Judicial Clerkships: An Oft Overlooked Option for Students Interested in Public Sector Careers

by Lorri Olan

This is a tough time to be looking for a job, particularly for public interest students. The NALP Public Service Section’s recent survey of hiring trends for public service employers in 2010 and 2011 confirms that “the number of perennially coveted public service jobs for recent law graduates . . . has [indeed] shrunk” (Steven L. Grumm, “A Snapshot View of the Public Service Hiring Landscape,” NALP Bulletin, December 2010). Where else can these students find work? The number of judicial clerkship vacancies usually remains fairly steady, even during an economic recession. Career services offices should continue educating all students, but particularly those interested in public service, about the benefits a clerkship offers.

CSOs know the mantra: judicial clerkships are great places for all law students to launch their legal careers. After serving as a state court clerk for nearly ten years in two states for several judges, I confess I am a huge proponent. Indeed, I have yet to meet a former clerk who did not love his or her clerkship. Clerks gain top-notch legal research and writing, critical reading, analytical, and advocacy skills while learning first-hand how the justice system works. These essential legal skills are beneficial to all new lawyers.

In my experience, public interest–minded students do not usually consider clerkships an option. Most candidates, particularly those interested in federal clerkships, are interested in working for large law firms. An informal three-year study at The Catholic University of America, Columbus School of Law, found that 72% of federal clerks entered private practice immediately following their clerkships (Jessica Heywood, “Federal Judicial Clerks: Where They Go and Why,” NALP Bulletin, December 2007). Among the factors clerks cited for their decisions were their desire for challenging work, formal and informal training opportunities, and financial incentives.

Perhaps public interest–minded students are unaware of the opportunities available, do not consider themselves qualified for a clerkship, or don’t understand how a clerkship can develop legal skills essential to a successful practice. To be sure, public interest employers want candidates with skills above and beyond those traditionally developed during a clerkship. As Steve Grumm noted in his December 2010 NALP Bulletin article, “With planning and forethought, the knowledge and skill set employers desire can be nurtured while working for a judge.”

Opportunities

A student committed to public service and passionate about a practice area should focus on developing legal knowledge in that particular area of the law. This can be achieved in a clerkship. State court clerkships are great for students interested in local government, criminal law, or small firm practice. Appellate courts are great launching pads for those interested in appellate advocacy.

Beyond state and federal courts and trial and appellate courts, there are many options to consider. There are specialty courts, government agencies with administrative law judges, and courts with limited jurisdiction over probate, criminal, juvenile, housing, and family law issues. For example, students interested in the environment should know there are environmental courts in North Carolina, Tennessee, and Vermont, and administrative law judges at the Environmental Protection Agency.
Clerkships are great venues for young lawyers to develop legal expertise and can introduce lawyers to new areas of the law that interest them. A few of the practice areas that are expected to grow are immigration, elder, healthcare, employment, environmental, housing, and consumer banking law. For tips on tailoring a clerkship to particular legal specialties, see my article entitled “ABCs of Clerkship Research: Tailor the Search to Maximize Fit” in the March 2010 NALP Bulletin.

Candidate Qualifications

Debunking the myths about clerkship qualifications is a constant CSO mission. One tool suggested at last year’s NALP Annual Education Conference was to create a chart showing the total number of clerkships from your school over a five-year period and recording the number at each GPA range at each court level. As a general rule, federal judges are fairly strict about their preferred qualifications, mainly law review and class rank. State court judges, however, often have more flexible hiring criteria. The public interest–minded student may actually stand out from other candidates. As committed civil servants, it is no surprise that judges want to hire like-minded clerks. Some judges and federal staff attorneys’ offices require a demonstrated commitment to public service. (See “Judicial Clerkships: Federal Staff Attorney Positions” by Elizabeth Armand and Malini Nangia in the December 2008 NALP Bulletin.) Indeed, several clerks reported their public service was a key factor in their getting the job. Unfortunately, determining who those judges are is not so simple.

The Public Interest Career

With fewer opportunities available for public interest–minded students, clerkships are a viable option deserving of serious consideration by law students and significant promotion by career services offices. Law clerks learn to craft successful arguments from observing myriad courtroom proceedings. They learn how to be an effective advocate from reviewing persuasive briefs. As one former clerk observed, reading how lawyers wove policy arguments into their briefs taught her to do the same as a civil rights lawyer. Regardless of the arena in which a student wants to practice, building a practice specialty takes time, initiative, and patience. What better place to start than with a coveted judicial clerkship?

Through educational programming, collaboration with student organizations, distribution of clerkship-related articles and brochures, and enlisting faculty as proponents of clerkships, CSOs can advise students about the clerkship opportunities available and why they are worth exploring.

How Do LRAPs Fit into the Picture?

Committed public interest students are not going to top the salary charts. Local, federal, and law school loan forgiveness programs are instrumental in helping graduates to choose public service careers. Clerkships are “government employment” under the College Cost Reduction and Access Act. How does your school’s LRAP consider clerkships? Are they “qualifying employment”? If not, does the time count against awardees for determining loan forgiveness? A 2000 NALP study concluded that there is no readily ascertainable reason why judicial clerkships, which are a form of public service, cannot be treated like other public service jobs, evoking eligibility for financial assistance, loan forgiveness or deferral programs. (See www.nalp.org/courtingclerkships for more on the Courting Clerkships study.) Perhaps this is an issue that the NALP Public Service and Judicial Clerkship Sections can address together.

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