the grades in adjunct courses tend to be higher than grades from courses taught by full-time faculty, in part because the adjuncts want to be invited back. The first time they teach, I have them run their grades by me before they turn them in, so that I can give them any feedback they need. For our transactional skills courses the classes are smaller – we limit classes to smaller groups of 16 to 24, and one would expect grades to be higher. It's a small skills class which doesn't have an academic exam at the end. None of ours have academic exams at the end—they're just writing—and we expect the grades to be higher.

In fact we just take it as a given that some of the students we teach are only there to repair their GPA, but it's okay because we are going to help them in spite of themselves. They don't know the help they are getting, but they are going to get skills training very useful in practice, and it doesn't trouble us that our courses consistently turn out grades that range from B upward to an A-plus, because we give them a lot of help and encouragement. They do a lot of hard work and that's what they report, but they also report to other students that the grades are good, which is the way to make sure that other students will keep looking into those courses. I don't apologize for that at all, because I want the grades to recruit students. I don't have to operate like first-year classes by weeding out a few. I have been there and done that, but I don't have to weed them out. I have to cap their education, so to speak, by teaching them the practical application of what they learned in the doctrinal courses.