

4-1-2001

The Heart of Professor Hausler

Carolyn Salisbury

Follow this and additional works at: <http://repository.law.miami.edu/umlr>

Recommended Citation

Carolyn Salisbury, *The Heart of Professor Hausler*, 55 U. Miami L. Rev. 359 (2001)
Available at: <http://repository.law.miami.edu/umlr/vol55/iss3/10>

This A Tribute to Richard A. Hausler is brought to you for free and open access by Institutional Repository. It has been accepted for inclusion in University of Miami Law Review by an authorized administrator of Institutional Repository. For more information, please contact library@law.miami.edu.

The Heart of Professor Hausler

BY CAROLYN SALISBURY*

University of Miami School of Law Dean Dennis Lynch aptly described Professor Richard Hausler as having been “the heart of the Law School,”¹ but what was the heart of Professor Hausler?

When one remembers Professor Hausler, one might think first of the legendary command that he had over his classroom. Indeed, Professor Hausler was well-known in the legal community for his mastery of the Socratic method. The trepidation felt while in Professor Hausler’s class was summed up well by the *Miami Herald*:

They look murderers in the eye and make them flinch. They break down lying witnesses. They are South Florida’s toughest lawyers and judges, and their word is often law. Nothing rattles these legal eagles. Except one name. Then they chirp like nervous parakeets. Just one name, and they are trembling first-year law students all over again: Hausler.²

Like of most his students, I had heard of the legend of Professor Hausler before I ever entered his class as a 1L. As I sat in my seat on the first day of Contracts class, I waited nervously as he walked into the room and toward my aisle, and my eyes looked down to avoid his piercing gaze as he surveyed his classroom. Based on his legend, we all expected him to begin class by calling on one of us to recite our brief for the first case in our casebook.

Instead, Professor Hausler opened our first class by introducing us to his view of the law. Professor Hausler said that the law was a means of “protecting others,” especially those who could not protect themselves. He also said that as we approached the study of law, we needed to think “with our hearts,” not just with our heads. I was very intrigued by this and wondered exactly what he meant. I had not expected for Professor Hausler to speak of the law as a means of “protection.” I certainly had not expected him to tell us to think “with our hearts.”

* *University of Miami Law Review* alumna; Associate Director and Instructor of Law, University of Miami Children & Youth Law Clinic; Legal Research & Writing Instructor, University of Miami School of Law. This article is dedicated with affection to Dean Jeannette Hausler and the Hausler family, to whom Professor Hausler’s heart belonged.

1. University of Miami School of Law 2000 *Amicus Curiae* tribute to the memory of Professor Hausler.

2. John Barry, *The Name That Makes Even the Toughest Tremble . . . Hausler: Legendary U.M. Prof. Lays Down the Law, and Turns Neophytes into Fearless Lawyers*, *MIAMI HERALD*, Jan. 18, 1996, at 1F.

However, I would later often hear Professor Hausler express sentiments like this.³

One of the first cases we studied in Professor Hausler's class was *Williams v. Walker-Thomas Furniture Co.*,⁴ and we later revisited *Williams* when we studied the line of unconscionability cases. In *Williams*, the appellant was a mother of seven children and on welfare. Over a five-year period, the appellee, the Walker-Thomas Furniture Company, which was aware of Mrs. Williams' financial situation, sold her several household items on an installment plan and had her sign a total of fourteen contracts. Each contract was six inches long, and included a long paragraph in extremely fine print which provided that after the first purchase, payments were pro-rated on all outstanding purchases. Thus, under the contracts, title to the first purchase remained with the company until the fourteenth purchase, made five years later, was fully paid. Six years after Mrs. Williams' first purchase, the company filed a writ of replevin for possession of all the items she had purchased, alleging that her payments were in default and that the company retained title to all the goods under the contracts. By the writ of replevin, the company obtained several items, including her bed. Although the appellate court termed the sales contracts to be "exploitive contracts" and stated that "[w]e cannot condemn too sharply appellee's conduct," the court upheld the trial court's judgment for the appellee, finding no legal ground upon which the court could declare the contracts contrary to public policy.⁵ The District of Columbia Circuit, however, citing to the Uniform Commercial Code which had recently been enacted, held that an unconscionable contract should not be enforced against a party with unequal bargaining power. The court reversed and remanded the case for findings to be made on the unconscionability of the contracts.⁶

Professor Hausler explained that the *Williams* case, as well as the unconscionability provision of the Uniform Commercial Code, were prime examples of "the law protecting those who cannot protect themselves." This, he said, was "the heart of justice." One of the few times I dared to ask Professor Hausler a question as a 1L was in reference to the *Williams* case. I asked Professor Hausler who had represented Mrs. Williams, as it did not indicate this in the casebook excerpt. I questioned how individuals like Mrs. Williams, who could not afford legal

3. I still have my 1L copy of the Contracts casebook that Professor Hausler used for our class, EDWARD J. MURPHY & RICHARD E. SPEIDEL, *STUDIES IN CONTRACT LAW* (4th Ed. 1992). I filled its pages with my notes of "Hauslerisms," which I treasure.

