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ARTICLES

It’s Time to Get Real about Marijuana and Professional Sports: Part 1
By Joseph M. Hanna

This is the first article of a two-part series focused on marijuana’s impact on professional sports and current developments in professional league policies, legislation, and elsewhere.

Since 2013, 9 U.S. states and Washington, D.C., have passed laws legalizing recreational marijuana, while 31 states passed laws legalizing medical marijuana. According to a 2018 Pew Research survey, 62 percent of Americans say marijuana should be legalized; Michigan, New Jersey, North Dakota, Oklahoma, and Utah are expected to legalize recreational marijuana in 2018. As public perception of marijuana use for medicinal and recreational purposes continues shifting toward tolerance and even creative embrace, employers in nearly every industry struggle to adapt to shifting state laws, conflicts between state and federal laws, and pressure from employees’ expectations. Nowhere has conflict over employers’ marijuana polices been more prominent than in America’s professional sports leagues.

Eighty-seven professional U.S. sports teams currently have athletes playing professionally in a state that legalized medical or recreational marijuana. Complicating matters further, nine professional Canadian teams compete with U.S. teams in predominantly American leagues—and on October 17, 2018, recreational use of marijuana officially became legal across Canada. However, regardless of state, federal, or international law, the World Anti-Doping Agency (WADA), National Basketball Association (NBA), National Football League (NFL), National Collegiate Athletic Association (NCAA), Major League Soccer (MLS), Major League Baseball (MLB), and Ultimate Fighting Championship (UFC) all ban the use of marijuana within their substance abuse policies. The National Hockey League (NHL) is the only professional sports league that does not include marijuana on its list of banned substances.

The marijuana debate within professional sports, like the rest of the country, is stronger than ever. Calls to remove marijuana from the list of banned substances have become more frequent, in line with the increase in recent suspensions and fines, alleged rampant use among professional athletes, and players openly advocating for legalization.

Current State and Federal Drug Policies in America: An Overview

In 1970, President Richard Nixon signed the Controlled Substances Act (CSA), the current federal drug policy that regulates the manufacture, importation, possession, use, and distribution of certain substances. Under section 811 of the CSA, banned substances are...
classified into five schedules. Schedule I substances, defined as those with a high potential for abuse, are not currently accepted as a form of medical treatment and cannot be safely used under the supervision of a medical care provider. Currently, marijuana is defined as a Schedule I substance. However, in 2013, President Barack Obama implemented the Cole Memorandum, which directed U.S. attorneys to prosecute only a small set of marijuana cases involving minors, gangs, or organized crime; the sale of marijuana in interstate commerce; and the cultivation of marijuana on federal land.

On September 30, 2018, President Donald Trump signed an extension of the Rohrabacher-Farr Amendment, a 2014 law preventing the federal government from spending money on medical marijuana prosecutions, as long as growers and dispensaries carefully abide by state laws—except, however, recreational marijuana. As a result, although nine states and Washington, D.C., allow for recreational marijuana use, growers and dispensaries remain vulnerable to federal prosecution. In addition, the amendment states that the Department of Justice (DOJ) will not use funds to prevent listed states and territories from “implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.” However, the term “implementing” may still allow the DOJ to prosecute marijuana operations that are legal under state law.

Most importantly, the amendment was, and continues to be, approved only as an amendment to the federal budget. Therefore, the law’s lifespan is tied to annual renewal by Congress. However, a new budget has not been approved since 2015, leaving the amendment’s long-term status unresolved. Despite this uncertainty, the amendment has continued to be renewed through various emergency spending legislation. In addition, in January 2018, the DOJ rescinded the Cole Memorandum and asked U.S. attorneys to resume prosecution of violators under the CSA. Should the president choose not to extend the amendment, there is a possibility that the DOJ may begin prosecuting marijuana businesses, regardless of the legality of the drug within a given state.

