

Howard University School of Law
State and Federal
Judicial Clerkship Handbook
2011 – 2012 Term



Prepared by:
HUSL Law Faculty Judicial Clerkship Committee

The purpose of the HUSL Judicial Clerkship *Handbook* is to provide helpful tips and suggestions as you decide whether to apply for a judicial clerkship. With over 100 HUSL graduates serving on the bench, a judicial clerkship provides a rare opportunity to develop skills, make connections and make a difference. We wish you well in future endeavors.

~ *The Faculty Judicial Clerkship Committee*, March 2011

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April 2011 Revision

HUSL Judicial Clerkship Handbook

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I. WHY CLERK?

The institution of law clerking began over one hundred years ago when Horace Gray, then the Chief Justice of the Massachusetts Supreme Court, (later appointed to the U.S. Supreme Court), first employed a legal assistant. In the 1930s, the institution of law clerking became fully entrenched in the federal judiciary when clerks began to be regularly employed by the lower federal courts. Since that time, the number of clerkship opportunities has increased markedly.

Howard University School of Law has a long and proud tradition of involvement with the judiciary, both in providing clerks and judges. We hope this handbook will encourage you to become a part of that tradition.

A judicial clerkship is typically a one- or two-year position in the chambers of a judge. A judicial clerk -- sometimes called law clerk, clerk or even elbow clerk -- serves, in essence, as a judge's attorney, and judges typically place an enormous amount of reliance on the counsel of their clerks. Clerks therefore have great responsibility and an unparalleled opportunity for learning. We spend an extraordinary amount of time in law school dissecting and analyzing court opinions, and one of law school's main goals is to train lawyers to craft arguments that will sway judges to hold for their clients. What better way could there be to round out one's law school experience than by spending a year working with the judges who produce these opinions and judgments?

A. PERSPECTIVE

A judicial clerkship allows a lawyer to view the system of justice from the perspective of the judiciary at the beginning of one's career. Unless you become a judge, you will never again have an insider's view of how judges make decisions, and how judges respond to different methods of advocacy. You will also probably never again be in as good of a position to make a mark on the law, by helping a judge, as a trusted aide, to reach his or her decisions. To witness, and take part in, the judicial decision making process and the writing of court opinions is simply an invaluable asset to anyone interested in understanding the law thoroughly and becoming an effective legal advocate or scholar.

B. EDUCATION

A judicial clerkship is an intensive period of post-graduate education. There are a wide variety of courts -- state and federal, trial and appellate, specialty -- and the work can vary widely as well. Typically, however, clerks read briefs, attend court proceedings, write bench memoranda analyzing parties' arguments, advise the judge on the disposition of a case, and draft opinions. Thus, a clerk is in the enviable position of thoroughly learning various substantive areas of the law, free from the pressures of advocacy and billable hours. You will learn how to quickly and cogently articulate the law in writing, and sometimes verbally, in order to prepare your judge. You will learn the difference between good and bad

advocacy from reading briefs and watching oral arguments, and assessing their effects on your own judge's decision-making in any given case. In addition, you will master procedural minutiae without having to fear the penalties of missing a filing deadline.

C. CAREER BENEFITS

A judicial clerkship can be a valuable stepping-stone for one's career. You will be working closely with a distinguished member of the legal profession, from whom you can learn a great deal. Usually a judge develops a great deal of affinity for his or her clerks, and is eager to serve as a mentor for years to come. Further, few employers -- firms, government, public interest and academia -- are insensible to the educational benefit and the perspective gained from the clerkship experience.

D. A GREAT JOB

Finally, a judicial clerkship is, almost invariably, an enormously enjoyable way to spend a year or two at the beginning of your career. Talk to people who have clerked; it is rare that you will hear a complaint. You will find many former clerks who say that clerking was the most interesting job they have had in their career. And many former clerks view their co-clerks and judge and the rest of the judicial staff as a "chambers family," with whom they remain personally close for years after the clerkship has ended. Even if you do not anticipate being a litigator, or even if you do not envision yourself practicing law, you should consider a clerkship as an end in itself. Consistently intellectually challenging work that can be of enormous public consequence is rare to come by in any field, at any stage of one's career.

II. MYTHS ABOUT CLERKING

A. *I CAN'T AFFORD TO CLERK*

Some students cite massive student loans as prohibiting them from taking a job for which first-year pay in 2009 began at approximately \$50,000 depending on location (See

http://www.uscourts.gov/Human_Resources/2009_Pay_Tables.html for federal salary information; first-year lawyers are classified on the government scale as grade 11, step 1. However, you can receive a step increase by passing the bar. In addition, you may be able to defer interest on some school loans for the clerkship period, or arrange to make minimal payments during that time.

Further, many law firms pay clerkship bonuses, helping to offset the earnings shortfall. State court clerkship salaries are noted in the *Vermont Law School Guide to State Judicial Clerkship Procedures* and range from approximately \$40,000 - \$60,000. Please refer to the Vermont Law School's *Guide to State Judicial Clerkship Procedures* at <http://vermontlaw.edu/xx1101.xml> for specific information. (This website is password protected. Please see Mrs.

Conti in Career Services to request the password to access the guide.)

Other students cite the enormous salaries firms often pay, and say that it is hard to forego what could amount to upwards of a \$100,000 salary differential. There is no arguing with the fact that the allure of money paid by the private sector creates a new challenge for those choosing public service. Remember, though, that, as an incoming associate who has clerked you will often be treated as an advanced associate (essentially receiving “credit” for the years you spent clerking. Moreover, clerkships are a credential that endures. As a former clerk, you will have your judge as a reference who is independent of both the firm’s fortunes and your fortunes at the firm. When you consider the many advantages clerkships offer, the question becomes, how can you afford not to clerk?

B. ONLY CERTAIN PEOPLE GET CLERKSHIPS, AND I’M NOT ONE OF THEM.

1. GRADES

Many students believe that only top students with impeccable grades can get clerkships. This is wrong.

2. LAW REVIEW

“Law Review,” some students say, “owns this process. Why should I bother?” It is true that members of the Law Review apply in higher numbers than do members of other journals or students who are on no journals. However, not being on journal does not exclude you from consideration.

3. RACE AND GENDER

There has been a lot of attention in the press regarding the poor showing of the U.S. Supreme Court with respect to hiring of minorities and women. Thanks in part to the *Grutter* decision and recent controversies at the Supreme Court; judges are more aware than ever of the benefits of hiring from a racially diverse pool. (See Tony Moro, “High Court Clerks: Still White, Still Male,” *Legal Times*, May, 25, 2006; Tony Mouro, “Counting the Clerks,” *Legal Times*, November 3, 2003; Patricia Manson, “ABA Effort Putting Minorities on Judicial Clerkship Path,” *Chicago Daily Law Bulletin*, Feb. 11, 2000; Nealy, Jounice, “Minorities Finding Clerkships Key to Law Careers,” *St. Petersburg Times*, Dec. 25, 2000; NALP, the National Association for Law Placement, “The Courts: An Excellent Place for Attorneys of Color to launch their Careers” www.nalp.org/thecourts.) Race and gender should not discourage you from pursuing clerkships.

4. CITIZENSHIP

Pursuant to the Treasury and General Government Appropriations Act, Public Law No. 106-58, section 605, *any judicial employee assigned in the continental United States compensated with federal funds must be a United States citizen or otherwise eligible for federal employment within the United States. A non-citizen of the United States may be employed by the federal judiciary to work for courts located in Puerto Rico, Guam, the Virgin Islands, Northern Mariana Islands and Hawaii.* Thus, judicial clerkships fall within the general restrictions on the use of appropriated funds for payment of federal salaries to individuals who are not citizens of the United States.

Note that these restrictions do not apply to employment outside of the continental United States; hence, you may pursue a federal clerkship in the islands listed above. Other exceptions may be applicable, both statutory and by treaty with certain countries, such as allies of the U.S.

Students who are interested in clerking, but are not U.S. citizens, must specifically inquire about their eligibility. The general information number for the State Department is (202) 647-6575, and the phone number for the General Counsel's Office at the Administrative Office of the U.S. Courts is (202) 502-1100. In addition, students should check the U.S. Office of Personnel's website, http://www.opm.gov/employ/html/non_cit.htm, for information about the employment of non-citizens. Citizenship requirements for state clerkships will vary with each state's law.

Non-citizens interested in clerking for a particular state court should contact the court's clerk.

C. *I SHOULD JUST GET A REAL JOB*

Some students feel like they have been in school for long enough, and they are ready to embark on the full-fledged practice of law. But spending a year or two at the beginning of your career at a terrific job at which you will learn an enormous amount is not a waste of time.

