

## **TRANSCRIPT: HON. MALCOLM J. HOWARD**

**Interviewee:** Hon. Malcolm. J. Howard, Senior Judge, U.S. District Court for the Eastern District of North Carolina

**Interviewers:** Trawick H. Stubbs and Travis Sasser, attorneys; and Christine Castelloe, Chief Deputy Clerk, U.S. Bankruptcy Court for the Eastern District of North Carolina

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**Length:** 46 minutes, 21 seconds

### START OF INTERVIEW

**Christine Castelloe:** First of all, Judge Howard, I'd like to apologize; Stephanie Butler, our clerk of court, cannot be here today. She had some emergency dental surgery taking place today. So, unfortunately she was not able to join us. So today it's just myself, Christine Castelloe, and Travis Sasser, and of course you, and Mr. Stubbs was kind enough to join us. And we know you have court, I believe at one o'clock again, is that correct?

**Malcolm J. Howard:** It'll be alright.

**CC:** Alright; okay.

**MJH:** We're going to talk about bankruptcy, correct?

**CC:** Well, yeah, we as you know, we don't have the luxury of interviewing Judge Moore and so we've been trying to work through our North Carolina Eastern

Bankruptcy history project and so we've been interviewing the people that were really there in the beginning when our district got off the ground and especially people that were close to Judge Moore and can give us more information about him and how our district evolved to where it is now. So we'd really like to hear what you remember from those times, you know how you became a trustee, your relationship with Judge Moore. Whatever you want to start with, we're happy to listen, and then we'll have a few questions as we go on.

**MJH:** George Washington is the father of our country, many say. I guess everybody will accept that.

**CC:** Yes.

**Trawick H. Stubbs:** I would, yes.

**MJH:** George Washington was the father of our country. Bankruptcy in the Eastern District of North Carolina – and to some degree the whole state, and then I'll get into it, but even at the federal, national level – had one father and his name was Thomas Milton Moore. Judge Moore, as Mr. Stubbs and I called him, he also had a whole bunch of other titles – colonel in the army, ultimately major general in the army. He started out as the bankruptcy referee in 1960. What's that been, 60 years ago? Unfortunately he died at age 63, or 68? 1991. And Stubbs and I were probably the two closest people to him. I mean, there wasn't probably many weeks over the period for more than a decade, from '75 to '85, that we didn't have at least

one meal with him, just the three of us. He would work out his court so that we were both there, and I don't know how the friendship developed that way but we were very nice to him and kind and didn't ever overstep our bounds. I know I didn't, and I had to correct Mr. Stubbs from time to time, but we both got along with Judge Moore exceedingly well. I'll let him tell how he first met him.

I will tell you how I first met him and it was in 1973. And I've got some stuff here – I want to go, we'll get back to the history of the bankruptcy court here – but how I met Thomas Milton Moore was 40 plus years ago I was an assistant U.S. attorney, that is a federal prosecutor, in Raleigh, in about the second or third month of my year- and-a-half tenure in that capacity. At that time we had three federal prosecutors in the whole district. Today we have over fifty federal prosecutors in this district and another thirty lawyers in the civil department. We had one in the civil department in those days. And a gentleman came into the office – I don't remember if he was in uniform or if he was in civilian clothes – because he was being sued in his individual capacity and as the colonel head of a – at least a battalion level, maybe a brigade level – of U.S. Army reservists in North Carolina. In 1973 we were at the very height of the anti-war stuff going on. People were burning their draft cards; people were, you know, doing crazy stuff, running to Canada trying to avoid the draft, etc. etc. A lot of people were trying to find a way to join the army reserve and thusly avoid going back and forth to Vietnam, if

they could get in the reserve. Well, who was getting into the reserve? It was also the height of the hippie – h-i-p-p-i-e – era, and many men had their hair down, not as nice looking as hers but you know, long. Judge Moore had ordered some of his reservists to cut their hair. He wasn't a judge then. He had ordered them to cut their hair and they had figured out a way to bring a lawsuit in federal court under the civil rights act. And he came in looking for representation in his official capacity, so to speak. And McNamara, the boss, then assigned it to me, and that's how I met Judge Moore. I would ultimately leave that office and go, I was one of Nixon's lawyers in 1974, went off that case and came back and started practicing law here in Greenville and that's when I reunited with him, I became one of his, actually he hired me shortly after I started representing him. We were able to get that resolved at the Department of the Army level without ever having to have trials or anything on it. What really happened, the army backed off, and they let 'em just tie knots in their hair and put it under a hat and stuff like that, and you know the war ended and everything went away, you know. But that was the beginning of that kind of stuff.