4. *Williams v. Walker-Thomas Furniture Co.*, 198 A.2d 914 (D.C. Ct. App. 1964), *rev'd and remanded*. 350 F.2d 445 (D.C. Cir. 1965).

5. *Id.* at 916.

6. *Williams v. Walker-Thomas Furniture Co.*, 350 F.2d at 449-50.

assistance, could expect to obtain representation. Professor Hausler replied that it was likely an attorney had represented Mrs. Williams pro bono, i.e., without receiving payment. Professor Hausler stressed that it was the ethical duty and professional responsibility of every lawyer to provide pro bono representation to individuals like Mrs. Williams who could not afford legal assistance otherwise.⁷ Professor Hausler admonished that, as lawyers, we needed to “think with our hearts, and not just with our wallets.” While I may have expected to hear such sentiments from other faculty who taught traditional public interest law courses, I did not expect to hear this from Professor Hausler in a contracts class. It meant a great deal to me coming from him.

When I first entered Professor Hausler’s class, I thought I was just going to learn contract law, but I learned so much more. To develop our sense of justice, Professor Hausler always had us look at the case law from the eyes of the party most affected by the actions of others—the offeree who had to cope with having an offer revoked, the promisee who relied to his detriment on a broken promise, the third-party beneficiary whose rights had vested, and of course, Professor Hausler’s favorite, “the poor little assignee.” Professor Hausler once stated: “When students come to me in the first year, they always think I’m going to teach them the law. I tell them they’re not going to learn that. If I wanted them to learn the law, I could give them a bunch of rules and they would come back the next day and repeat them like parrots. But it’s not the rules, it’s the analysis of applying the rules, or of discovering rules. It’s developing a sense of justice and injustice.”⁸

Professor Hausler’s own sense of justice stemmed from his deep moral convictions and religious beliefs. Professor Hausler was a Eucha-

7. See MODEL RULES OF PROF.’L CONDUCT R. 6.1 (2000); MODEL CODE OF PROF.’L RESPONSIBILITY EC 2-25 (2000). The American Bar Association has asserted that it is the responsibility of every lawyer to provide public interest legal services’ without fee, or at a substantially reduced fee, in one or more of the following areas: poverty law, civil rights law, public rights law, charitable organization representation and the administration of justice. MODEL RULES OF PROF.’L CONDUCT R. 6.1 Cmt. (2000) Indeed,

“[T]he basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged.”

Id. See also Rules Regulating the Florida Bar, R. 4-6.1 Pro bono public service. The Florida Bar Journal recently devoted an entire issue to lawyers’ professional responsibility to provide pro bono legal services to the poor. See *Florida Bar J.*, Apr. 1999. Many have argued that some form of mandatory pro bono requirement should be established for lawyers. See, e.g., Mary Coombs, *Your Money or Your Life: A Modest Proposal for Mandatory Pro Bono Services*, 3 B.U. PUB. INT. L.J. 215 (1993).

8. See Barry, *supra* note 2.

ristic minister at his church and was awarded the high honor of Knight of Malta for his dedication to the Catholic Church. He and Dean Hausler faithfully visited sick parishioners and helped distribute Holy Communion. Professor Hausler also taught Sunday school at his church⁹ and was a founding member of the Catholic Educators' Guild.

