What is a Judicial Clerkship?

A judicial clerkship can be one of the most rewarding forms of public service open to recent law school graduates. Clerkships are fundamentally legal research, analysis and writing positions, and they generate a variety of marketable skills, which differ by type of court. Clerkships are available in federal and state courts of general jurisdiction, at both the trial and appellate levels, and in specialized settings including tax, bankruptcy, and family courts and administrative tribunals. Most clerkships are for one year; some are two years. Law firms are often happy to defer employment while a graduate clerks. Some firms will give “credit” for the clerkship year(s). In other words, after completing a one-year clerkship, you may be considered and paid as a second year associate. In addition, some firms offer a starting bonus to clerks from certain courts.

Reasons to Clerk

A judicial clerkship makes you a better lawyer, boosts your later employment options, provides you with lasting professional contacts and friendships, and can be a lot of fun! We really know of no "downside" to clerking for a year after you graduate. Any delay in getting to your career as an attorney, and discount in law firm pay, is more than compensated for by increased skills, job opportunities, and income potential in the long term. When you look at the resumes of the best lawyers in America, you will discover that no matter what their area of expertise is, the large majority of them first clerked for a judge.

Clerks develop powerful research, analysis and writing skills, while gaining an intimate understanding of the judicial process. Clerks have the opportunity to learn how judges make decisions and how judges react to different litigation approaches. This can be an asset to the practice of law in any field. Clerks also have the opportunity to develop professional and personal relationships with judges and other clerks – relationships that may be invaluable throughout their careers. Clerkships add significant resume value, as they are considered impressive by employers in both the public and private sectors.

Additional reasons to pursue a clerkship may include:
- obtaining and developing contacts in a particular legal community;
- witnessing different styles of practice including trial work and legal writing;
- working with different legal issues and/or different areas of the law to help decide on a legal specialty; and
- finding intellectual stimulation.
A judicial clerkship is a valuable introduction to the legal profession. If you obtain a clerkship, it will surely be a highlight of your legal career.

Factors in Obtaining a Clerkship

Judges, judicial clerks, faculty and students stress a variety of important factors in obtaining a clerkship. Judges generally consider grades and evidence of writing ability fairly important. However, clerkships are not reserved solely for the students ranked at the top of their class, and many judges give greater weight to other qualities such as character, experience and judgment. Journal membership can be beneficial and some judges require it. Non-journal members can show their writing skills by working as a research assistant for a professor or taking courses or clinics requiring paper or briefs. Judicial externships while in law school can provide a great advantage for clerkship candidates, as can strong reference letters. Other qualities often considered include prior work history and clinical experience, ideology and overall character, and interpersonal skills. Many judges focus on personality as they search for a clerk who will work well with the close group of staff in their chambers.

Each student has his or her own strengths, and each judge has his or her own ideas about what factors are most important. So, if you are concerned about whether you would be "competitive" and you want to clerk, research the courts and judges and apply to those with whom you would be most compatible. You also have the option of getting some work experience first, and then applying for a clerkship. More judges are hiring law clerks with one to two years of experience and more attorneys are willing to clerk after working for a couple years. That should give you some idea of how valuable clerkships are considered by practicing attorneys.

Choosing Courts and Judges

As a second or third year student, attend the Spring Clerkship Orientation sessions.

Decide Geographically Where to Apply:

Being geographically flexible and applying to less sought-after locations can greatly increase your chances of getting a clerkship. Students are well advised not to be geographically limited – clerkships are generally only one year and the value of the experience will doubtless outweigh any difficulty of living somewhere considered less-desirable. Don’t focus your search in just the most desirable locations where every other top law student will be applying, such as the Bay Area.

If you know where you want to live and where you eventually would like to practice after completing the clerkship, you may want to apply for clerkships in that geographic region as well as other regions. Clerking in that location can allow you to learn how that area's courts work, who the judges and attorneys are, and how the courts operate. However, the value of the clerkship experience will travel with you wherever you may chose to live
and work. A clerkship may provide a unique opportunity to spend a year in another part of the country. If you have a special connection to a location (e.g., undergraduate school location), use it and communicate it in your cover letter.