Often students who intend to pursue public-interest positions are particularly eager to dive directly into the field of their choice, rather than a clerkship. Remember, though, that clerkships provide excellent training that is often highly valued by public-interest employers, where resources for training are sometimes wanting.

D. *I DIDN'T APPLY DURING THE FALL HIRING SEASON, AND NOW IT'S TOO LATE.*

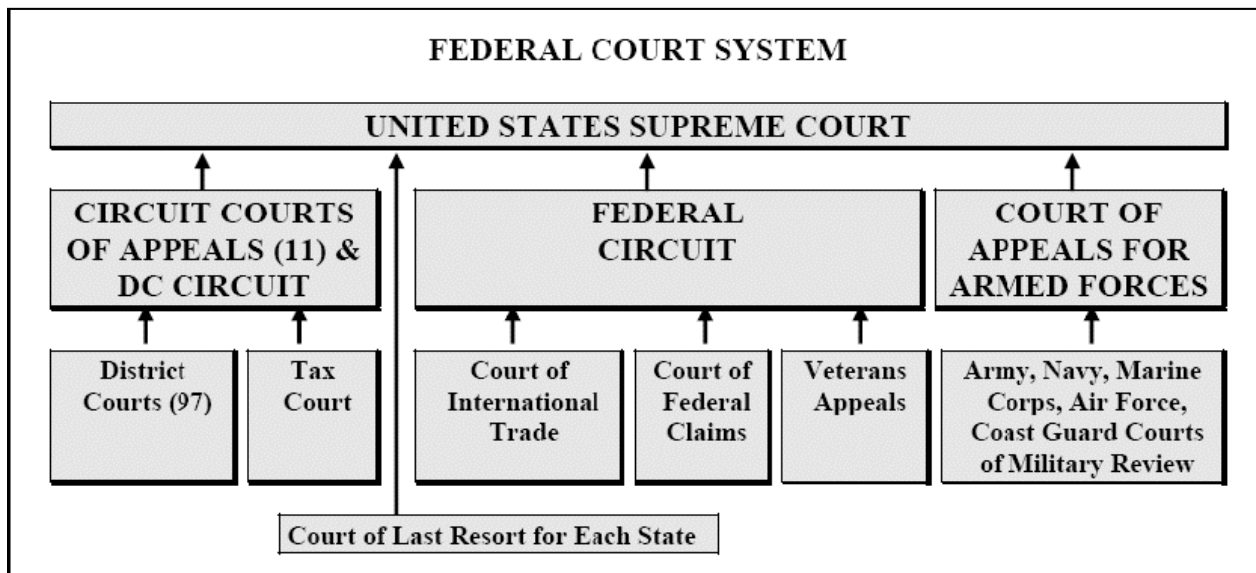
Before the current Federal Hiring Plan, students typically applied for clerkships in the fall of their second year. Now, students apply to clerkships in the fall of their third year (with the exception being for students applying to some state courts and alumni, who can apply at anytime). However, there are often clerkship openings that remain into the academic year and some as late as spring of your third year. For example, some judges will begin to look for clerks long after the bulk of their colleagues have filled their slots, or will find themselves with an unexpected opening because an appointed clerk withdrew. Likewise, when new judges are appointed, they need clerks.

In addition, many judges are beginning to prefer candidates who have been in the workforce for a year or more before they clerk. You may also apply for a clerkship after spending a year, or sometimes more, at a law firm. As long as you have employment plans for after graduation where you will be able to take some time off after a year, you should certainly consider this option. Be aware, however, that a year's hiatus after one year of working may make some employers unhappy. If you have accepted a post-graduation offer of employment, you must check with your employer before pursuing this route.

III. VARIETIES OF CLERKSHIPS

Many different types of clerkships exist, with a wide range of competitiveness and types of cases. While there are certain commonalities within these variations (most clerkships involve research and writing, and require a clerk to work closely with one judge), there are clerkships that appeal to many different interests.

A. FEDERAL CLERKSHIPS



1. ARTICLE III JUDGES

a. UNITED STATES SUPREME COURT

At its discretion, and within certain guidelines established by Congress, the Supreme Court each year hears a limited number of the cases it is asked to decide. Those cases may begin in the federal or state courts, and they usually involve important questions about the Constitution or federal law. The court consists of the Chief Justice of the United States and eight associate justices. U.S. Supreme Court justices are authorized to hire four clerks each, with the exception of the Chief Justice, who may hire five. Clerks are hired for a single one-year term. Retired Supreme Court justices also can hire one clerk; the work there will vary, ranging from sitting on Court of Appeals cases when the Justice sits as a circuit judge, to being “on loan” to the chambers of the Justice who replaced the retired Justice. Justices usually hire clerks who, by the time they arrive at the Supreme Court, will have clerked for at least one year for another judge, most frequently at the federal appellate level.

Certain lower-court judges have a reputation of being “feeders,” that is, “feeding” the pool of Supreme Court clerks by sending on a disproportionately high number of their own former clerks. However, new appointments to the Supreme Court make it difficult to predict who will be part of the new generation of “feeders.” Further, planning ahead for an attempt to obtain a Supreme Court clerkship by limiting your lower court applications while in law school to “feeder” judges is a high-risk strategy.

b. UNITED STATES COURTS OF APPEALS

There are thirteen judicial circuits, each with a court of appeals (the Court of Appeals for the Federal Circuit, which has jurisdiction over certain types of cases, and twelve regional courts, which have jurisdiction over certain geographic areas). The smallest court is the First Circuit, with six active judges; the largest is the Ninth Circuit, with twenty-eight active judges. The First through Eleventh Circuits each comprise three or more states; the District of Columbia Circuit hears cases arising in the District of Columbia. A list of the states that compose each circuit may be found in 28 U.S.C. § 41, and the number of judgeships in each circuit is set forth in 28 U.S.C. § 44. Different circuits often have different caseloads. For example, the District of

Columbia Circuit hears a lot of administrative cases, but not a lot of criminal law cases; the Second Circuit tends to have many financial and corporate cases; and the Sixth Circuit tends to have many labor-law cases. The Federal Circuit has jurisdiction over patent cases as well as cases brought against the federal government.

Active judges generally hire three or four law clerks, depending on the number of secretaries (two or one, respectively) they choose to have. Chief Judges may hire four or five clerks, and senior (retired) judges may have from one to three, depending on the size of the caseload they elect to maintain. Some federal judges (both circuit and district), however, have begun hiring career, or permanent, clerks to fill one slot in their chambers, which will reduce their need for temporary clerks.

Appellate clerks generally have no contact with the attorneys or parties in cases before the court. Typical duties for a clerk include reading the briefs and selected portions of the record (called the joint appendix) in a case scheduled for argument and preparing a bench memorandum prior to oral argument (although some courts, and some judges, do not use pre-argument bench memoranda). The format of bench memoranda can vary greatly between chambers; some judges prefer cursory, five-page treatments; others prefer a lengthy exegesis. As a general matter, though, the bench memo will contain independent research and will include a recommendation on the disposition of the case. Usually clerks attend oral argument, and discuss cases with the judge. After oral argument, if the judge is assigned to write the opinion, the clerk will usually be asked to write a first draft, which the judge will revise and edit. In some chambers, however, it is the judge who provides the first draft, and the clerk is asked to comment, edit and provide additional research. If the judge is not writing the opinion, often the clerk will be expected to read the proposed opinion from another judge's chambers once it is circulated. The amount of advice a clerk is asked to render on these opinions varies with the judge.

c. UNITED STATES DISTRICT COURTS

There are 89 districts in the 50 states, which are listed in 28 U.S.C. § 81-144. District courts also exist in Puerto Rico, the Virgin Islands, the District of Columbia, Guam and the Northern Mariana Islands, making a total of 94 district courts. Some states, such as Alaska, are composed of a single judicial district; others, such as California, are composed of multiple judicial districts.

The number of active judgeships allotted to each district is set forth in 28 U.S.C. 133.

District judges typically hire two recent law school graduates as law clerks; many district judges offer only two-year clerkships, while others offer one-year terms.