In the face of uncertainty, many states passed their own recreational and medical marijuana legislation, and state courts continue to enforce and interpret the laws. For example, in June 2017, a Rhode Island state court ruled that a potential employer could not refuse to hire a job candidate simply because she disclosed that she was a medical marijuana cardholder and would fail the preemployment drug test. See Callaghan v. Darlington Fabrics Corp., 2017 WL 2321181 (R.I. Super. Ct. May 23, 2017). In July 2017, a Massachusetts state court held that a medical marijuana user who failed a drug test and was subsequently fired could bring a disability discrimination lawsuit. According to the court, under the Massachusetts disability discrimination law, employees have the right to seek a reasonable accommodation for medical marijuana use. See Barbuto v. Advantage Sales & Mktg., LLC, 78 N.E.3d 37 (Mass. 2017).
Marijuana and Professional Sports

Professional sports leagues conduct testing for illegal substances for the same reason as employers in most other sectors: because of the possible negative consequences for employee health and workplace safety, and to avoid entanglements with law enforcement. However, unlike regular employers, professional sports leagues have additional reasons for conducting drug tests. The profitability of professional sports leagues is tied to the on-field success of their players, fan support, and the preservation of the leagues’ integrity. Drug testing protects a team’s investments in a player and avoids negative publicity that results when a player suffers adverse health or legal consequences associated with illegal drug use. Some, like Washington, D.C., attorneys Mark M. Rabuano and Deanne L. Ayers, observed that professional sports leagues have a legitimate interest in controlling illegal drug use to ensure that a player’s job performance will not be affected by illegal drugs. Ayers observed that in professional sports in particular, drug use is likely to result in athletes’ irregular attendance at practices and games, subpar performance, and additional costs incurred for the rehabilitation of players.

Each league has a collective bargaining agreement outlining its drug testing procedure. For example, between April 20 (the unofficial holiday when many Americans celebrate and consume marijuana) and August 9, NFL players are subject to one random drug test. Also, prospective NFL players are subject to one drug test before the NFL Combine. If the player passes, he will not be tested until the following season; however, if the player fails the drug test, he must enter an intervention program. If an NFL player fails multiple drug tests, he faces fines and suspension without pay, and the NFL could even ban the player for up to one year.

The NBA, through its collective bargaining agreement, can test a player no more than four times during the season and no more than two times during the off-season. In addition, NBA players are subject to “reasonable cause testing.” If the NBA has reasonable cause to believe that a player is engaged in the use, possession, or distribution of a prohibited substance, the NBA may request a conference with an “independent expert” who will determine whether reasonable cause exists to test the player. If the player fails a drug test, he is required to participate in the league’s illegal drug program. If the player fails the drug test for a second time, the player is fined $25,000. If the player fails the drug test for a third time, he is suspended for five games, and each violation thereafter increases the suspension by five games.

It appears that the number of professional athletes fined or suspended after testing positive for marijuana is rising. In April 2018 alone, Dallas Mavericks center Nerlens Noel and Utah Jazz forward Thabo Sefolosha were each suspended five games without pay after they tested positive for marijuana. In June 2017, Detroit Pistons forward Reggie Bullock and Indiana Pacers guard Monta Ellis were also suspended five games without pay after each player tested positive for marijuana.
for marijuana. Notable UFC fighters like Cynthia Calvillo, Nick Diaz, Niko Price, Curtis Blaydes, and Abel Trujillo have all been suspended after testing positive for marijuana in 2017 and 2018. It is difficult to determine the exact number of NFL players who are suspended after they test positive for marijuana because the NFL’s substance abuse policy has a strict confidentiality requirement. Any player, team, or team employee is subject to a $500,000 fine for breaching the confidentiality provisions. Most of the time, the NFL reports that a player was suspended or fined for “violating the substance abuse policy.” According to data compiled at drugabuse.com, between 2002 and 2015, there were 945 substance-related suspensions and $68,203,788 in fines to various NFL players (these figures include fines and suspensions for performance-enhancing drugs, alcohol, and other non-marijuana drug violations).