Beyond his teaching duties, Professor Hausler provided expert consultation to attorneys who litigated contract cases affecting the public interest. One of his former students, Florida Attorney General Bob Butterworth, called on Professor Hausler to assist with a case that the Attorney General's office filed against a cable television company under the Florida Communications Fraud Act and the Florida Deceptive and Unfair Trade Practices Act.¹⁰ The complaint alleged that the company routinely charged customers for services they had not requested, a practice known as negative options. There was a concern that the notice the company sent out in conjunction with the practice of negative options "tended to mislead or confuse people, especially the elderly, uneducated and non-English speaking."¹¹ Professor Hausler was the Attorney General's contracts expert and testified that he questioned the legality of the contract that the notice created.¹² Attorney General Butterworth indicated that the case became "the first real win against a cable company, and it helped redefine how they do business." The case also helped establish the precedent that led to federal reform of the industry. However, Attorney General Butterworth stated: "Without [Professor Hausler's] testimony we might not have prevailed."¹³

Within the Law School, Professor Hausler was a mentor for many law students and particularly nurtured future law teachers. Professor Hausler was one of my most trusted mentors, and I frequently turned to him for advice and guidance. Professor Hausler always seemed to have confidence in me, even when I lacked confidence in myself. Although I had been anxious in his class as a 1L, Professor Hausler later had a very calming influence on me. I could always count on him to say just the right thing to me at the time I needed to hear it most. As I was about to graduate from law school, I was interviewing for an *echoing green* Public Service Fellowship to establish the Children & Youth Law Clinic at the University of Miami School of Law. I was extremely nervous about

9. I'm told by Dean Hausler that Professor Hausler did not use the Socratic method when he taught Sunday school.

10. *Storer Communications v. State Department of Legal Affairs*, 591 So. 2d 238 (Fla. 4th D.C.A. 1991).

11. *Id.* at 239.

12. *Id.* See also Neil Rolands, *Cable Ads Improper, Professor Testifies*, MIAMI HERALD, May 31, 1991 at 5BR. I pity the poor attorney who had the job of cross-examining Professor Hausler.

13. Leslie Sternlieb, *A Professor's Legacy*, BARRISTER, Winter 1995-96, at 12.

my interview and remember being in Dean Hausler's office the night before my trip, seeking advice from Professor Hausler and her. Professor Hausler remembered my questions to him about the *Williams v. Walker-Thompson Furniture Co.* case, just as he so remarkably remembered everything. Professor Hausler reminded me of our discussion and advised me to think about "all the Mrs. Williams of this world and their children" who are exploited by others but who cannot afford legal assistance. He said to just speak "from your heart" about the great need that exists.

I turned to Professor Hausler for advice again when I obtained the fellowship and had begun teaching at the Clinic and at the Legal Research & Writing at the University of Miami School of Law.¹⁴ Knowing him as I did by then, his advice to me was expected. He told me to "love your students" and to teach "from your heart."¹⁵ That, in fact, is exactly how Professor Hausler approached teaching. He loved each and every one of his students and always taught from deep within his heart, teaching us not just the substantive law, but also the ethical and moral values that are at the core of our legal profession.¹⁶

Recently, when I saw one of my classmates at Homecoming, he commented that he wanted to do something meaningful in memory of Professor Hausler, but he did not know exactly what to do. I suggested

14. I always asked to teach Legal Research & Writing in Professor's Hausler's section. I could count on students who had Professor Hausler to be extremely well-prepared for class, as he set the standard for the section to follow. I also knew exactly what my students were experiencing in Professor Hausler's class, and I felt that I was able to assist those students best. I always felt a real bond with my students, as they started out so fearful of Professor Hausler, but then grew to love him, just as I did.

15. When I became an instructor at the University of Miami School of Law, I remember speaking with Professor Hausler and Professor Minnette Massey at a reception that Professor Massey gave at her home to welcome new Law School instructors. Professor Massey was also a former student of Professor Hausler, and we were discussing the special relationship and bond that exists between professor and student. Professor Hausler commented that he was always delighted when his former students began teaching, as the bond grew deeper through sharing the great joy that comes from the teaching experience.

16. The Association of American Law Schools has stated: "As teachers, scholars, counselors, mentors and friends, law professors can profoundly influence students' attitudes concerning professional competence and responsibility. Professors should assist students to recognize the responsibility of lawyers to advance individual and social justice." *Statement of Good Practices by Law Professors in the Discharge of Their Ethical and Professional Responsibilities* (1990). Indeed, the *American Bar Association Task Force On Law Schools and the Profession: Narrowing the Gap* (1992) (the MacCrate Report) asserted that one of the fundamental professional values which law schools must instill in law students is the importance of "contributing to the profession's fulfillment of its responsibility to ensure that adequate legal services are provided to those who cannot afford to pay for them." *See id.*, Fundamental Values of the Profession Sec. 2.2. *See also* Gerald P. Lopez, *Training Future Lawyers to Work With the Politically and Socially Subordinated: Anti-Generic Legal Education*, 91 W. VA. L. REV. 305 (1988).