The hallmark of the district court clerkship is variety. District court clerks are in daily contact with attorneys and parties proceeding without counsel. (While the extent to which the clerk is permitted to discuss cases with attorneys varies among chambers, what does not vary is the need for a law clerk to develop great tact and discretion if called upon to do so.) District court clerks do almost all of the things appellate court clerks do, and also have a number of additional tasks. That is, many cases are decided by dispositive motions that are briefed and argued in much the same manner, as are appellate cases. A district court clerk assigned a case with a pending dispositive motion is, in essence, performing the same role as an appellate court clerk. District court judges also function as appellate judges at times, “sitting by designation” on courts of appeals. District court clerks are also heavily involved in the discovery process. They will often play the leading role in resolving discovery-related motions, and will also play a role in recommending (and sometimes participating in) pretrial conferences. Much of the discovery stage of the case turns on practical wisdom rather than book knowledge; clerks learn much by watching the process at work. Many cases settle before trial, and in-chambers settlement conferences are an important part of that process. Law clerks are asked to prepare judges for these conferences (often by reviewing the long history of multi-year cases, sometimes by researching issues likely to arise at later stages of the case), and clerks often attend the conferences as well. Finally, in those cases that do reach trial, the clerk will generally attend the trial and all related hearings. If there is a jury, the clerk may be involved in the preparation of jury *voir dire* and jury instructions. In civil bench trials, the clerk will often draft findings of fact and conclusions of law. The clerk may well be asked to participate in sidebar conferences on disputed evidentiary issues. In criminal cases, clerks are likely to be involved in the evaluation of sentencing recommendations under the Federal Sentencing Guidelines.

d. UNITED STATES COURT OF INTERNATIONAL TRADE

In the Customs Court Act of 1980, Congress created the U.S. Court of International Trade within the judicial branch, to deal with cases involving international trade and customs duties.

Previously named the U.S. Customs Court, the court has the same powers in law and equity as the district courts. Most of its cases concern the classification and valuation of imported merchandise, customs duties and unfair import practices by trading partners. The court is located in New York, NY.

2. ARTICLE I JUDGES

a. BANKRUPTCY JUDGES

A bankruptcy judge is a judicial officer of the U.S. district court who is appointed by the majority of judges of the U.S. Court of Appeals to exercise jurisdiction over bankruptcy matters. Bankruptcy judges are appointed for fourteen-year terms.

Bankruptcy courts are trial courts, and have jurisdiction over some of the most complex and economically significant litigation in the United States. Their clerks are exposed to not only bankruptcy law and procedure, but also to all of the other areas of law embodied in claims against the bankrupt's estate (called "adversary proceedings"). If you think you might be interested in a bankruptcy court clerkship, scan a volume of *West's Bankruptcy Reporter* to get a sense of the wide range of legal experience a bankruptcy court clerk can obtain. Again, because bankruptcy judges publish opinions, the tasks a law clerk is called upon to perform in these courts are quite similar to those of district court clerks, including drafting judicial opinions and orders of the court, attending and assisting in pre trial conferences and hearings, etc. See the American Bankruptcy Institute for more information about bankruptcy courts:

<http://www.abiworld.org//AM/Template.cfm?Section=Home>

b. MAGISTRATE JUDGES

A U.S. magistrate judge is a judicial officer of the district court and is appointed by majority vote of the active district judges of the court to exercise jurisdiction over matters assigned by statute as well as those delegated by the district judges. A full-time magistrate judge serves a term of eight years. A magistrate judge may eventually become appointed to the U.S. District Court.

Duties assigned to magistrate judges by district court judges can vary considerably from court to court, and from judge to judge. Generally, however, magistrate judges are often heavily involved in criminal cases, conducting arraignments, reviewing requested warrants, reviewing *habeas* petitions, etc. District court judges often delegate to magistrate judges

significant responsibilities in civil cases as well. Magistrate judges are often asked to attempt to settle cases, and often handle the pretrial stage of complex civil cases. Magistrate judges frequently write opinions, called “reports and recommendations,” advising the district judge as to how a case should be resolved. Occasionally, magistrate judges preside over trials, at the consent of the parties. In sum, a clerkship with a magistrate judge is very similar to a district court clerkship. Although a bit dated, see The Roles of Magistrates in Federal District Courts, by Carroll Seron, Federal Judicial Center, 1983.

c. SPECIALTY COURTS

So-called specialty courts may require specific background. Examples include the United States Tax Court, located in Washington, DC, which hears disputes involving the Internal Revenue Service and deficiencies or overpayment of taxes, as well as some other federal tax issues; the United States Court of Federal Claims, located in Washington, DC, which has nationwide jurisdiction over civil claims, other than tort claims, against the federal government (such as government contract disputes, eminent domain, military pay, and patent or copyright violations by the government), as well as over claims brought by Native American tribes, and a handful of other matters; the United States Court of Appeals for the Armed Forces, located in Washington, DC; and the United States Court of Appeals for Veteran Claims (f/k/a U.S. Court of Veteran Appeals), located in Washington, DC.

B. STATE CLERKSHIPS

Most legal disputes in this country are handled in state courts, which are the primary forum for contract disputes, torts, criminal prosecutions, divorce and custody matters, and the probate of estates. While the subject matter one sees in the federal court is by no means narrow, what one sees in state courts is even broader.

1. COURT OF LAST RESORT

While some states call their highest court a supreme court, a few, most famously, New York with its Court of Appeals, do not. If you talk to someone who has clerked for both a federal judge and a state supreme court, you will almost invariably be told that the latter was the more interesting clerkship. Why? State supreme courts are usually courts of discretionary review, and the justices tend to cherry pick the most interesting cases with the best attorneys to settle the questions of the

moment. In addition, since these courts are a state's highest court, the ability to influence state law is tremendous. As a substantive matter, state supreme courts develop and interpret the common law, rather than statutes; many lawyers find this a more interesting emphasis. Apart from those considerations, though, a clerk's tasks in the state supreme courts largely mirror those of a federal appellate court clerk.

2. INTERMEDIATE APPELLATE COURTS

Not all states have intermediate courts of appeals, and the quality of the court and duties of the clerks can vary greatly. The nature of the work, however, is quite similar to that of federal courts of appeals.

3. TRIAL COURTS

Students who know they wish to settle in a particular geographic area should consider applying to state trial judges for clerkships. These positions provide an unparalleled opportunity for students to get to know, and become known by, members of the local bar. Usually, clerks in these positions have far more contact with attorneys and court staff than is typical in the federal court system. Further, these clerkships are an excellent opportunity for learning state-court civil procedure as well as the substance of state law. State court trial judges typically do not publish opinions, but their clerks may be called upon to research legal issues (often on short notice, such as during trial); advise the judge on rulings; and observe and assist at trials.

C. INTERNATIONAL CLERKSHIPS

There are a variety of international-clerkship possibilities that you may want to consider exploring, such as the Criminal Court in the Hague, the International Court of Justice in the Hague, the Iran Claims Tribunal in the Hague, the European Court of Human Rights, the European Court of Justice, and the WTO Appellate Body.

D. MISCELLANEOUS

1. STAFF ATTORNEY POSITIONS

Law clerks who serve many judges or an entire court are commonly referred to as staff attorneys, staff counsel or *pro se* law clerks. These positions can be found in both federal and state courts, at both the appellate and trial court levels. The duties and responsibilities of a staff attorney vary by court, but may include reviewing appeals and correspondence, preparing memoranda, and assisting in case management and settlement procedures. The length of service for

these positions varies by court. Information can be found on the Federal Judiciary website, under Explore careers at <http://www.uscourts.gov/careers> or through the U.S. Office of Personnel Management at www.usajobs.opm.gov, as well as at the websites for each state court.

2. ADMINISTRATIVE LAW JUDGES (ALJs)

ALJs are independent, impartial triers of fact in formal administrative hearings. Over 30 U.S. government departments and agencies employ ALJs. Some ALJs hire recent law school graduates as law clerks. These positions may be for a term or an indefinite period. *The Federal-State Court Directory* is a good source of information on federal agencies and ALJs. In addition, see <http://www.firstgov.gov> for links to various federal agencies.

3. TRIBAL COURTS

Some states have tribal courts that hire law clerks, although funding for such positions tends to be quite limited. Postings can often be found in *Indian Country Today*, a newspaper (online at www.indiancountrytoday.com). See also www.tribalinstitute.org, which is a clearinghouse of information for the tribal courts.

IV. PARTICULAR COURTS, PARTICULAR JUDGES: SELECTING YOUR TARGETS

A. THE MECHANICS

Currently, there is one, central source for information regarding which federal judges are hiring and the application requirements for each judge. This database is called the **Online System for Clerkship Application and Review (OSCAR)**, and it is found at <https://oscar.symplicity.com/>. OSCAR is an internet-based application system founded by a committee of judges and law schools, under the auspices of the U.S. Administrative Office of the Courts (developed by the Symplicity Corporation). OSCAR permits applicants to search for open federal clerkships, file most federal clerkship application materials online and designate those judges to whom they wish to apply. Federal judges and chambers staff can read, sort, and manage those applications on-screen; they can also download and print those applications. OSCAR also allows letters of recommendation to be placed confidentially in applicants' online files, either directly by the recommender, or through the applicant's law school.