**Arguments for and Against Current Marijuana Policies in Professional Sports Leagues**

There is a growing belief among athletes that professional sports leagues should remove marijuana from the list of prohibited substances and lower the harsh penalties that players face as a result of a marijuana-related violation. According to former players in a recent interview with *Bleacher Report*, even though marijuana is listed as a banned substance, the ban does not appear to prevent players from using marijuana. In the interview, Martellus Bennett, who retired from the NFL in March 2018, estimated that 89 percent of players in the NFL actively use marijuana. In the interview, Kenyon Martin, who played 15 seasons in the NBA, estimated that 85 percent of NBA players during his career actively used marijuana. Some have even gone as far as to say that the leagues’ bans are simply hypocritical. According to former NBA player Matt Barnes, “[t]he GMs, coaches, presidents [were smoking]. I mean, it goes deeper than what you think. Some of the people that are cracking whips and suspending us are smoking weed.” Barnes added, “All [of] my best games I was medicated.” Former NFL defensive lineman Shaun Smith said, “Coaches do it. Personnel does it, people upstairs do it, quarterbacks, guys that are your captains, [and] leaders of the team smoke.” Golden State Warriors head coach Steve Kerr confirmed as much in a podcast interview with *Comcast SportsNet California*, admitting that he smoked marijuana to relieve the pain and complications that arose from a back procedure conducted during the 2015–2016 regular season.

Some, like former UFC fighter and current World Wrestling Entertainment wrestler Ronda Rousey, believe having marijuana on any league’s list of banned substances does not serve a logical purpose. Rousey was very outspoken after Nick Diaz, a fellow UFC fighter, was suspended after he tested positive for marijuana. In a *Men’s Journal* article, Rousey said, “I’m sorry, but it’s so not right for him to be suspended five years for marijuana. I’m against testing for weed at all. It’s not a performance-enhancing drug. And it has nothing to do with competition. It’s only tested for political reasons.”
Others argue that marijuana should remain on the list of prohibited substances because under federal law and the laws of about half of the states, marijuana is still illegal to possess, distribute, and consume. There is a growing effort to legalize marijuana, but many argue that professional sports leagues should not be at the forefront of the movement. At a forum for the Walter Payton Man of the Year Award, NFL wide receiver Larry Fitzgerald said, “You got to look at the bigger picture. We’re up here on the stage, playing at an elite level. There are so many kids watching us and trying to emulate us.” Further, compliance with the league’s substance abuse policy is not difficult. Regarding the NFL’s substance abuse policy, Buffalo Bills running back LeSean McCoy said, “I don’t smoke weed so it doesn’t affect me.” Of course, remaining drug free is the most effective way to avoid a fine or suspension; however, players often know when they are going to be tested and can easily adjust their private lives around their scheduled test. At the aforementioned forum, Fitzgerald said, “The guys who are getting caught [are] just not using common sense,” and Greg Olsen, a tight end for the Carolina Panthers, sitting next to Fitzgerald, emphatically nodded in agreement. In the Bleacher Report interview, John Moffitt, a former NFL offensive guard, said the NFL is essentially “looking away” by only testing once a year.

It is important to note that the most severe fines—the ones that garner media coverage—are exceptions, not the norm. Most of the time, only repeat offenders are subject to harsh league penalties and only egregiously repetitive offenders risk placing their careers in jeopardy. For example, Ricky Williams, a former Heisman Trophy winner and notable running back for the Miami Dolphins, reportedly tested positive for marijuana five times between 2004 and 2007 (although some claim that the number could be higher). In an interview with Sports Illustrated, Williams claimed that he was drug-tested more than 500 times during his career. In the same interview, Williams’s wife, Kristin Barnes, claimed that Williams was tested so many times that the people who came to Williams’s home to administer the drug tests became “like family.” Williams jokingly said, “I think I hold the world record for most drug tests.” The failed drug tests resulted in numerous suspensions and fines, which prompted Williams to retire from the NFL early, come out of retirement, and then retire again shortly thereafter. Williams, now a medical marijuana advocate, was drafted fifth overall in the 1999 draft and was expected to be an exciting upcoming player. All expectations were lost after Williams’s numerous suspensions and early retirement. Repetitive marijuana violations clearly contributed to the premature conclusion of Williams’s promising career.