that he take a case pro bono, in Professor Hausler's memory, to help someone who greatly needs legal assistance but who cannot afford to pay for a lawyer. Indeed, one of the most meaningful ways to honor Professor Hausler's memory is to use the legal training he gave us for what he taught us is "the heart of justice," for using the law as a means to protect those who cannot protect themselves.¹⁷

For lawyers interested in honoring Professor Hausler's memory in this way, voluntary bar associations across the country have pro bono projects which help clients with a variety of different legal issues. At the Children & Youth Law Clinic at the University of Miami School of Law, we always welcome alumni who want to volunteer to work with our law students in helping our clients.¹⁸ If a lawyer has an interest in doing pro bono work in a particular area of law or to help clients with a specific legal need, law school faculty whose scholarship focuses on that area can often guide lawyers toward pro bono projects that help a particular client population.¹⁹

In the fifty-plus years that he taught at the University of Miami School of Law, Professor Hausler was well-known for his expertise in

17. Professor Donna Coker, who served on the University of Miami School of Law Admissions and Scholarship Committee with Professor Hausler, told me that Professor Hausler particularly looked for prospective law students who had a background in public service work and who were likely to continue to engage in public service when they became attorneys.

18. Volunteering at a law school in-house law clinic is an especially good way for a lawyer to both provide pro bono legal assistance to indigent clients, as well as help instill ethical values in law students. See, e.g., Marjorie Anne McDiarmid, *What's Going on Down There in the Basement: In-House Clinics Expand Their Beachhead*, 35 N.Y.L. SCH. L. REV. 239 (1990); Ann Juergens, *Using the MacCrate Report to Strengthen Live-Client Clinics*, 1 CLINICAL L. REV. 411 (1994).

19. Several University of Miami School of Law faculty work with our law students and local attorneys in areas of public interest law that are the focus of their legal scholarship. See, e.g., David Abraham, *Introduction to the Symposium Panel on Economic Impacts of Immigration*, 30 U. MIAMI INTER-AM. L. REV. 605 (1999); Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L.J. 2107 (1991); Donna Coker, *Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking*, 47 UCLA L. REV. 1 (1999); Mary Coombs, *Foreword: Gender and Justice*, 46 U. MIAMI L. REV. 503 (1992); Wes Daniels, "Derelicts," *Recurring Misfortune, Economic Hard Times and Lifestyle Choices: Judicial Images of Homeless Litigants and Implications for Legal Advocates*, 45 BUFF. L. REV. 687 (1997); Elizabeth Iglesias & Francisco Valdes, *Religion, Gender, Sexuality, Race and Class in Coalitional Theory: A Critical and Self-Critical Analysis of LatCrit Social Justice Agendas*, 19 CHICANO-LATINO L. REV. 503 (1998); Martha Mahoney, *Segregation, Whiteness, and Transformation*, 143 U. PA. L. REV. 1659 (1995); Stephen J. Schnably, *Rights of Access and the Right to Exclude: The Case of Homelessness*, in PROPERTY LAW ON THE THRESHOLD OF THE 21ST CENTURY 553 (G.E. Van Maanen & A. J. van der Walt eds., 1996); Jonathan Simon, *On Their Own: Delinquency Without Society*, 47 U. KAN. L. REV. 1001 (1999); Susan Stefan, *The Americans with Disabilities Act and Mental Health Law: Issues for the Twenty-first Century*, 10 J. CONTEMP. LEGAL ISSUES 131 (1999); Bruce J. Winick, *The Right to Refuse Mental Health Treatment: A Therapeutic Jurisprudence Analysis*, 17 INT'L J.L. & PSYCHIATRY 99 (1994); Irwin Stotzky, *Establishing Deliberative Democracy: Moving from Misery to Poverty with Dignity*, 21 U. ARK. LITTLE ROCK L. REV. 1 (1998).

contract law, his mastery of the Socratic method, his theatrical flair in the classroom, and his love of teaching. His greatest legacy to us, however, was his teaching of the law as a means to achieve justice and to protect those who cannot protect themselves. That was *the heart of Professor Hausler*.

Professor John Hart Ely, who holds the Professor Richard Hausler Endowed Chair at the University of Miami School of Law, once commented: "Somehow I just can't stop teaching."²⁰ I believe the same sentiment would apply to Professor Hausler. When I think of Professor Hausler now, I picture him in heaven teaching a class of angels how to protect those on earth who are unable to protect themselves. They are very lucky to have him as a professor.

20. JOHN HART ELY, ON CONSTITUTIONAL GROUND 472-73 n.1 (1996).