When using OSCAR, it is very important to remember that there is a **database portion** to the website and an **application portion** to the website. Specifically, the database portion of the website lists almost every federal judge (over 2,000

judges) and, as noted above, is the central source for information regarding which federal judges are hiring and the application requirements for each judge. Almost 1500 federal judges accept electronic applications via OSCAR (these judges are often simply referred to as “OSCAR judges”). However, as explained in more detail below, not every federal judge accepts electronic applications via OSCAR. Some judges still require traditional, paper applications instead (these judges are often referred to as “paper judges”).

The goal is to have all of the federal judges accepting electronic applications via OSCAR. However, in the meantime, please keep in mind that *if a judge is asking for electronic, OSCAR applications, he or she will not want to receive duplicate applications in hard copy via the U.S. postal service or overnight service*. Thus, make sure when applying on OSCAR that you also double check your list of judges who will be getting hard copies (and for whom you may have asked for a recommendation letter) and avoid sending both.

There is no centralized source of information on applications to state courts, and the timing may change from year to year. Therefore, if you know you are interested in a state court clerkship, err on the side of caution and contact the clerk of the court in which you have an interest. In addition, you should check the *University of Vermont Guide to State Court Clerkships* for updated information on types of state clerkships, contact information and application requirements. This publication is updated each fall and is available online (contact Ms. Conti in Career Services for the password. Lastly, the web site of the National Center for State Courts maintains links to the websites of state, federal, and international courts and can be found at:

[http://www.ncsconline.org/DKIS/info court web sites.html](http://www.ncsconline.org/DKIS/info%20court%20web%20sites.html)

B. MISCELLANEOUS CONSIDERATIONS

Inevitably, some students fixate on a small number of clerkship opportunities, sometimes going so far as to conclude that a clerkship on any court other than the “hottest” United States courts of appeals is not worth the investment of time and money involved in applying. This has two inevitable and unfortunate outcomes: (1) sometimes students wrongly choose to apply only for clerkships that are not well suited to their particular interests and styles, and (2) sometimes students forego clerking entirely because they were not fortunate enough to obtain one of the handful of extremely competitive clerkships for which they applied. While there are gradations in prestige between various courts, it is equally true that the vast majority of lawyers never clerked, and finding a clerkship of any stripe is pretty impressive. Lawyers recognize and value the “inside perspective” that clerks gain, whether it is in a federal or a state court. Likewise, clerking is almost always an extremely rewarding experience. Moreover, the satisfaction of a clerkship tends to be far more closely correlated with one’s affinity with one’s judge, a matter that is unrelated to a judge’s prestige or biographical data. With that in mind, consider the following:

1. LOCALE

In general, the most competitive cities for judicial clerkships are Los Angeles, San Francisco, New York, Boston, Chicago and Washington D.C. – major urban areas with top law schools in the vicinity. That means that judges in those cities attract the largest number of extremely well qualified applicants and even with the best credentials, your application cannot be guaranteed to stand out. To the contrary, judges in other cities, or judges in the same jurisdictions but whose chambers are outside the cities, attract fewer applications, and may therefore be happy to consider candidates with academic records that are not as strong. However, if you are limited to one of these very competitive cities for personal reasons, be sure to consider the type of judge to whom you apply, and not to be unduly limited. Also, once you decide to apply to a particular geographic area, do not apply to just a couple of judges who you think are the best or most interesting; instead, apply to everyone in the vicinity. Then, because you bear the cost of interviewing expenses when you are called for an interview, you can possibly leverage it into more interviews by calling other judges in the same courthouse.

2. TERM LENGTH

In general, students seem to prefer one-year clerkships, and there is therefore less competition for clerkships with a two-year term requirement. In fact, judges with two-year clerkships sometimes get about half the number of applicants as judges with a one-year term.

3. SENIOR JUDGES

Once they reach 65 years of age, federal judges can elect to take “senior status” if their years of service plus their years of age amount to 80 (“the Rule of 80”). See 28 U.S.C. § 371(c). The caseloads of senior judges can vary considerably - some carry a regular caseload, or close to it; others will carry a drastically reduced caseload; and still others will use their senior status to enjoy sitting by designation in trial or appellate courts of other federal jurisdictions. However, keep in mind the fact that some senior judges have only one clerk, which means that a drastically reduced caseload will nonetheless be the same or more work for that clerk as a clerkship with an active judge. Often, senior judges will receive fewer applications than active judges, making these clerkships somewhat less competitive. (See *Senior Status: an “Active” Senior Judge Corrects Some Common Misunderstandings*, by Honorable Frederic Block, 92 Cornell L. Rev. 533).

4. CHIEF JUDGES

Chief Judges in the federal court system (for state judges, the rules vary) are not nominated or appointed (except for the Chief Justice of the United States); they assume the position for a fixed number of years based on seniority. The same criterion exists for circuit and district chiefs. The chief judge is the judge in regular active service who is senior in commission of those judges who (1) is 64 years of age or under; (2) has served for one year or more as a judge; and (3) has not previously served as chief judge. Chief Judges have more clerks, but have a lighter caseload than regular active judges and more administrative duties.

5. IDEOLOGY

Some students will reflexively apply only to judges appointed by Republican or Democratic presidents, depending on the students' own politics. On the one hand, it is true that if a clerk has deeply felt ideological beliefs on which he or she feels unable to compromise – to the extent of being unable to take direction from a judge who differs – the year might be pretty miserable. But with that being said, the vast majority of cases being decided do not implicate political hot buttons. Moreover, a judge's political affiliation can be an extremely inaccurate gauge of the way a judge decides cases. Finally, many, many judges enjoy the experience of having their ideologies challenged and tested, and welcome the presence in their chambers of thoughtful clerks who can express differing views well. Thus, in all but the most extreme cases, the best advice is to *apply broadly*, without particular regard to a judge's politics, and let your own politics be reflected in your resume. A judge who is unable to enjoy alternative views will do the weeding for you.

6. PERSONALITY

Different judges have different styles. Personality and work habits of the judge can make a great difference in the quality of the clerkship experience. Certain judges can be delightful to work for; others can be aloof; and sadly, in a few rare instances, some judges are extremely difficult. However, be careful before you cross out a judge based on brief biographical data. It can be very hard to predict on that basis whether the judge is someone with whom you would get along. Your best resources are therefore usually human: lawyers in the area (people with whom you have worked or alumni), former clerks, other students, faculty and career counselors.

7. KEEP APPLYING!

You have heard the adage, if at first you don't succeed, etc. etc. Remember: the clerkship process is notoriously quirky. If you do not get a clerkship initially, do not decide you are not destined to get one, and do not decide that those darn judges are too clueless to deserve you. Just keep at it. Send another round of applications out to other judges. Keep track of openings that are posted to the law clerks listserv or on OSCAR. Keep an eye on nominated judges, and apply when they are confirmed. Many, many clerkships remain open, sometimes mere months before they begin.

In sum: Do not give up -- clerkships are a wonderful opportunity, and you will regret it if you throw in the towel too quickly.

V. THE CLERKSHIP APPLICATION PROCESS

Once you have decided to apply for a judicial clerkship and have identified judges for whom you might be competitive, you should apply to them. With regard to your application, whether it is in paper or online (via OSCAR) keep in mind that *presentation* is extremely important. *The manner in which you present your application to the judge reflects on you as a candidate.* An application that is focused, organized, and impeccable will make a candidate that much more attractive. Compare these two scenarios. Applicant John Smith folds and crams his cover letter, resume, transcript and writing sample into a standard business envelope. The judge's staff later opens the envelope and reviews the materials. The cover letter has typographical errors, it is difficult to read and the materials do not lay flat. On the other hand, applicant Juanita Smith, equally qualified, puts all her materials in a file folder, types her name on a label, sticks the label on the folder and inserts the file into a large envelope. Which applicant is more likely to get an interview?

A. STATE APPLICATION DEADLINES

For state clerkships, application deadlines vary widely. Please refer to the Vermont Law School's *Guide to State Judicial Clerkship Procedures* at <http://vermontlaw.edu/x1101.xml> for specific information. (This website is password protected. Please see Mrs. Conti in Career Services to request the password to access the guide.)