And then in '74, I came back and rented an office back here behind this building and shortly thereafter I think I got one of the things, he started, because I didn't have any clients or anything, just opened up a shop [that] said "Mac Howard, Lawyer," to see if anybody would come; didn't anybody come the first few weeks, and stuff like that. So, he started to appoint me as trustee in bankruptcy

cases. We had already started a little bit of something called Chapter 13. And there were two trustees; one from Goldsboro named –

**THS:** He was in the legislature.

**MJH:** Yeah, and then one named Trawick Stubbs. At that time it was embryonic, you'd just have to figure out, you know, they'd pay in, it was \$300 a month, and you had to figure \$20 of it goes over here to the creditors, by longhand, you know, and it was very difficult. The guy in Goldsboro just up and quit; he said this is too much trouble and he wasn't getting paid much for it. And Stubbs kept on doing it and I guess half a year later he had a couple thousand cases and Judge Moore came to me and said would you like to be the second trustee and I said absolutely. And so that's where we started Chapter 13. It had not been very well recognized in the eastern district or in fact throughout North Carolina. Judge – Bankruptcy Referee – Moore, from 1960 until I believe 1979, when the Bankruptcy Act of 1978 or something was passed, which created for the first time United States bankruptcy judges in America. And by and large it was just one per district and several of the existing referees that were just actually hired by the, whoever the chief judge or the particular district judge would just say you're going to be the bankruptcy referee and you'll get a little bit extra, I don't know how, it was a commission or something. And he did that for, all the way to '79 when he became judge. He became judge and he and I; he, Judge Moore, Stubbs, all three of

our wives were at a conference in Atlanta and I think the act had just been passed a few weeks or months or something like that. Anyway, he and I bought his first robe ever. I don't know even remember where we got it, do you? We bought it. You and I paid for it.

**THS:** Yeah we did. That's exactly right.

**MJH:** And then, about the same time that he made judge, he made general in the reserve, and so our wives sat there in that hotel room that night, and with scissors or something cut out a star out of a piece of cardboard and they went somewhere and found some aluminum foil and they wrapped aluminum foil, two stars, and pinned it on his robe. And Stubbs and I put it on him and we all took pictures (laughter). And nobody knew whether to call Judge Moore or General Moore. And he laughed; you know, we all laughed. But that's a little history of that kind of stuff.

**CC:** That's great history; yeah.

**MJH:** But we were at some sort of bankruptcy institute, so forth. Then other things started happening. There was no market by lawyers; lawyers probably didn't even know how to spell bankruptcy. I mean it was so little back in the sixties and seventies, as far as the practice goes. Bankruptcy's been around since our country was organized; I mean that was one of the reasons we broke away from England, to get out of debtors' prison, and so forth you know so we've had bankruptcy

court for a long, long time. But it was always held in Wilson in the old federal court building there on the main street in Wilson for most of his years. And then after he became judge then ultimately they built that nice building out there, out there where the mall is somewhere, where is it?

**CC:** Parkwood Mall? Yeah.

**MJH:** And that became his office, and the court, and the clerk's staff started expanding. And Peggy Deans was the first clerk ever. He had had a secretary who – he'll recall her name in a minute -

**CC:** Annette Boyette?

**MJH:** Annette Boyette, who had been his, see he, while he was refereeing bankruptcy he, it was Moore - Moore, Weaver, and Beaman, what's Beaman's first name?

**CC:** Steve? Steve Beaman?

**MJH:** Steve Beaman. He was young. It was Judge Moore and another partner, and Steve Beaman. And then Judge Moore's secretary was, she was like the assistant referee in bankruptcy. She'd sign our paycheck when we got commission for stuff. And she'd sign whatever you and I put in front of her. But I mean it was honest; she didn't do anything bad. So it just went from there, and Peggy Deans started with the clerk's office and everything just grew from, you know, and then ultimately there became a second judge, and that was . . .

**THS:** Tom Small.

**MJH:** Tom Small. He was a bank lawyer, not bankruptcy; he was a staff attorney at one of the banks in Raleigh, I think.