Some states, such as Hawaii, Arizona, New Mexico, Florida, Nevada, Alabama, and Georgia, have fewer "select" law schools, so the judges there are very interested in students from a top school like Hastings. Also, two-year clerkships are often less attractive to students and may be less competitive.

Decide Which Courts and Court Levels:

Clerkships are available on the U.S. Supreme Court, U.S. Court of Appeals, U.S. District Courts (including U.S. Bankruptcy and U.S. Magistrate judges), state supreme courts, state intermediary appellate courts, state trial courts, special federal courts (e.g., U.S. Claims Court, U.S. Court of International Trade, U.S. Tax Court, U.S. Court of Veterans Appeals and some federal agency administrative law judges), and courts of other countries.

All clerkships are fundamentally research and writing positions, yet different courts offer different clerkship experiences. Because of jurisdiction issues, the types of cases that are heard in federal courts and state courts are different. Trial courts involve research, writing, and working on trials: dealing with attorneys, witnesses, evidence, motions, and scheduling. Usually the clerk attends hearings, proceeding, and trials, and often drafts jury instructions. A good law review article on the role of the law clerk is "Practice in the Federal District Courts from the Law Clerk's Perspective: The Rules Behind the Rules," 43 Baylor L. Rev. 333.

Clerking in an appellate court involves the relatively short period of oral arguments and significant periods of reviewing briefs. In general, trial courts are preferable to appellate courts if you like working with people in addition to working with paper, and if you are interested in litigation. Similarly, if you hope to teach, federal clerkships are generally more valuable in terms of resume value and experience.

Federal court clerkships are more competitive than most state court clerkships. Within both federal and state courts, the higher the court and the more desirable the city in which the court is located, the more competitive the clerkship. Federal appellate courts are highly competitive, with about 500 clerkships available, and most federal appellate courts hire within the top of the class (5-15%), unless the candidates have very interesting and relevant work experience. Typically, clerks at the U.S. Supreme Court have had one year of prior appellate clerkship experience before they move on to this level. The appellate level clerkship generally involves intensive legal analysis and writing, and less public interaction. The federal district courts provide around 2000 clerkship opportunities and are more fast-paced environments.
Both state and federal courts offer excellent learning experiences. Despite the perceived prestige of federal positions, state court clerkships may pay more generously and provide valuable knowledge of that state's legal system.

Note: The California Supreme Court and the California Court of Appeals hire only experienced “career research attorneys” and do not hire clerks immediately out of law school.

**Decide Which Judges and How Many Judges:**

The enjoyment and value of a clerkship often depends more on the individual judge than on the type or the location of the court. Consider the judge's reputation as a person, mentor, teacher, scholar, judge, and boss. Consider their style (combative v. relaxed); personality; relationship with clerks and former clerks; and approach to cases (practical v. scholarly). One of the best resources for learning about a particular judge is talking with a former clerk. While you may want to look at which President appointed the judge, it is generally not useful to base your choices on ideology or politics. Little in the job will involve politics, and if it does come up the judge is likely to appreciate some differing viewpoints. Also, consider the amount of work involved in the particular clerkship. Newer judges tend to have more work than established judges or "senior status" (semi-retired but still active) federal judges.

There are a number of resources you can use to craft your target list of judges. The Federal Law Clerk Information System at https://oscar.symplicity.com/index is a comprehensive (but not exhaustive) listing of clerkship positions at federal courts throughout the country. For state court clerkships, you can refer to the directory published by Vermont Law School (available online and in Career Services). In addition, both Lexis and Westlaw provide information about judges (biographies and cases). You can also use the Almanac of the Federal Judiciary (available in hard copy in the library and also on Westlaw) to read a biography of each federal judge. Check out the various directories located at the reference desk in the Library (see the Library Research Guide at the end of this handout or go to http://library.uchastings.edu).