B. FEDERAL APPLICATION DEADLINES

The application process begins the summer prior to your third year of law school. For federal clerkships, most judges follow the Federal Clerkship Hiring Plan and therefore will not accept applications until September 7, 2010. For the 2010-2011 hiring season, federal judges will begin accepting applications received on September 7, 2010. We cannot predict how many federal judges will hire

applicants; however, be aware that judges of the federal courts of appeal, federal district judges in the most competitive regions, and many of the state high courts will fill their openings quickly. You need to be aware that many judges use OSCAR (Online System for Clerkship Application and Review) -- the online system for the federal judicial clerkship application process. However, many judges do not use OSCAR and therefore you must submit paper applications to those judges.

Please note: the Federal Law Clerk Hiring Plan does not apply to alumni. Alumni can contact Professor Ballard-Thrower at rballard@law.howard.edu for assistance with writing your cover letter and having it reviewed, if possible, by a member of the faculty.

C. SUGGESTED JUDICIAL CLERKSHIP PROCESS TIMELINE (2011-2012)

March 2011 (Spring Semester of Second Year)

- Attend the Judicial Clerkship Orientation conducted by the Faculty Clerkship Committee
- Meet with a member of the Faculty Judicial Clerkship Committee to discuss strategy and goals
- Research deadlines for state court clerkships
- Attend the mandatory Judicial Clerkship Workshop to learn how to do a mail merge and how to apply online via OSCAR

May 2011

- Conduct research on judges to whom you would like to apply and begin to compile a judge list
- Write cover letter and have it reviewed by a member of the Faculty Judicial Clerkship Committee
- Register on OSCAR and review judges' information and begin to upload materials and names of your recommenders for your applications
- Prepare all materials for a completed application (writing sample, cover letter, transcript)

D. IMPORTANT HUSL JUDICIAL CLERKSHIP DEADLINES

Judicial Clerkship Application Schedule for 2011

By March 28, 2011 – student contacts professors for letters of recommendation request

By April 1, 2011 – student delivers three Excel files on a flash drive to faculty recommender (one file for state judges; second file for federal judges not on OSCAR and the third file for federal judges on OSCAR). Only the state judges and federal judges not on OSCAR will have letters merged by Law School Services Department.

By April 8, 2011 – student e-mails Prof. Ballard -Thrower names of faculty recommenders

By June 13, 2011 – for paper applications, you must submit a database (Excel format only) of your judges to Ms. Pannick in the Law School Services Department (rpannick@law.howard.edu). Do not email your databases. Only flash drives will be accepted.

June 27, 2011 – faculty e-mails Law School Services Department letters of recommendation

August 1, 2011 – faculty picks up merged letters for signature (for state judges and federal judges not on OSCAR) and returns them to Law School Services

August 19, 2011 – students may pick up signed letters of recommendation

E. CRITICAL DATES UNDER THE FEDERAL LAW CLERK HIRING PLAN FOR 2011

- First date when applications may be received: September 6, 2011 (10:00 a.m. EDT)
- First date and time when judges may contact applicants to schedule interviews: September 9, 2011 (10:00 a.m. EDT)
- First date and time when interviews may be held and offers made: September 15, 2011 (10:00 a.m. EDT)

VI. HOW TO GET STARTED

A. BEGIN TO RESEARCH

In-depth research will help you make a more informed decision on which judges to apply to for clerkships. Resources are plentiful and you need to consult a variety of them to attain the necessary information. The following resources are quite useful (See the Office of Career Services for complete a directory):

- www.uscourts.gov (links to court websites and general information)
- www.uscourts.gov/judicialvac.cfm (federal vacancies)
- <https://oscar.symlicity.com> (online application system)
- <http://www.fjc.gov/public/home.nsf/hisj> (provides information about all judges who have served since 1789 on the U.S. District Courts, the U.S. Courts of Appeals, the Supreme Court, and the former U.S. Circuit Courts)
- <http://www.ncsc.org/default.aspx> (national center for state courts)
- www.vermontlaw.edu/x1101.xml (password protected) (information on state courts)
- www.judiciary.senate.gov (information on presidential appointments and

- confirmation hearings)
- www.law.umich.edu/currentstudents/careerservices/nomdb.htm (University of Michigan Judicial confirmation and nominations database)
- Just the Beginning Foundation (<http://www.jtbf.org/>) which provides information on minority judges, including biographies and information on clerkship and internship opportunities for minorities
- Clerkship Notification Blog (<http://lawschoolclerkship.blogspot.com>) offers real time information on federal judges hiring decisions based on information provided by applicants
- Law Clerk Addict (<http://lawclerkaddict.com/>) a blog that provides information about which prestigious law schools send clerks to feeder or other federal circuit court of appeals judges
- Above the Law (<http://www.abovethelaw.com/clerkships/>) a legal tabloid that posts many articles about judicial clerkships
- Almanac of the Federal Judiciary (provides judge's academic and professional background, experience on the bench, noteworthy rulings, and media coverage, as well as revealing commentary by lawyers) -- located in the Law Library at Ref KF 8700.A19 A45). This information is also available online through Westlaw, just search the directory "AFJ."
- The American Bench (provides biographical information on over 18,000 judges in all levels of federal, state and local courts with jurisdictional, structural and geographical facts on the courts they serve) -- located in the Law Library at Ref. KF 8700A19 A47
- Chambers' Handbook for Judges' Law Clerks and Secretaries ([http://www.fjc.gov/public/pdf/ns/lookup/chambers.pdf/\\$fuke/chambers.pdf](http://www.fjc.gov/public/pdf/ns/lookup/chambers.pdf/$fuke/chambers.pdf)) (provides an overview of how chambers operates and the work of the federal court system; also discusses the role of the law clerk) – This book is out of print. A copy is on Reserve in the Law Library at KF 8771.C52 1994
- Directory of Minority Judges (provides geographical listings of African-American, Asian/Pacific Island, Hispanic, Native American, and Tribal Court Judges) – located in the Law Library at Ref. KF8700.A19 DS73
- BNA's Directory of State and Federal Courts, Judges, and Clerks (provides contact information on the nation's judges and clerks along with the extensive details on the structure of federal, state, and territorial courts) -- located in the Law Library at Ref. KF8700.A19 B53
- Federal-State Court Directory (provides names, addresses and phone numbers of all U.S. appellate and district judges and clerks of court, U.S. magistrate judges and bankruptcy judges. There are listings for court Web sites, court locations in federal districts, and U.S. Attorneys' information.) -- located in the Law Library at Ref. KF 8700.A19 F42)
- Judicial Yellow Book (provides contact and biographical information for over 2,200 federal judges and 1,300 state judges, as well as judges' staff, court staff, and law clerks.) -- located in the Law Library at Ref. KF 8700.A19 J835
- Also, refer to the "Judicial Clerkship Research Resources" Library Guide

compiled by Ms. Santos, HUSL Library, Assistant Director for Public Services (located in your Judicial Clerkship Packet).

B. THE APPLICATION PACKET

Please be aware that students bear the cost of printing, compiling and mailing the application packet. Therefore, before you decide to apply to an excessive number of clerkships where you have to mail print application packets, you may want to calculate the possible expense. Applications submitted via OSCAR do not incur mailing fees.

In regards to the application packet for state judges, please refer to the Vermont Law School's *Guide to State Judicial Clerkship Procedures* at <http://vermontlaw.edu/xl101.xml> for specific information. (See the Office of Career Services for a complete directory. Password available from Mrs. Conti in Career Services.)

For federal judges, the Application Packet must contain the following materials whether the application is submitted online (via OSCAR) or printed and sent in the mail.

1. THE COVER LETTER

The judge and/or his or her staff (including present clerks) will probably read your cover letter before they get to your writing sample. Therefore, *your cover letter is your first writing sample*. A letter that is poorly organized or contains typographical errors will earn a place in the trash, along with the rest of your application. Because **thousands** of law students apply for these positions, a sloppy cover letter may be reason enough to weed you out. Review the guidelines in Appendix 1 and the cover letter sample in Appendix 2 when preparing your letter to judges.

