Judicial Law Clerk: The Legal Experience of a Lifetime

By Adam S. Lurie

A judicial clerkship presents a young lawyer with the opportunity to work one-on-one with an accomplished and respected jurist, to hone writing and decision-making skills, to gain an inside perspective on the court system, and often, to make a trusted friend and mentor. Law clerks not only make up a large segment of government lawyers, but many state and federal government public servants and leaders are attorneys who began their careers as judicial law clerks. Indeed, several United States senators including Michael Crapo of Idaho, Paul Sarbanes of Maryland, Richard Shelby of Alabama, Gordon Smith of Oregon, and John Warner of Virginia are former judicial clerks.

Most federal and state judges select first-year attorneys to serve as their law clerks for one or two year terms. Each year, a judge may receive hundreds of applications for a clerkship opening, but can only hire from one to four law clerks, depending upon the court. For example, a federal district court judge may typically hire two law clerks, whereas a judge who sits on a federal court of appeals may hire four. Similarly, a state trial court judge may typically hire one law clerk, while a state appellate court judge may hire two.

A law clerk’s experience varies from court to court and from judge to judge. This article profiles several law clerks who clerked in different courts and uses their stories to illustrate the clerkship experience.

A Special Relationship

Growing up, Bill Agee had a close friendship with the son of Chief Judge Levin H. Campbell of the U.S. Court of Appeals for the First Circuit in Boston. When Agee was a teenager, Judge Campbell would invite his law clerks and Agee to the Campbells’ summer home in Maine. There, Agee would talk to the law clerks about their work and observed the unique relationship Judge Campbell shared with his clerks. Seeing that relationship, Agee decided he wanted to serve as a law clerk.

Agee, who is now Assistant General Counsel for the Massachusetts Department of Telecommunications and Energy, applied for a clerkship during his second year of law school. That year, he received several interviews, including one with federal district court judge Clarence C. Newcomer in Philadelphia, but did not receive any offers. Agee was determined though, and he applied again during his third year of law school, this time for a clerkship to begin as a second year attorney. He interviewed with Judge Newcomer again, and Judge Newcomer offered Agee the clerkship. Agee had a problem though; he had already accepted an offer to join the Philadelphia law firm Wolf, Block, Schorr and Solis-Cohen as a first year associate, and if he clerked, he would have to leave the firm after only one year. When asked how he dealt with the situation, Agee said that he “was not going to let the Holy Grail slip through [his] fingers.” The Chairman of Wolf Block, Mark L. Alderman, met with Agee the afternoon that he received the offer and Alderman strongly supported Agee’s desire to clerk for Judge Newcomer. Alderman had himself served as a law clerk and found the experience to be an extraordinary one. After joining Wolf Block for the first year, Agee went on to clerk for Judge Newcomer.

As a law clerk, Agee prepared drafts of opinions and jury instructions and discussed cases daily with Judge Newcomer. Since his clerkship, Agee has continued in public service: as Assistant General Counsel to former New Jersey Governor James J. continued on page 2

The American Bar Association’s Government and Public Sector Lawyers Division recognizes and honors those unsung heroes, the government and military lawyers, who are working so diligently and bravely to investigate the September 11 terrorist attack and who toil all over the world to protect our freedom and preserve the ideals of democracy every day.
Florio, as a senior attorney with the Federal Communications Commission in Washington, DC, and now as an attorney with the Massachusetts Department of Telecommunications and Energy. In each position, the training Agee received as a law clerk has helped him, and Agee maintains that "a clerkship is the single most valuable experience a young lawyer could have." More than anything though, Agee values the relationship he shares today with Judge Newcomer and his wife Jane. Last summer, Agee and his wife were the weekend guests of the Newcomers at their beach home in New Jersey.

**A Lesson in Judgment**

James Nobile arrived early for his interview with Judge Harold A. Ackerman, a federal district court judge in New Jersey, allowing Nobile time to observe Judge Ackerman presiding over a large mob case. As Nobile sat in the courtroom, he "wanted to be part of all the excitement," he says. Judge Ackerman later offered Nobile a clerkship, which he accepted, and Nobile has been part of the excitement ever since. Immediately after his clerkship, he joined New Jersey's United States Attorney's Office and is now the Chief of the Special Prosecutions unit.