**THS:** First Union.

**MJH:** First Union. And he became the second bankruptcy judge.

**Travis Sasser:** Judge Howard, in Judge Dupree's archives, he was one of the, him and Judge Britt were the ones who picked Judge Small, and their notes indicated that you were not interested in applying for that judgeship.

**MJH:** That's true. Yeah, Judge Moore tried to get me to. We were doing pretty good. I mean we were making good on Chapter 13. I had all the business I could do. I didn't necessarily want to be the bankruptcy judge and so we turned it down. Now that's an interesting story. Let's go back; in 1961, John Kennedy was president and we had one judge, a judge in Clinton . . .

**THS:** Butler. Judge Butler.

**MJH:** Judge Butler in Clinton, who had been appointed by Eisenhower. And then John Kennedy entered as president in his first six or eight months and he had already come to know Terry Sanford. And Sanford and Judge Larkins and another person from Raleigh, they had been in the runoff – there was no Republicans back then, it was just all Democrats – they had been in the runoff and finally Kennedy, who had become enamored with Terry Sanford, says what do you want me to do



for you? He says I want you to get the hell rid of John Larkins. Judge Larkins was a populist. Everybody in the Democratic party loved Judge Larkins. He'd tell stories and he'd go around and drink whiskey with people and so forth and so on. And he was the chairperson of the North Carolina Senate Appropriations Committee, which made him a big dog. I mean he controlled the finances, basically, of the state. And Terry Sanford said I want you to get rid of Larkins, said if an opening came up just put him on the federal bench and he'll be gone forever. And that's what happened (laughter). Alright, now, there came another opening for a district judge in . . .

**TS:** 1970 when . . . ?

**MJH:** When Dupree . .

**TS:** Dupree got it.

**MJH:** Dupree got it. There were three principle runners at that time, that was in '72. Nixon was the president. The three principle was, man who just passed the last year or so from Morehead City, Carl Wheaton. Wheaton is correct?

**THS:** That's right, Carl Wheaton.

**MJH:** Carl Wheaton, a civil lawyer in Raleigh named Frank Dupree, and Thomas Mickey Moore. So, they all, there was no statewide, it was just for the eastern district. So they gathered the Republican leadership in '72, in Raleigh I think, of the 44 counties to try to figure out who the Republican party was going to

nominate to become the new judge. And Judge Moore and Carl Wheatley [sic] and Dupree were in the running, but Carl Wheatley [sic] and Judge Moore were both very conservative. Judge Dupree was not well known, either by the Republicans or anyone. But anyway, long story short, it ended up, and Judge Moore ultimately ended up throwing his support to Judge Dupree and Judge Dupree got the job. They didn't ever get along after that.

**TS:** They didn't.

**MJH:** And that was, it wasn't out in the open much but Dupree didn't care for [inaudible] Judge Moore very much, and there was no reason that he or I knew, and as a result of that I didn't care that much for Dupree either.

**Travis Sasser:** [When] did you first become acquainted with John East?

**MJW:** Yeah, I was going to cover that. Now, Thomas Moore, he actually became in the mid-eighties a national figure in the bankruptcy world. If you recall, in the early eighties we were really having a lot of farm problems and a lot of the farmland that had been bought for \$4,000 an acre was now worth \$2,000 an acre. And they owed to the Federal Homelands Bank \$3,500 of that, and it wasn't worth it anymore. And so Chapter 12 of the Bankruptcy Act was created. The person who was the principle leader of trying to explain how that would work and work out the numbers, how big your debt can be versus this and that and the other, was Judge Moore. He was called before the Senate Agriculture Committee, which was then

held by, chaired by Jesse Helms, and the Senate Judiciary Committee, which one of the main members was Senator John East, that one term in the Senate he had. Remember Senator East was crippled; he had polio when he was very young and he was in a wheelchair, or on crutches like, but he was a lawyer. He had gone to law school. He'd never practiced; he'd been a professor of history and social studies here at ECU all his adult life. But he was a lawyer. Of course now, even the chairman of the Judiciary Committee's not a lawyer; that older man, [who] was in our bankruptcy stuff, what's his name?