A cover letter should contain three to four paragraphs and should fit on one page. The first paragraph of your cover letter should identify precisely who you are and what you are applying for (clerkship commencing after you graduate). In your second paragraph, you may want to identify what has motivated you to seek a clerkship and what qualities make you a particularly attractive candidate, such as research/writing skills, membership on a particular law review, exceptional academic performance, or even a local connection. A potential clerk should research what rotation the Judge will be in. (For example, family, civil, criminal, etc.) Make sure to let the Judge know that you are interested in that rotation and highlight what you can bring to chambers during that rotation. A judge wants a clerk who makes his or her life easier. Also, highlighting your similarities with that of the judge. Similar school experience is always a plus. If you come from the same region or state,

that might be highlighted, or if you want a career path similar to the judge, that should also be highlighted. If you are applying to a specialized court, you should include a sentence or two indicating any experience relevant to that specialized field. Keep in mind that judges look for strong analytical skills, excellent writing and proofreading skills. Many judges want to see something unique in a cover letter to distinguish you from all the other applicants. As such, if you have something in your background that you believe is unusual and appropriate, perhaps include a brief reference to it in your cover letter. Your third paragraph should delineate any skills you learned from jobs you may have had and should indicate how those skills are applicable to a clerkship. In the fourth and final paragraph, you should indicate the application materials that you have enclosed and mention that you look forward to hearing from the judge.

For the address on the envelope, and the inside address on the cover letter, the judge's full name should be preceded by "The Honorable," i.e., "The Honorable Sylvia Jones." The letter itself should then begin "Dear Judge Jones:" or in the case of members of the Supreme Court of the United States, and of some but not all state supreme courts, "Dear Justice Jones:" or, for Chief Justices, "Dear Chief Justice Jones:". (If you are applying to state supreme courts, you should check about the forms of address customary for those courts.) Some judges may have longer official titles ("Magistrate Judge," "Administrative Law Judge"); ignore the longer title and address them as you would other judges. In case of doubt, you should consult A Dictionary of Modern Legal Usage 370-72 (2d ed. 1995) (the entry on "Forms of Address"), available in the Law Library at KF 156.G367 1995.

Do not use official letterhead paper of any kind for the cover letter, whether the journal of which you are a member, the law firm where you were or are a summer associate, or the business you ran before entering law school. You are not applying for a clerkship in any of those capacities, but only as an individual student, and most judges will find letterhead inappropriate, pretentious, and in bad form.

2. RESUME

Your resume must be updated to reflect your upcoming summer position, your most recent cumulative grade point average, and any recent work experience or honors. In addition to academic excellence, your resume should show that you are a well-rounded individual, with outside interests and hobbies. Many alumni who have clerked note that their resume contained something that distinguished them from other applicants. You may want to include a home address to stress your ties to the area in which are you applying.

Carefully proofread your resume and cover letter. Ask a family member or friend to proofread your cover letter and resume before you submit it on OSCAR or mail it out.

3. SCHOOL OF LAW TRANSCRIPT

You should provide latest transcript available from the Records Office. Some judges may also require undergraduate transcript. Therefore, it is a good idea to contact that institution early to request a copy of your transcript.

4. WRITING SAMPLE

Most judges will want to see a sample of your legal writing, approximately 7-10 pages in length. In many cases, this will most likely be a Legal Reasoning Research and Writing Brief or a Moot Court brief. A writing sample should not be something that has been heavily edited by others, so law review articles are not preferred. If you are applying to a judge sitting on a court of appeals, an appellate brief may be an ideal writing sample. Make sure you submit *your work*, rather than your partner's work in a moot court brief. In addition to whatever sample you include in your original application, you may wish to supplement your submission with a seminar paper or journal note that may constitute a more scholarly piece of writing. If you expect such a sample to be available in the near future, indicate this in your cover letter to the judge, even as you submit whatever writing sample you have available at the time.

If you choose to submit a particularly extensive memorandum that you may have done during your summer employment, before using any work that you have done for an employer, be sure to clear with the employer, that your work can be submitted for this purpose. Concerns about confidentiality or considerations of counseling or litigation strategy may make it inappropriate to use the document as a writing sample.

5. LETTERS OF RECOMMENDATION

Most judges will want two or three letters of recommendation. Do not request letters from persons whom you have not studied or worked. When choosing among professors to ask for recommendations, it is almost always better to go first to those whose classes you did best in, rather than those who you think have a big reputation or know many judges. Thus, you should make every effort to get to know your professors. Ideally, you will have letters from at least two full-time professors, along with an employer or other person familiar with your work. If you are applying to a local judge, pick your references strategically and with care. A judge

may know the person recommending you.

Being a research assistant for a professor is often the best way of getting a solid letter of recommendation, since the professor can evaluate your research and writing skills in a way that is not possible in most classes. Given the suggested timeline for preparing your clerkship applications, you should give professors a sufficient amount of time to write your letter of recommendation. Securing commitments from professors during the spring semester will substantially increase the likelihood that your letters will be submitted to Ms. Pannick in the Law School Services Department by the deadlines. Please be aware that some professors will have a limit on the number of letters of recommendation they are willing to write. The same professors may be asked to write letters by a number of students, so those professors may complete letters on a first-come first serve basis.

When you approach a professor to ask for a recommendation, you should make an effort to appear organized. We recommend that you give the professor: your resume; your transcript; the writing sample you will be using in your application packet; and the list of judges to whom you have decided (so far) you will be applying. Please instruct your HUSL faculty recommenders to submit their recommendation letters to Ms. Pannick in the Law School Services Department.

While the Faculty Clerkship Committee will follow-up with professors to ensure the timely processing of letters, *it is your responsibility to follow-up with professors* and keep them apprised of your status, including what judges to whom you are intending to apply.

One topic deserves particular consideration: explaining blemishes in your record. For example, your grades may be great, except for the first semester, or the semester in which some personal or family tragedy occurred. The best place for this kind of explanation is in one of your letters of recommendation. That means, however, that you need to find a professor or employer who is sympathetic to your situation and is comfortable writing about it in a letter of recommendation. If not, then you may, in some rare circumstances, consider mentioning your problem in the cover letter. If you find yourself in this situation, you may want to consult a member of the Faculty Clerkship Committee.

If you interned for a judge during the summer and are hoping to get a letter of recommendation from him or her, you may be disappointed to learn that many judges have a policy of not writing letters of recommendation for their former interns. If this is the case, ask the judge if he or she is willing to serve as a reference for you. If the judge agrees, you may note this on your cover letter. For example, "Please feel free to contact Judge Dennis Lynch, whom I interned for last summer, regarding

my qualifications.”

For paper applications, you must submit a database (Excel file format only) of your judges to Ms. Pannick in the Law School Faculty Services Center (rpannick@law.howard.edu) no later than June 13, 2011. Ms. Pannick will not print letters for judges who participate in OSCAR. Thus, your materials must clearly state that the listed judges require print applications.

The Department of Law School Services merges your cover letter with your database, prints the recommendation letters and after faculty members sign the letters, stuffs the letters in the envelopes. These letters will be ready for you to pick up and include in your application packages on August 19, 2011.

For electronic applications, the Department of Law School Services uploads recommendation letters of HUSL faculty onto OSCAR. Faculty members will submit recommendation letters directly to Ms. Pannick.

Please note: for those recommendation letters that faculty will have submitted recommendation letters directly to judges, Law School Services will pay the standard U.S. postage on up to 100 hard-copy recommendation letters for each student. All recommendation letters mailed through Law School Services are mailed regular U.S. mail and may take several days to arrive to chambers.

C. FEDERAL CLERKSHIPS (via OSCAR) – BUILD YOUR DATABASE OF JUDGES

Once your research is near completion, you should begin to build your application database of judges to whom you will apply. You will need to have your cover letter, resume, transcript, writing sample and letters of recommendation ready. Your database should be in microsoft Exel format only. (See Section D below).

A significant number of judges have registered for the OSCAR system and will not accept paper applications. Please visit <https://oscar.symplicity.com> for a list of participating judges to ascertain if any of the judges you would like to apply to are OSCAR judges. Remember do not forget to apply to judges who may be newly appointed to the bench. Judges may be appointed at any time during the year, and will need clerks as soon as they are on the bench. Please refer to the University of Michigan Law School's Judicial Nominations Database at <http://www.law.umich.edu/currentstudents/careerservices/Pages/nomdb.aspx>.

D. DOCUMENTS AND DEADLINES FOR ONLINE APPLICATIONS

For online applications, you will need the same documents you prepared for judges who only take applications in print. You will need a cover letter, resume, transcript, writing sample and two to three letters of recommendation.

Please instruct your HUSL faculty recommenders to submit their letters to Ms. Pannick in the Law School Services Department by June 27, 2011. The Law School Services Department will upload these recommendation letters onto OSCAR. Faculty members will submit recommendation letters directly to Ms. Pannick. Her department will merge their letters with your database and upload onto OSCAR.