Another example is the Houston Astros up-and-coming star power-hitter Jon Singleton. Singleton is best known for the $10 million deal that he signed before he had even made a single major league plate appearance. In 2011, Singleton was touted as the Astros’ best prospect. While he made major league appearances in 2014 and 2015, Singleton was demoted to the Astros’ minor league baseball team after testing positive for marijuana a third time and
was suspended for 100 games. In 2013, Singleton was also suspended for 50 games after testing positive for marijuana a second time. On May 21, 2018, the Houston Astros released Singleton after just 95 regular season games.

Questions Abound and the Controversy Continues

Law and the public’s perception of marijuana have changed over time, even as the debate continues with many weighing the pros and cons of its legal role in society. The arena of professional sports and sports leagues is a microcosm that highlights the debate about marijuana in society and also deals with unique controversies due to issues specific to athletics. With developments at both the state and federal levels, questions about marijuana’s future will likely arise with even greater frequency.

The second part of this two-part series will discuss some of these questions about marijuana’s future in the context of sports medicine, including its potential impact with the opioid epidemic and the research on chronic traumatic encephalopathy.

Joseph Hanna is an attorney and partner with Goldberg Segalla in Buffalo, New York. He also leads the JIOP Alumni Committee, is actively involved with the American Bar Association, and was a JIOP alumnus.
How to Avoid the Top Three Pitfalls of ADR When Your Client Is a Non-English Speaker

By Hon. Zuberi Williams and Shreya Patel

Alternative dispute resolution (ADR) is killing it these days! There are many reasons. First, the overburdened judicial system cannot try every case. Second, studies have shown that when parties self-determine solutions to their own disputes, they have greater satisfaction. Third, ADR can be cheaper and more efficient, and it can lead to more robust and enduring solutions. Last, ADR can be a more effective path for solving large, unwieldy problems.

Whether it is a settlement conference with a judge, mediation, or arbitration, lawyers are reengineering what future litigation looks like on the local, national, and international stages. But, as we rocket toward the future of ADR, lawyers should be mindful about its effect on their clients. Especially, where language is a barrier to communication between the attorney and the client as well with other parties. This article identifies three pitfalls lawyers should avoid when a language barrier exists in legal proceedings.

1. Build Trust with Your Client

The actual ADR meeting can be intense for clients. The process is foreign. It is unfamiliar. Its purpose can be confusing because clients have either filed, or been served with, a lawsuit because they could not work out an issue by themselves. Why participate in ADR, which tries to resolve the issue without a trial? Having a trial was the whole reason for the lawsuit.

“It takes work to get your client comfortable with the process, which, if conducted in English, is amplified with a non-native speaker,” cautioned Adam Lurie, head of the U.S. dispute resolution practice group at Linklaters, LLP. “The biggest problem with having different languages at the settlement table is trying to gain trust from your client.” Lurie went on to explain that because ADR is not always focused on the merits of the case, but instead may address a practical discussion of the party’s goals, it can be harder to win trust from the client. The client is often more comfortable talking about the facts of the case, so when this is not at the forefront of the discussion, the client may be hesitant to trust the process and, more importantly, his or her lawyer. “You have to win the client’s trust and let them know that you are in their corner,” summarized Lurie.

The best practice solution is not novel: An attorney must take the time and energy to over-explain the process to the client in his or her native language, making sure he or she actually understands. Parties may come from countries where the legal system is not as robust, so
explaining the issues may be challenging. This may seem like a no brainer, but it is routinely overlooked by even the most experienced trial attorneys. In such instances, the lawyer does not explain the process, only explains it once, or relegates the task to a member of his or her firm who speaks the client’s language. However, often only the client and the attorney (who does not speak the client’s language) appear at ADR meetings. At this point, the reliance is on the ADR facilitator to explain the process to the client. By this time, it is too late and insufficient for the client. Instead, spend time introducing your client to the process in the client’s language before ADR meetings. Build authentic trust that can carry you through the entire process.