**THS:** Grassley?

**CC:** Charles Grassley.

**MJH:** Yeah, Grassley's not even a lawyer.

**THS:** He's not?

**MJH:** Yeah. He's chair of the Judiciary Committee of the United States Senate. Anyway, Judge Moore was very, very active, involved in that. Now that's covered in this memorial piece that I've just given you. Some bit of it is covered in there. This was put together by Tom Small. He was on scene then, but it was Judge Moore – he would talk with Tom; they were good friends. And Tom would help him, you know, but it was Judge Moore's seniority, and they respected at the Senate level when they were trying to build a bill. Chapter 12 Farmers, named it; then it ended up being permanent forever. There was no such thing as Chapter 12. And then same

way with Chapter 13. It grew in this district in the, when he just became trustee; that other guy from New Bern, Goldsboro, I can't think. Because Ft. Bragg is why. Because it had always been really bad looked on – a soldier, be he a sergeant or be he a lieutenant. If he had financial problems, it was going to hurt his promotion chances, his upward mobility, etc., etc. And the army started doing something about that that says well, if you will go through the federal process and file a Chapter 13, a wage-earner plan, we're not going to kick you out. We'll work with you. And that's when we started getting a lot of cases on the fed level and then some of the lawyers started advertising. There was a firm over here in Jacksonville and Tarboro, he started that.

**CC:** Frank Allen?

**MJH:** Frank Allen. And his former partner, . . .

**CC:** Jack Hopkins?

**MJH:** Jack Hopkins. Yeah; they were advertising Chapter 13 and so forth and so on, and so he and I were the only two trustees. There became a third trustee . . .

**THS:** Richard Stearns.

**MJH:** Richard Stearns. Now Stearns showed up on my steps when he – he was an Annapolis graduate – and he had been in the Marine Corps. You know when you're at Annapolis you go either Navy or Marine. He had been a Marine, I think pilot.

**THS:** Yeah, he was.

**MJH:** And anyway he had gotten out, but he'd gone to, I think University of Maryland School of Law and got his law degree. And he had become acquainted with some civilians that worked at Camp Lejeune when he was flying Marine airplanes back in whatever year. And one of them was in the old country church I grew up in and they introduced Stearns and myself. And Stearns happened to be on the scene just about the time when Judge Moore got authority to hire his first law clerk. So I introduced the two of them and then that little military connection between the two of them; Judge Moore hired him and Richard Stearns was the first law clerk ever for Judge Thomas Moore (Bankruptcy Judge). And then when we had so many cases he and I didn't want any more because we had maxed out what we could get paid and Stearns became the next trustee.

**TS:** At some point you became involved in the National Association of Chapter 13 Trustees, is that right?

**MJH:** Yeah. These boys ran me for president and I got elected nationwide.  
(laughter)

**TS:** What were some of the issues you were dealing with at that time as part of that organization?

**MJH:** Well, we were dealing with Congress a lot. The 13 Trustee program was big-time in North Carolina, in fact in all three districts in North Carolina.

Because there was Thomas Moore, and Greensboro, and one in Charlotte. And the one in Greensboro was Rufus Reynolds. And the one in Charlotte was Wooten.

**THS:** Wooten.

**MJH:** Yeah. But they were good, close friends of Judge Moore and they would, we'd go to things together you know, bankruptcy conferences and so forth and so on. I forgot what you asked me.

**TS:** Just kind of what issues you were involved in with that organization. You mentioned the Congress, and the issues . . .

**MJH:** Well we had something between us and Alabama, just Alabama and North Carolina. Oh, they went to the U.S. Trustee thing. That's what it was. Congress passed a bill there would be a United States trustee in each district, or something. But we resented it and so did our judges; Moore, and Rufus Reynolds, and everybody, and Alabama. So Helms had the strength in the Senate, as did, what's that Alabama Senator?

**TS:** Heflin.

**MJH:** Yes. They were able to hold their two states, I think Alabama has two districts, I'm not sure.

**CC:** They've got three now.

**MJH:** They've got three now?

**CC:** Yeah.

**MJH:** And as far as I know, to this day North Carolina and Alabama – it's Alabama not Arkansas?

**CC:** It's Alabama.

**MJH:** Alabama are not part of the U.S. Trustee Program where the rest of the nation is. And all of our friends, there was a lot of Chapter 13 trustees all over the country, and they didn't want any part of the U.S. Trustees but they didn't have the strength of a Jesse Helms or a Hugh [sic] Heflin and so they just got lost in the shuffle. And we still, but that was a big drop down.