Judicial nominees and recent appointees are another source for clerkship opportunities. Information can be found at www.uscourts.gov/vacancies/judgevacancy and at www.usdoj.gov/olp/judicialnominations. Look through the list of Alumni Clerks and the list of Faculty Clerkships (available on Hastings Careers Online) to see if any alumni or faculty members clerked for the judge(s) or in the area(s) you are considering. Apply to the judges with whom you feel most compatible and with whom you think you can work.

Remember that an offer of a clerkship should generally not be rejected. A positive answer is usually expected right away. Therefore, choose the judges carefully -- do not apply for clerkships you don't want. Send your applications in waves if you think you may not be that competitive, the first wave being the more prestigious courts.
The Application Process

For clerkships with Federal judges, including District Court Judges, Magistrate Judges and Bankruptcy Judges, the Ad Hoc Committee on Law Clerk Hiring announced a 2004 Law Clerk Hiring Plan. Thus far, it has received widespread support from a "huge percentage" of all federal judges. Timelines under the Plan are outlined below. The Plan still provides that the hiring of law clerks will be done no sooner than the fall of the third year of law school.

The U.S. Tax Court, the U.S. Court of Appeals for the Armed Forces, and the U.S. Supreme Court never have been included in the FLCIS or OSCAR, and that will not change in the immediate future.

In addition to federal clerkships, don't forget state clerkships. State courts generally have specific application procedures and deadlines. Their procedures specify the application materials and the timing of selection of the clerks. You should check the information for each state in which you are interested.

The following information should assist you with your application process.

Recommendation Letters:

Hastings has developed a new plan to coordinate the onslaught of applications in early September to ensure that students get their letters in time to submit their applications on the appropriate date. In the Spring of your second year, you should be building your list of judges and requesting letters of recommendation. Ideally, you should have three letters -- two from teachers and one from an attorney or judge for whom you worked. Pick recommenders who will immediately recognize your name and react by saying “S/he’s great!” A lukewarm letter can sink an application. It’s better to send two great letters than two great letters and one lukewarm letter. You can always ask to see the letter before submitting it with your application. Don’t hesitate to ask faculty to write recommendation letters as they understand the process and that this is a regular part of their job. Make sure your recommenders have all the information about you they need to write your letter (e.g., resume, transcript, writing sample).

Your professors should be submit letters of recommendation to Faculty Support no later than June 29th (letters@uchastings.edu).

The list of judges to whom you are planning to apply must be submitted to Faculty Support no later than July 20th of the summer proceeding the fall in which you are applying for a clerkship (i.e., generally the summer before your third year). Faculty Support requires that you submit a complete list of judges as adding on judges at a later date delays the process. Students will be notified on a rolling basis when they can pick up the signed faculty letters (at least 7 days prior to the application submission date) in order to include them in their application packets to be sent out on the application submission date. (See the Important Dates sheet attached to this handout.)
Timeline:

Below are the critical dates for Federal clerkships (and you can review the Plan online at http://www.cadc.uscourts.gov/internet/lawclerk.nsf/Content/CriticalDates?OpenDocument):

**OSCAR goes live May 22nd, 2009.**

**First Date when Applications from 3Ls (Class of 2010) May Be Received - The Day After Labor Day (September 8, 2009):** OSCAR releases applications on this date. 3Ls sending in paper applications should be sure that their applications are received by this date. Alumni may apply earlier. Class of 2009 applicants may submit their application before the September 8th release date (ideally between May and July).

**First Date when Judges May Begin Scheduling Interviews - September 11, 2009**

**The First Date on which Interviews May Be Held and Offers Made – September 17, 2009:** Judges may begin conducting interviews and extending offers.

Many of the state courts, particularly the highest courts, have earlier deadlines, ranging from the spring of, or summer after, the second year of law school, to the fall (or later) of the third year. You should check the information for each state in which you are interested to determine deadlines.