"A clerkship has the steepest learning curve ever. I learned to draft a memorandum on any subject for any case, and got incredible feedback immediately," says Nobile. As Judge Ackerman's law clerk from 1988-1990, Nobile learned more than how to write and reason effectively. He also "learned how to learn, how to handle people, how to stay organized handling so many cases at once, how to present him[self] and how to listen." To Nobile, however, the most important thing he learned was the premier role fairness and equity play in judicial decisions. "When you strip away all of the law, you get a sense that the role of the Court, and the role the Court takes most seriously, is to be fair." He carries this lesson with him today every time he makes a decision, including whether to investigate a suspect, prosecute a case, or push for a particular sentence.

**Where Freedom and Responsibility Come Together**

The late Judge Robert C. Murphy, former Chief Judge of the Maryland Court of Appeals, the highest Court in Maryland, always allowed his two law clerks to choose the cases they worked on each month. Marianne Mason, Judge Murphy’s law clerk from 1978-1979, chose cases concerning constitutional law and land use because those interested her most. As a result, Mason drafted opinions concerning the takings clause, the First Amendment, and certified questions from the United States Court of Appeals for the Fourth Circuit during her clerkship.

"We only drafted opinions for Judge Murphy, not bench memos," reveals Mason, when asked about the amount of responsibility she was given. At least one of her opinions impacted more than the law of Maryland. Immediately after her clerkship, Mason served in the Honors Program at the United States Department of the Interior's Solicitor's Office in Washington DC. How did she get that job? Judge Murphy called the Interior Solicitor and told him to read one of Judge Murphy's reported opinions, then said, "she wrote that." Mason today serves as an Assistant Attorney General in Maryland, as Deputy Counsel to the Department of Natural Resources.

That quote is not the one Mason remembers most from Judge Murphy. "He would always say, 'Tell me what you think. I already know what I think.'" That directive, and Mason's response, could prove persuasive on a court with seven judges, where one judge's vote could change the outcome of a case. Indeed, Mason recalls that she and the judge engaged in hours of lively discussion about a case involving the constitutionality of a law restricting accountant advertising. There, the Maryland Court of Appeals held the statute unconstitutional by a 4-3 margin. Judge Murphy was the tie-breaking vote.

**Learning from a Mentor**

Before beginning law school, Joseph P. Morra learned the importance of networking during his ten years as a professional musician on the nightclub circuit in New York City. One reason Morra says he sought a clerkship was because he "knew that a clerkship would provide [him] with an opportunity to make valuable contacts in the legal community." Perhaps the most valuable contact Morra made during his clerkship was Judge Vincent E. Ferretti, Jr. of the Circuit Court for Montgomery County, Maryland, the judge for whom Morra clerked from 1982-1993. "He had tremendous experience and expertise to impart to me, and he graciously included me in just about every aspect of his work."

Morra, who now serves as special counsel for the Securities and Exchange Commission's Division of Market Regulation in Washington, DC, says Judge Ferretti's obsession with detail still influences him. Every time Morra would finish reviewing a case file for Judge Ferretti, the judge would ask Morra "was there service of process, and was it proper?" Morra confesses that, at the time, he thought beginning every conversation with that question was ridiculous, especially if a case had been pending for years. However, he now concudes that "his approach was absolutely proper. If service was improper, then he may not have [had] jurisdiction to make any sort of ruling in the case." Surprisingly, Judge Ferretti caught several attorneys making the embarrassing mistake of serving a complaint improperly.

"The judge's obsession with detail has rubbed off on me, and has come in handy quite often," says Morra, who prepares SEC staff for congressional testimony, speaks on industry panels, reviews and approves certain rule changes, and performs other regulatory functions. Today, Morra and many of Judge Ferretti's other former law clerks still benefit from the judge's advice even though he is retired and lives in North Carolina.

It is true that many private law firms offer starting salaries that are triple the amount earned by a law clerk. However, most former law clerks agree that the experience of clerking is priceless.

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