**TS:** And the primary reason was to do with the fact that Judge Moore would prefer to continue to appoint trustees?

**MJH:** Yeah, yeah.

**TS:** Or that the trustees were concerned about their possible job security, or?

**MJH:** And we just thought it was more federal intervention.

**TS:** Wanted to keep it local?

**MJH:** Yeah. Keep it local and it works out good; you know, it had always worked out good for us. I mean, you know, for the people, too.

**TS:** Did you and Mr. Stubbs' relationship with Senator Helms and Senator East, was that helpful in that regard?

**MJH:** Yeah. My wife was his personal employee. She was, managed, helped manage the campaign and then when he got elected we put him over here in

what's now the annex and she was in there with him. She's the one that went to Washington before he'd ever gone. There had never been a crippled senator. And they had to build a whole ramp to the Senate dais where the person presides; and things like that went on and East, you know, committed suicide toward the end of his first term, right out here.

**TS:** And did your wife continue to work for him all, the entirety?

**MJH:** No. She worked for him about three years. But we were good friends; I mean Stubbs was too. In fact, he announced his candidacy for this U.S. Senate in one of the halls over here in the history building at ECU. I was the presiding person that day. I was district chairman of the GOP at that time, I remember. There was something else here. I talked about Chapter 12 and the Senate committee, Farm Bankruptcy, Chapter 13, Ft. Bragg's impact – was the army impact – and with the military angle that started 13s growing. See we have, nationwide far more 13s are filed now than there are any other kind of bankruptcy, aren't there?

**CC:** Yes.

**THS:** In most places, yes.

**CC:** BAPCPA took care of that. Yeah.

**MJH:** The wage-earner plan. And then early on – Judge Moore approved of it – he [Trawick Stubbs] set up something called the Eastern Bankruptcy Institute out of New Bern. And now it's 30 or 40 years old.



**THS:** Yeah, it's yeah, '73.

**MJH:** It's one of the most, people come from all over the states. Well a lot of them know him [Stubbs]. But they come, it lasts three days down at Wrightsville Beach every year in the spring, isn't it? Judge Moore would always attend it and speak at it you know; encouraged its growth, you know. And he [Stubbs] kept it going. And there's one, president, director, stockholder; ain't nothing but Stubbs (laughter). Whoever gets invited has got to go through him. Whatever they pay, it's got to go through him.

**CC:** What is your perspective from your time spent on the Bankruptcy Rules Committee?

**MJH:** Oh, Lord.

**CC:** Do you have any memories from that you'd like to share?

**MJH:** They put me on that, I hadn't been a judge but about six months. There were very few people in the judiciary who knew much about bankruptcy. And so you go on those committees at the request of the chief justice. And so they put me on the Bankruptcy Rules Committee. And they were making major changes in all the rules and therefore we had to meet at least once a month for the first three years. And I never did appreciate this but they would meet in the finest hotels in the nation. There were all, what's that, two words?

**CC:** Ritz Carlton.

**MJH:** Ritz Carlton. I bet you I stayed in two-thirds of all the Ritz Carltons. And if you get on those committees it's six years. Well it's three years and then you're automatic. At the end of three years I wrote the administrator – I didn't write the chief justice – don't put me back on there. I don't even like rules (laughter). It was you know, significant, I mean they are changing the rules and you needed somebody who knew what the rules were. But then a few years later they put me on the committee for the administration of bankruptcy which is the committee [that] decides how many judges we're going to have, and how many in this district, and that was a little more interesting and I stayed on that one six or, you know.

**TS:** Do you remember some of the key issues that were being dealt with during your time on the rules committee, which I think was '88 to '92?

**MJH:** Yeah, I came, that's about right because I was sworn in March 11 – tomorrow. And it was just a few months before I went on the rules committee. There were, every year it was a constant something. And it wasn't just the rules for 13, it was rules for Chapter 7s, you know. The meetings would have, you'd have a great big notebook and you had to read it the day before and fly somewhere to get there. And you know it was like 12 to 14 people. I think there was one from every circuit – you know we've got 11 circuits – plus a bunch of hangers on. We had a man in Washington in the Administrative Office that was sort of the leader of the bankruptcy stuff; tall thin guy, he's been to some of your meetings. He retired two or three years

ago. But that's where it was all generated, and so forth. And then it was a constant battle between the U.S. trustee and they trying to enforce. We thought once Helms had left the Senate they'd probably kick us out but we still have it.