E. INTERVIEWING FOR A JUDICIAL CLERKSHIP

If a judge requests an interview, make yourself available as soon as you possibly can. If you have applied to judges in the same court or general area, and one judge requests an interview, you may wish to contact the chambers of the other judges and inquire whether they would be interested in interviewing you. Judges realize that, unlike law firm interviews where firms might be inclined to pay the travel cost of candidates, **students bear the cost of interviewing.**

If the first judge who invites you to interview is someone for whom you would be willing to clerk, but is not your first choice. You may be worried that that judge will offer you a job before you have a chance to interview with the other judges you would prefer. Thus, you should try to schedule the interview on the late side of the judge's available dates. Obviously, you do not want to send a signal that you are not interested, but there are plenty of legitimate reasons why law students often cannot drop everything and come the next day. This means, however, that you need to make a list of your preferences in advance, so that you can respond quickly.

1. DO YOUR RESEARCH

Before interviewing with a judge, make sure you do your research on the judge and his/her recent noteworthy decisions. See if you can track down anyone who has worked for the judge in the past; often (s)he can offer insightful information that cannot be found on Lexis/Westlaw or in a newspaper article. Use the judicial resources listed in the "Judicial Clerkship Research Resources" Library Guide compiled by Ms. Santos, HUSL Library, Assistant Director for Public Services to find out the

biographical and other pertinent information about the judge. (The Library Guide is located in your Judicial Clerkship Packet.)

Make sure you review your resume, transcript and writing sample before your interview. They judge may ask you specific questions about your packet materials. Also, most judges love to discuss current events that have legal implications. It is recommended that you take time to read the local newspaper from the area you will be interviewing in before your interview.

For examples of often-asked questions, please refer to Appendix 3 -- *Sample Judicial Clerkship Questions*.

At some point in the interview, the judge will ask you whether you have any questions. You should have thought about them in advance. The best questions are those, which show interest in and knowledge about the court and the judge. Be aware that some kinds of questions will do more harm than good. Do not ask questions that require a judge to reveal anything confidential, about his/her personal background or basic questions about something that you should already know the answer.

2. BE COURTEOUS

Be prepared to meet not only with the judge, but also with his/her current law clerk and staff. Very often, candidates will be pre- or post-interviewed by a judge's current law clerks. Prepare a list of questions for the judge and clerks ahead of time. You will also be interacting with the judge's secretary and other staff members. Always be polite and courteous whenever you are dealing with these individuals.

Remember this: *while staff cannot necessarily ensure that you are hired, they certainly can ensure that you ARE NOT hired.*

3. BRING APPLICATION MATERIALS

Make sure to bring an extra resume, transcript and writing sample to your interviews. If you have completed a journal article, bring it with you.

4. SEND THANK YOU LETTERS

Immediately after you interview, send a print thank you letter to the judge and to members of his or her staff, if you met with or interacted with them. Do not send an e-mail thank you to the judge.

F. ACCEPTING AN OFFER

Unlike many law firms, judges do not expect to wait very long for a decision on an offer. Some judges demand an immediate answer while others give you some time to think it over. *As a general rule, you should accept a judge's offer immediately rather than ask for time to consider the decision.* Usually, judges who are inclined to give you some time to consider the offer will tell you that up front. You may decide after an interview that you do not want to work for a particular judge if an offer is extended. *Although withdrawals are generally discouraged, you should immediately withdraw your application if you are certain that you cannot work for particular judge. Declining an offer is not acceptable.* To withdraw your application, call the judge's chambers and politely ask the judge's secretary to withdraw your application from consideration. Then follow-up with a written letter of withdrawal. Generally, you do not have to send withdrawal letters to judges who have not invited you to interview.

It is very bad form to turn down a clerkship offer when you have made no alternative plans for the year, and will likely damage both your individual reputation and the reputation of your school. Remember at this point that if you did not want to clerk for this judge, you should not have applied for that particular clerkship. When faced with the difficult choice, however, the right thing to do will almost always be to accept the offer in hand, rather than reject it and wait for

another offer that may never come.

Good luck!

APPENDIX

Appendix 1 -- *Addressing Your Cover Letter*

Appendix 2 -- *Sample Cover Letter to be Used as a Guide Only*

Appendix 3 -- *Sample Judicial Clerkship Questions*

Appendix 4 – Law Clerk Hiring Criteria

Appendix 5 – Law Clerk Tips

Appendix 6 -- Administrative Agencies Employing Judges

Appendix 7 -- Critical Dates to Remember

APPENDIX 1 – Addressing Your Cover Letter

To properly address your cover letters, use the following as a guide:

FEDERAL COURTS

Chief Judge, Courts of Appeals Judge or Senior Judge, Courts of Appeals

Address: The Honorable [Full name]

Chief Judge [where applicable]

United States Court of Appeals

for the [Nth] Circuit

[Address, with zip code]

Salutation: Dear Judge [Last name]:

Close: Sincerely,

Chief Judge, District Courts

Judge, District Courts

Address: The Honorable [Full Name]

Chief Judge [where applicable] or

District Judge

United States District Court for the

[Southern, etc.] District of [State]

[Address, with zip code]

Salutation: Dear Judge [Last Name]:

Close: Sincerely,

Magistrate Judge, District Courts

Address: The Honorable [Full Name]

United States Magistrate Judge

[Address, with zip code]

Salutation: Dear Judge [Last Name]:

Close: Sincerely,

Follow similar format for Chief Judges and Judges on other Federal Courts

STATE COURTS

*Court names may vary state by state

Chief Judge, State Supreme Court

Address: The Honorable [Full name]

Chief Judge of the

Supreme Court of [State Name]

[Address, with zip code]

Salutation: Dear Chief Justice:

Close: Sincerely,

APPENDIX 1 – Addressing Your Cover Letter
(continued)

Justice, State Supreme Court

Address: The Honorable [Full Name]
Justice of the Supreme Court of [State Name]
[Address, with zip code]
Salutation: Dear Justice [Last Name]:
Close: Sincerely,

Chief Judge or Judge, State Court of Appeals

Address: The Honorable [Full Name]
Chief Judge [where applicable]
Judge [where applicable]
Court of Appeals for the State of [State Name] *This is applicable where the highest court in the state is the Court of Appeals
[Address, with Zip code]
Salutation: Dear Judge [Last Name]: the Court of Appeals.
Close: Sincerely,

Chief Judge, State Intermediate Appellate Court (District Court of Appeals)

Address: The Honorable [Full Name]
Chief Judge
District Court of Appeal (you would fill in First, Second etc. where it is)
[Address, with Zip code]
Salutation: Dear Judge [Last Name]:
Close: Sincerely,

Judge, State Intermediate Appellate Court (District Court of Appeals)

Address: The Honorable [Full Name]
District Court of Appeal (you would fill in First, Second etc. where it is)
[Address, with Zip code]
Salutation: Dear Judge [Last Name]:
Close: Sincerely,

APPENDIX 2 – Sample Cover Letter to be Used as a Guide Only

August 5, 2009

Honorable Zoe Wood
District Judge
United States District Court for the Middle District of Florida
100 Clerkship Way
Clerky, Florida 33000

Dear Judge Wood:

I am a third-year student at the Howard University School of Law. I am writing to express my interest in serving as your judicial law clerk for the year 2010-2011.

My solid academic background, strong research and writing skills and interest in litigation make me well suited to meet the demands of your courtroom. While at law school, I have earned a place on the *Howard Law Journal*, served as a Dean's Fellow, and lead the Public Interest Law Group as its president. As a first-year student, I earned the highest grade in my class in my legal research and writing course. Presently, I am enrolled in an advanced legal writing course and I have an 87.80 GPA. I believe that both my *academic* performance and my leadership activities attest to my ability to excel while working under pressure. I am committed to securing a judicial clerkship upon graduation. Being a clerk will give me valuable insight into the legal decision-making process while allowing me to further hone my research and writing skills. Further, anticipating a career in litigation, I am certain that a clerkship will make me a more effective advocate for my future clients.

As my resume indicates, I worked at mid-sized law firm for two years as a paralegal in their litigation department. While at the firm, I drafted a variety of documents, correspondence and memoranda. I also attended depositions and settlement conferences and often accompanied attorneys to federal court where I was able to observe the proceedings first hand. As a paralegal, I developed my research, writing and analytical skills while working under deadlines and I learned to stay organized, all of which I believe will help me successfully complete assignments in your chambers. Additionally, as a marketing representative for large pharmaceutical company, I had the opportunity to interact with principals from many companies on a weekly basis while making presentations. This experience forced me to refine my interpersonal and communication skills, which I believe, are very important for a career in litigation. My strong academic background coupled with my practical experience in the work force would make me a valuable addition to your staff.