2. Interpreters Alone Are Basic—Stop Being a Basic Betty (or Bob)

Woven in every language barrier is the silk thread of culture. Sometimes merely speaking another language is not enough. An understanding of the beliefs, perceptions, and concerns of a culture often sits at the heart of resolving issues. A party’s willingness to settle and perception of the strength of a case can be amplified by cultural difference. This is true not only between cultures but also within cultures that speak the same language but have different traditions. “Having an interpreter [alone] may not cut it,” Lurie explains. “An interpreter might not convey the right message, so it can be more effective if there is someone on your legal team, who has a fiduciary duty [and who understands the culture], to speak the language.” The most evident problem that arises when parties to dispute resolution speak different languages is that there is a lack of familiarity with the culture. Attorneys may not be familiar with the opposing party’s background, which can shape the way the parties interact at ADR meetings. It is sticky. It is complex. It is touchy-feely. But it is also conquerable.

The best practice when participating in ADR with a non-native-speaking client is to adopt a team approach. Do not fall into the “I’ve been practicing for 20 years and all I need is an interpreter” diatribe. It is too basic, bravado, and it misses the point. “Attorneys need to hire more foreign-language interpreters and lawyers [as members of their firms],” surmised Musha Eisner, a certified interpreter for the Maryland state judiciary with 16 years of experience in the courts and mediation. “Any state-certified interpreter can do the job, but for the client to have a true understanding of the process, the potential exposure, and whether or not they are getting a good deal, has to stem from conversations with their attorney ahead of time.” There must be someone on the lawyer’s team who holds the client’s hand through the ADR process and understands ahead of time what cultural pitfalls may exist. “A judicial temperament, patience, and repetition is required from your interpreter,” stated Eisner.

This is especially true with international ADR. “You have to [be] careful to avoid having only a United States hat on when you have different languages at the table because it could make the legal advice one dimensional,” explained Lurie. It is too basic. Instead, give your client global
advice and show your client that you have thought about the issue from many different angles. You have to explain the different ways in which the case can proceed through the dispute resolution process depending on the language used and type of law that will govern. “This embodies a different level of cultural and strategic sensitivity,” continued Lurie.

3. Perform a Pragmatic Risk-Loss Assessment

One of the keys to a successful ADR is the ability for parties to perform pragmatic and reasonable risk-loss assessments about the value of their case. Each party may ponder the full range of key decision points that a judge or jury may consider. Failure to do this leads to unrealistic client expectations and can rattle the ADR process from the beginning. It is natural for parties to fantasize about potential gains but minimize their tolerance for risk. Effective lawyers will provide a reasonable reality check for their clients. It is not enough for the attorney to follow a pro forma script or explain risky outcomes to the client in a language unfamiliar to the client. The lawyer must authentically manage expectations and ensure the client truly understands.

This important attorney-client conversation can be paralyzed by the language barrier between lawyer and client if the lawyer does not take sufficient time to assess the risks and clearly communicate that assessment to his or her client. This communication can be time-consuming. It can be redundant. It can be exhausting. It can seem unimportant. The best practice solution is to sit down with your client and do it anyway. It is essential. Spend time with your foreign-language interpreter or member of your firm to create the risk-loss assessment questions you plan to ask non-English-speaking clients. Be detailed.

Conclusion

The point is that there is no excuse as to why you cannot engage in successful ADR processes simply because of a difference in language. Build trust, form a team, and engage in risk assessment. Alternative dispute resolution is not going anywhere; it is only getting more powerful, more prevalent, and more successful at solving legal disputes.