**CC:** Yes. We still have it.

**MJH:** We still got separate from Alabama, just you know three districts here and three districts in Alabama. So six out of – there's 94 federal districts in the nation.

**TS:** And the administration, you mentioned that after you left the rules committee you went on to do that. You say that the primary job that they do is just to determine how to allocate the judgeships between the different districts, is that right? So that's not like a bankruptcy-specific, that's just like for the whole federal judiciary?

**MJH:** No, it's bankruptcy specific.

**CC:** It's a bankruptcy committee.

**MJH:** Yeah. That's solely for bankruptcy judges. And actually I think they probably actually have carte blanche approval over even things the rules committee does. The rules committee is not sub to the administration but it truly is a little bit less [inaudible].

Now you've got more I'm sure, but Judge Moore, he went to UNC law school and UNC undergraduate and he entered the army right after law school but he got a

direct commission as a JAG officer. He was actually stationed in the Pentagon from '52 to '54. He would have been his twenties or something, like a first lieutenant at the Pentagon. He then joined the reserves and stayed until he made two stars and commanded all of the reserve forces in both North and South Carolina. Strom Thurmond had never allowed anybody outside of South Carolina to have command of – there's something called the 120th R Com. It's just been, for years, most of all of the reserve units, it's you know Greenville, Washington, New Bern, are within it. And South Carolina's got the same, within it. And Judge Moore was the first one that had ever got past Strom Thurmond to be the commander. It was always some postmaster from Ninety-Six, South Carolina, or something became the general; you know Strom, you know how Strom was.

**CC:** So as a district judge, and getting to hear the appeals from the bankruptcy court, do you have any memorable appeals that you took on from us, that you've presided over?

**MJH:** No. Yeah, actually they've slowed down quite a bit. We don't get very many anymore. There was a time when we'd get half a dozen a year, wouldn't we? Just, we draw – it's not because I have any background in bankruptcy – it's just we draw on the . . .

**CC:** The rotation.

**MJH:** Rotation basis. So, I'd have some of them and it would be like, you know, all the bankruptcy practitioners and if it's a hotel in Wilmington it's probably a Butler; Butler 1 or Butler 2.

**CC:** Yeah.

**MJH:** And if it's you know, Steve Beaman in Wilson. There was quite a few practicing bankruptcy around Fayetteville through the years, so. We now have three judges as you all know. One's fixing to retire, I think – Stephani?

**THS:** On October 21, 2021, she will retire.

**MJH:** So there'll be another appointed. The bankruptcy term is now 14 years. It was something a little unusual when Judge Moore was, when they passed that bill he became the first bankruptcy judge but he didn't get his first 14-year term for a couple of years or something.

**THS:** That was to do with the funding, I think.

**MJH:** Oh, okay. And it's now 14 years and it's by the circuit court. You have federal district judges, U.S. magistrate judges, U.S. bankruptcy judges. U.S. magistrate judges are selected by the individual district, out of applicants and then a screening committee, etc., etc., and they get an eight-year term. And then sometimes they get a second eight-year term. Whereas the bankruptcy judges are selected by the circuit court of appeals judges. People from Maryland, and Virginia, and all will be involved in selecting our bankruptcy judges for Greensboro or eastern district,

wherever. Look, that's worked out all right. They listen to us a little bit, you know. We can make the recommendations to at least some of our friends on the circuit you know, so. But it's a 14-year term.

**TS:** Getting back to sort of the early days, I don't know if this involves, I guess this is for Judge Howard or Mr. Stubbs, but local bankruptcy rules, is that something that Judge Moore would have written those by himself, or was there a committee? Or who was involved in the local rules?

**MJH:** We have, we still have this kind of thing. But we have a committee, we've got rules committee for the district court and the bankruptcy court today. And they're reviewing it, and a lot of it comes from the clerk's office. We need this one adjusted because it's not fitting any more. You know the source of wherever the question comes from, is not necessarily the judges or the practitioners but often the administrative people.

**TS:** Do you have any memories of back there in the eighties, the local rules situation, or, in terms of . . .

**THS:** I don't remember having any local rules back then but this was '83, so.

**MJH:** Yeah. And then, the Administrative Office of U.S. Courts, they have recommendations on rules for district courts and circuit courts and bankruptcy courts and they're constantly sending up that stuff out to . . .