I have enclosed a complete set of application materials including my resume, law school transcript, a writing sample letters of recommendation from Dean Perry Mason and Professor Mary Mack. Should you require additional information, please do not hesitate to contact me at (202) 111-1111 or ssmith@aol.com. I look forward to hearing from you and hope to have the opportunity to serve your chambers.

Sincerely,

Susan Smith
Enclosures

APPENDIX 3 – Sample Judicial Clerkship Questions

Personal Goals and General Background

- Why did you decide to go to law school?
- What do you know about this court?
- Why do you want to clerk for (this level and/or type of) court?
- Why do you want to clerk for this judge in particular?
- How would you prepare yourself to get ready for this job? How would you go about learning about this court and its procedures?
- What are your career goals and how does this clerkship fit within those goals?
- What do you hope to learn from this clerkship?
- What are your interests outside of law school?
- What do you think about this (social/political) issue? What current issues concern you the most?
- What previous legal/work experiences have you had and what did you like or dislike about them?

Training, Experience and Preparation

- What do you think makes you particularly suited for this job? From what you know about clerkships, what aspects of this job would be the easiest. What would be the most challenging?
- What about your previous education and/or work experience has prepared you for this job?
- What courses in law school are you taking/plan to take? What has been your favorite or least favorite course?
- Describe any journal or research projects you have done. Why did you choose to research and write on this topic?
- Have you participated in Moot Court, Trail Advocacy or legal clinics?
- Describe how you have handled projects or tasks requiring a high degree of accuracy and attention to detail. Describe how you worked on a project that required organizational skills.
- Why do you think you would be able to write well about the subjects before this court?

Questions to Pose to the Judge or Investigate with the Clerks:

- What is a typical day like for a law clerk?
- What is the division of labor/cases including different types of tasks.
- What are the primary responsibilities of a law clerk?
- Do you believe in all written decisions or do you make oral decisions from the bench? (written decisions require a heavier workload whereas oral decisions require a faster and more intense pace in order to produce bench memos that are a quality that allow the judge to rule from the bench.)
- How are opinions written? Does the clerk or the judge write the first draft? How many drafts does the judge usually require?
- In cases where a clerk is shared by more than one judge, what is your expectation regarding division of work and prioritizing cases from different judges?

- Do you work with the clerks on cases on an ongoing basis or do you prefer periodic formal meetings to discuss cases?
- How much time do the clerks spend in the courtroom?
- Do the clerks travel with you when you sit in other courthouses?
- What contact formal or informal is there with your former clerks? (This is an indication of what sort of long-term mentor relationship you might establish with the judge.)
- What qualities does you look for in a law clerk? What is your timetable for making a hiring decision?
- What were your most challenging cases?
- How did you reach your decision in [insert case name]?
- What role do the law clerks play in reaching a decision and/or assisting in decisions?

Working Environment and Things to Observe

- What is the atmosphere in the judge's chambers? Do the clerks seem like they are enjoying themselves or are they tense and overwhelmed? Are the judge's chambers well organized?
- How do the judge and clerks interact with the administrative staff? Is the atmosphere congenial or more formal?
- What is the physical layout of the clerks' offices in relation to the judge's chambers? Do the clerks seem isolated or is there a sense of camaraderie and exchange of ideas?

Legal and Substantive Topics

- Be prepared to discuss in detail your writing sample and to field any legal challenges raised by the judge.
- Be prepared to discuss recent decisions and issues germane to the jurisdiction of the court where the judge sits.
- What type of law interests you most?
- What do you think is the most important recent Supreme Court/Appeals Court/SJC decision and why?

Your Qualities as a Potential Law Clerk

- Describe your thinking in analyzing a case. For example, how have you gone about applying the law to the facts of a case in a judicious manner? How did you weigh the competing arguments?
- How would you go about researching a topic that was unfamiliar to you?
- Describe how work under pressure and your ability to juggle many different types of tasks.
- Describe your strengths and weaknesses – what qualities do you possess that would make you an outstanding law clerk?
- If I ask you as a law clerk to draft a decision in a particular manner and you disagree with the outcome, what will you do?
- What do you think are the characteristics of a good bench memo? A good decision?
- How would you build a good working relationship with people here?
- Describe a project or task where you worked as a member of a team. What was your role? What challenges did you face and how did you address/resolve them? What

successes or failures were important to you in working with other members of the team?

Ethical and Professional Hypotheticals:

An interview may include discussion of various hypothetical situations regarding ethical and professional conduct.

For example, you may be asked to discuss what you would do in a situation where you are a clerk for a judge and a party in a lawsuit claims severe disability rendering them unable to walk or drive. However, you as the clerk see this person later walk to their car in a parking lot and drive off.

Another example is where you as a clerk are approached out of court by an attorney for a party in a case before your judge. The attorney attempts to influence the judge through you (e.g. offering future reward in the form of employment) if you will in turn reveal how the judge is inclined to view a particular argument the attorney's client will make.

The focus of these questions is what duty you have to disclose this information to the judge.

APPENDIX 4 – Law Clerk Hiring Criteria

Law Clerk Hiring Criteria

by Stacy M. Chaffin, Esq.

Former Law Clerk to the Honorable Ronald B. Rubin

1. Record of strong academic achievement

- a. High grade point average (preferably a B+ or higher)
- b. High grades in Contracts, Torts, Criminal law, and Constitutional Law
- c. Law Review or Moot Court (though Law Review is preferred)

2. Cogent Job Experience

- a. Looking for actual legal experience, not policy work
- b. i.e., interning for legal agency, Judge, government entity, etc.

3. Solid Writing Sample (on any topic)

- a. Looks to quality of writing
- b. Grammar, ease of writing, and citations

4. Compatibility with Judge and other office staff

- a. Looks for someone who can engage in intellectually stimulating conversation
- b. Looks for someone who can “push back” in conversations
- c. Looks for someone with discretion, who can keep chamber’s discussions in chambers

5. References: Judge calls references and looks for a truthful and forthright discussion on the abilities and shortfalls of the applicant

6. Dispositive Traits

- a. Applicant with attitude
- b. Applicant who constantly tries to impress with “knowledge”

APPENDIX 5 – Law Clerk Tips

Law Clerk Tips

by Stacy M. Chaffin, Esq.

Former Law Clerk to the Honorable Ronald B. Rubin

- Double, triple check all of your documents. Any typos or grammar errors means a quick trip to the trash can. Have a friend or professor look over your cover letter.
- Tailor, not only your cover letter, but also your resume to the interest of the judge.
- Make sure that your writing sample uses court citations and not law review citations
- Do not make citation errors!
- Send everything in one packet. Sometimes additions get lost in the hustle and bustle of chambers life.
- If you haven't heard anything from chambers after a while, make sure and send updates such as new semester grades or new work experience
- Write thank-you notes after every interview

APPENDIX 6 – Administrative Agencies Employing Judges

For more information, please see the Federal Yellow Book located in the Law Library at Ref. JK 6.F45

Department of Agriculture
Department of Energy – Federal Energy Regulatory Commission
Department of Health and Human Services/Food and Drug Administration
Department of Housing and Urban Development
Department of Justice – Drug Enforcement Administration
Department of Labor
Environmental Protection Agency
Federal Communications Commission
Federal Labor Relations Authority
Federal Maritime Commission
Federal Mine Safety and Health Review Commission
Federal Trade Commission
International Trade Commission
Merit Systems Protection Board
National Labor Relations Board
National Transportation Safety Board
Securities and Exchange Commission
Social Security Administration

An expanded and more up-to-date version of the contact list of ALJs with commentary on hiring issues:

<http://www.law.suffolk.edu/offices/career/search/jobs/documents/ClerkshipswithAdLawJudges.pdf>

A survey conducted by GW Law of the various ALJ offices concerning their hiring practices and procedures:

<http://www.law.gwu.edu/Careers/clerkships/Documents/Combined%20ALJ%20Surveys.pdf>

APPENDIX 7 – Critical Dates to Remember

Critical Dates under Law Clerk Hiring Plan for 2011

- First date when applications may be received: September 6, 2011 (10:00 a.m. EDT)
- First date and time when judges may contact applicants to schedule interviews: September 9, 2011, (10:00 a.m. EDT)
- First date and time when interviews may be held and offers made: September 15, 2011 (10:00 a.m. EDT)