Hon. Zuberi Bakari Williams is an associate judge of District Court of Maryland in Rockville, Maryland. Shreya Patel is a law clerk for Judge Ivan D. Davis, who presides at the U.S. District Court for the Eastern District of Virginia, in Richmond, Virginia.
From Clerkship to Practice: Leaning on Your Clerkship to Avoid the Problems of Private Practice

By Hon. Zuberi Williams and Gabriela Chambi

Folks choose judicial clerkships for many reasons. Some choose to clerk for the legal experience. For some, clerkships serve as a “safe haven” apprenticeship before being exposed to the realness of potential malpractice claims. Still others choose clerkships because they are told to do so by their mentors or for prestige and bragging rights among their colleagues. Regardless of the reason you choose to clerk, how you leverage the lessons you learned post-clerkship is key to early success in private practice. This is especially important when partners at the firm that hired you expect you to know how the law works with little to no hand-holding despite having little to no experience in private practice. It can be difficult. It can be scary. It can be overwhelming. But it is manageable if you lean on the lessons you learned as a clerk.

The top three attributes that we suggest leveraging post-clerkship are (1) managing your judge/partner, (2) being pragmatic, and (3) staying infinitely organized.

1. Manage Your Judge/Partner

No matter what anyone tells you, the first priority of any clerk is to manage your judge. This does not mean handling your judge in a pejorative, political, or manipulative way. It means understanding your judge’s communication style, expectations, and view on how the law affects everyday people. All judges have their judicial philosophies forged from their life experiences beyond their legal pedigree.

The first few months of the clerkship are spent trying to discern who your judge is and anticipate how he or she would analyze an issue. It is predictive. Almost prognosticative. Once you have a better handle on it, your research and writing become more clear, concise, and targeted. At least in the judge’s mind. Most importantly, your reliability quotient with the judge increases. The judge learns that he or she can rely on you. The judge begins to expect you to provide good work product. The judge begins to see you as an extension of himself or herself.

In private practice, manage partners and your supervising attorneys in the same way. Increase your reliability quotient with them quickly and from the start. Learn their expectations. Learn their communication style. Figure out their legal philosophy. Discover their view on how the law affects your clients. Do not just rely on what you read about their legal pedigree from the firm’s website. That is shallow and does not foster the same type of relationship you probably forged with your judge during the clerkship. Do more. Dig deeper.
In the first few months, if you are able to get your supervising attorneys to see you as an extension of themselves, they are more likely to give you the benefit of the doubt when you make mistakes. They are more likely to be tied to, and invested in, your success at the firm. In the same way your judge became invested in you, it matters that your supervising attorneys feel invested in you.

2. Be Pragmatic

Clerking, especially at a trial court, helps to remediate a deficit in practice experience left by law school. It forces you to deal with things sensibly and realistically in a way that is based on practical rather than theoretical considerations—to be pragmatic in the law. There is no time for you to spend hours upon hours researching the finer points of legal theory. A trial will not wait a week for a clerk to help the judge resolve an issue. This skill requires targeted research and an understanding of the issue the judge is trying to decide. Do not drown in case law that has nothing to do with what is being asked. You want to tell your judge succinctly that this is the issue presented, this is the rule, this is how the facts apply to the rule, and thus you should do this. The research must be correct, fast, and driven by the facts of the case.

The same is true for private practice. At their core, clients want to know whether they will win or not (whatever “winning” means to the client). A client will not be happy if he or she has to pay the firm for hours of inaccurate research. The client may not tolerate waiting a week to receive a response. Similar to the pragmatism that a clerkship requires, practice mandates understanding a client’s targeted research needs. You have to stand in the client’s shoes to understand his or her objective. General recitation of the law is not helpful because the client wants to know how the law addresses his or her specific problem and what steps the firm will take to solve it.