**CC:** Yes. Strong recommendations.

**TS:** What is the nature, since 1988, what's the nature of, does the district court judges interact with the bankruptcy court judges or are y'all fairly separate?

**MJH:** We're fairly separate. We do meet together once a quarter and in fact this coming Friday it will be a bench meeting at 10 o'clock. All five, now, federal district judges, the three bankruptcy judges, the three and a half magistrate judges – we've got one that's just part-time and that's why we call it a half – those will gather in one conference room there in Raleigh and we'll have an agenda and then the first agenda is getting reports from the clerk of court, from the chief bankruptcy judge, from the U.S. probation office chief, and from the marshal chief. And then once that's over then the district judges have an executive meeting where they just talk about everybody. And then the bankruptcy judges go off and have their meeting, and the magistrate judges go have their meeting. And then at noontime we'll all eat together over a stupid sandwich and come back home. And so that's the interaction, type thing.

**TS:** Does most of the coordination have to do with like facilities, or?

**MJH:** Yeah. A lot of it is about facilities. Everybody complains about GSA, the government. They just, you can't ever get the commode fixed, you can't get the heating and air conditioning working right; you can't get anything. So everybody's against the GSA. But it's, you know, coordination. The bankruptcy people tell us how many cases they've got, and what the percentage is, whether it's up or down for

this year versus last year, and we just listen. I can't ever remember they're ever needing any advice you know. Now the bankruptcy court is an adjunct of the district court. There are a few districts where the bankruptcy stuff comes into the district and the district judges decide what goes out to the bankruptcy and what not but here as long as I can remember it's just totally separate. I mean we don't mess with the bankruptcy and bankruptcy doesn't mess with the district. But there are some districts, because it's still an adjunct of the U.S. district court by some sort of law.

Well, thank y'all for coming.

**CC:** Thank you so much for spending your lunch hour. I know you have to get back on the bench but we really appreciate you taking a break in your busy schedule today, for us.

**THS:** I was more interested in some of the juicier cases I was telling them before you got here about, you remember when you represented Russell Twiford's girlfriend, that I represented her ugly old husband.

**MJH:** Yeah.

**THS:** You'd sit over there and I said, Judge Moore, he's looking at me. I was pointing to you.

**MJH:** Judge Moore, sometimes we'd be on opposite sides of cases. And he would pick us to death and we'd spat in anger at each other and Judge Moore would just laugh. One time I was going to knock somebody out or something. I was . . .



**THS:** Oh that was in the back room. I was worried that day because he's, I told you, very decorated in the army. And then Judge Moore was, leave. That was, he's a pretty big guy and he thought he was pretty tough, from Washington.

**MJH:** Joe Nard or something. His last name was Nard. He was a lawyer.

**THS:** I was worried because Howard could have pushed his nose right up into his brain and I was afraid you was going do that, but.

**MJH:** He's talking about my old army days. I was an airborne ranger.

**THS:** Yeah. And Mickey separated you before you got there and he kind of calmed things down.

**MJH:** It was a good, good time. I mean it was enjoyable principally because of his wisdom, Judge Moore's wisdom and his kindness. And he had two children. We took care of them. Both of his children were adopted. His and Ms. Frances. And we got the boy a job with the U.S. Department of Agriculture. What was his name, Tom?

**THS:** Yes.

**TS:** Cliff.

**MJH:** Cliff. And I think he retired from, you know, it was an ASCS, agriculture stabilization, you know, field crops and so forth like that. And the daughter, I remember one time we were going to lunch and he would take us down to something called Dick's Hotdog Stand or something. He loved that place. And he

was telling about his daughter. The weekend before she had got a speeding ticket I mean for like 70 in a 45 zone, or something. And he was lamenting about that, you know. And one of us said well, what happened? And he said well she said there was a wasp or something got in the car and he was about to sting me. I'll never forget, he [Stubbs] was sitting over, I think Judge Moore was driving, and he [Stubbs] said you know, Judge, a wasp getting in there, that'll make you speed. You take it easy on your daughter. That's the truth. I remember you just taking up for his daughter. Alright, that's good enough.

**TS:** Thank you very much.

**CC:** Thank you so much. We really appreciate your time.

**TS:** Thank you, sir,

**MJH:** Thank you.

**CC:** Thank you very much.

END OF INTERVIEW

Transcriber: Catherine G. O'Brien, Archivist, Fourth Circuit Library

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