3. Be Infinitely Organized

Create a project chart. A clerk has several tasks, especially when clerking in a court that has more than one judge. Being organized is extremely helpful to being a successful clerk. As a clerk, you write orders, have several different research projects, and prepare for motions, among other things. A project chart lists a project description, the judge assigning the project, and the deadline. Creating a chart is helpful not only in keeping you organized; it is also helpful when discussing your workload with a supervisor or judge. This way you can show the judge all the projects you have worked on, what you are working on now, and how much time you have to work on additional projects. It is a snapshot of what is occurring in real time.
In private practice, you will get assigned several cases that are constantly moving and could be in different phases of litigation. As smart as you are, your brain will not remember all the deadlines and things to do for each case. Make a chart or ask for a whiteboard on which you can list all the projects and deadlines for the cases you are working on and calendar all the deadlines. It should be open and prominent. Analog and not digital. Large, not small. This way, you can show a partner what you are working on, which will provide you with leverage when asked to take on another case or project. This type of organization provides evidence that goes above and beyond the common “I don’t have time” or “I’m swamped” responses, which may be viewed as laziness or apathy.

**Conclusion**

Whatever the motive for completing a clerkship, do not forget the value of it. As you enter the practicing world, reflect on the lessons learned from your clerkship, and use them to succeed.

*Hon. Zuberi Bakari Williams is an associate judge of District Court of Maryland in Rockville, Maryland. Gabriela Chambi is a litigation attorney at Carr Maloney P.C. in Washington, D.C.*
JIOP Alumni Spotlight: Aaron G. Clay

By Cristina Henriquez

Aaron G. Clay is a patent litigation associate at Finnegan, Henderson, Farabow, Garrett & Dunner LLP. Aaron’s practice focuses on patent litigation and appeals dealing with pharmaceuticals and biotechnology. Aaron had the honor of interning for Judge Anna Blackburne-Rigsby at the District of Columbia Court of Appeals and Judge Gerald Bruce Lee at the U.S. District Court for the Eastern District of Virginia. Aaron then clerked for Judge Lee at the U.S. District Court for the Eastern District of Virginia and for Judge Kara F. Stoll at the U.S. Court of Appeals for the Federal Circuit.

How did you learn of JIOP and what made you decide to apply for and participate in the program?

I always knew that I wanted to clerk after law school, so I started searching for opportunities to intern with a judge. Through the career services office at American University Washington College of Law, my alma mater, I came across the ABA’s JIOP Program. I decided to apply because it seemed, and proved to be, a great program: It has a great pipeline for securing a judicial internship, a close network of alumni, and a summer program with other interns.

Tell me about your JIOP internship.

I ended up doing two internships. I first had the pleasure of interning for Judge Blackburne-Rigsby at the District of Columbia Court of Appeals. That was my first real exposure to the judicial process (outside of the classroom) and an opportunity to develop my legal writing skills.

That internship led to my second internship, with Judge Lee in the Eastern District of Virginia. That was also a great opportunity. Judge Lee is very well connected with the JIOP Program and with my law school as it was his alma mater as well. My internship experience with him solidified my interest in litigation. It was my first trial court experience, and I found that I enjoyed the diversity of cases and subject matter, as well as the day-to-day trial court operations.

I viewed both of my internship experiences as an opportunity to prepare for a post-graduate clerkship. And the internship with Judge Lee led to my clerkship as I eventually clerked for him after law school.

What are your best memories from your internship experience?
My best memories are the ones of briefing and discussing the cases around a conference room table in an open environment with the judges and other law clerks, bouncing ideas and perspectives off each other about the issues in the cases. Both of my experiences demonstrated to me that judges give interns substantive assignments and value their opinions, particularly when interns may disagree with or have a different opinion than the judge. A lot of people may shy away from expressing their views in such situations, but I think that judges really appreciate the different perspectives that the members of chambers bring to resolving the cases. In fact, that may be what judges appreciate the most.

**How did you learn of JIOP and what made you decide to apply for and participate in the program?**

I always knew that I wanted to clerk after law school, so I started searching for opportunities to intern with a judge. Through the career services office at American University Washington College of Law, my alma mater, I came across the ABA’s JIOP Program. I decided to apply because it seemed, and proved to be, a great program: It has a great pipeline for securing a judicial internship, a close network of alumni, and a summer program with other interns.

**What did you learn from your JIOP internship?**

Hard work and attention to detail go a long way. Attention to detail is very important to everything we do, especially when interning for a judge because your work product is very public. I also gained a lot of practical experience such as managing dockets, efficiently researching legal questions, and analyzing legal issues.

**Have you continued to be involved in JIOP after your participation as an intern? If so, how?**

Absolutely. Since my internship, I have stayed connected with JIOP. I started out on a newsletter subcommittee, and through that, I continued to hone my writing and editing skills, which translated well into my practice.

And for a few years, I served as National Alumni Cochair, overseeing the subcommittees, including newsletters.

I have also continued to engage in mentoring, networking, and professionally connecting with a lot of attorneys who work across different practice areas.

**Do you have any advice for students who will be interning with a judge through JIOP?**

Give it your all. Treat your internship experience like a long and extended interview, especially if you are considering applying for a clerkship right after law school. This is not a typical
internship; it is a real opportunity not only to grow professionally but also to assist the judiciary in resolving difficult questions.

A lot of times students may take an unpaid internship and not take it seriously simply because it is unpaid. That is a huge mistake and a lost opportunity. Many times, the judges treat their interns as an extension of their law clerks, and that is an extremely important position. There is a lot of value that interns can add to chambers. It goes a long way to focus on producing high-quality work.

Try to soak it all in. A lot of times students do not know what practice area they want to focus on, and interning, especially at the district court level where there are so many different types of cases, can be a great opportunity to figure out the cases that interest you most. It is one thing to be in the classroom and learn from an academic perspective, and it is quite another to see the real-world application, especially in the courtroom. It can help students solidify career goals.

**Did JIOP prepare you for your clerkship?**

Yes. Because interning involves working closely with the judge and the law clerks, interning gives you an idea of your future day-to-day responsibilities as a clerk. Drafting bench memoranda and written opinions is something that cannot be learned in the classroom, and it was great being able to learn the requisite skills in that environment. I felt much more prepared and comfortable walking into a clerkship because of my internships.

**What advice would you give to those who are interested in pursuing a clerkship?**

Put yourself in a position to secure a clerkship by continuing to excel academically (or improving your grades if there are some blemishes on your transcript) and seek opportunities to develop and hone your legal writing such as participation in law review, journals, the ABA, or other publications.

Secure an internship to prepare you for your clerkship. An internship gives you an insight into the day-to-day responsibilities of a law clerk.

Apply broadly. Anyone can live anywhere for a year, especially for the experience you get as a clerk. Given how competitive it is to secure clerkships these days, the best advice is to apply as broadly as you can while considering any family and financial constraints. Regardless of the geographic location of the clerkship, the skills that you develop as a clerk are easily transferrable and applicable to any practice area. Take the risk and adventure to get the experience you need to prepare you for practice.
Even if you are not successful in securing a clerkship right out of law school, I would highly encourage people to apply even after they have been in practice a couple of years. Don’t cut yourself out just because you did not secure a clerkship straight out of law school. Practicing before your clerkship can help you in your clerkship. I did my district court clerkship right after law school, and it was a steep learning curve. It got easier after a few years of practice. When I clerked at the circuit level a few years later, I found that I could more efficiently analyze cases.

**Is there anything else you would like to say to the JIOP community?**

It is a great community that extends well beyond the summer program. It is a great opportunity not only to secure an internship, which will add value to your professional development, but also to get more involved in the ABA, where you can seek leadership positions and build your professional network.

I encourage everyone who has participated in the program to stay connected and continue volunteering. It helps to pull up students coming up behind you by giving them the same opportunity we all received through JIOP.

*Cristina Henriquez is an associate at Mayer Brown in San Francisco, California.*
Does a Diverse Bench Really Matter?

By Faith Deredge

This article is available online at ABA Journal: Does a Diverse Bench Really Matter?
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