**Application Materials:**

a) Cover letter - concise, not longer than one page

1) Addressing judges:

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<tr>
<th>Addressee</th>
<th>Form of Address</th>
<th>Salutation</th>
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<tr>
<td>Chief Justice</td>
<td>The Chief Justice of the United States</td>
<td>Dear Chief Justice (last name):</td>
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<td><strong>U.S. Supreme Court</strong></td>
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<tr>
<td>Associate Justice</td>
<td>Associate Justice (full name)</td>
<td>Dear Justice (last name):</td>
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<td><strong>U.S. Supreme Court</strong></td>
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<tr>
<td>Judge</td>
<td>The Honorable (full name)</td>
<td>Dear Judge (last name):</td>
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<td><strong>Federal or State</strong></td>
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<tr>
<td>Justice</td>
<td>The Honorable (full name)</td>
<td>Dear Justice (last name):</td>
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<td><strong>State Supreme Court</strong></td>
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Dear Magistrate Judge (last name):

2) Explain area ties and why interested.
3) Identify the beginning of the clerkship (e.g., applying for Fall 2005).
4) Highlight resume; emphasize writing experience; state any unique qualifications. List enclosures.
5) If applying in the fall, include phone number where you can be reached during semester break.
6) If you will be visiting the geographic area in which the court sits during a specific time period, state that in your cover letter.

b) Resume – one page
1) One page is preferable, but do not omit useful information such as publications or community service.
2) Conservative style, avoid complicated or unusual formatting.
3) State future summer employment, if known.
4) Make sure to describe jobs accurately—i.e., if you extern/intern for a judge during law school do NOT say you were a “Judicial Clerk” but rather a “Judicial Intern/Extern”. These positions are Internships/Externships rather than Judicial Clerkships and judges and their clerks who are reviewing clerkship applications take these distinctions seriously.

c) Transcript
1) Unofficial is sufficient.
2) Attach note if still awaiting grade(s) for completed course(s).
3) Allow several days for Records Office to process transcript request.

d) Legal writing sample
1) Will certainly be read. Sample should show your ability to write legal arguments and think analytically.
2) Short, 5-20 pages.
3) Point out context in a cover sheet (e.g., “for LW&R”, “for Moot Court”). If it was prepared for an employer, get the employer’s permission to use it as a sample, and state that it is sent with the employer’s permission.

e) Letters of recommendation
1) Applications should include faculty recommendation letters in the same package. See the procedures for Hastings faculty recommendation letters outlined above.
The Interview:

a) Judges don’t pay for travel to interviews. The Career Services office has some limited funds for travel reimbursement. Please pick up a form from our office.

b) If one judge in a geographical area agrees to interview you, call the others in the area to ask if they will interview you while you are in town.

c) Bring extra copies of your resume, transcript, and writing sample.

d) Be as courteous with clerks and staff as with the judge – your interactions with them is often part of the interview and they will be asked for their opinion of you.

e) Be punctual.

f) Be positive about your school, professors and classmates.

g) Be prepared to answer questions that can come out of your resume, transcript, and writing sample; and be ready to volunteer information you want the judge to know.

h) Know the areas of law in which you claim an interest and the areas of law covered in your writing sample.

i) Read recent opinions (or writings) of the judge. Research the judge’s background. Use the judicial reference books and directories available in the Library. (Bibliography attached).

j) Explain why you want to clerk for that judge.

k) Have a few questions ready for the judge (e.g., working conditions, division of responsibility).

l) Personality fit is an important factor; so discussing a variety of non-legal issues is OK.

Offers and Follow-Up

Remember to write a brief thank-you note to the judge after your interview. If you have further questions, call and ask to speak with the clerk.

If you receive a clerkship offer, be clear about when your response is required and do not ask for more time. Typically, judges expect a response within a few days or sooner. It is not uncommon to have only one day. You will not have the option of holding multiple offers while deciding which to accept.

Note: “The Exploding Offer” – Sometime a judge will make an offer during the interview and expect a response immediately or very shortly. Try to learn if a judge is known for that practice and prepare your response.

After the Clerkship Application Process

a) If you accept a clerkship offer, withdraw all outstanding applications immediately, preferably by telephone.

b) Inform the Law School (professors who recommended you, Career Services) about the results of your applications. Such information is very important in placing Hastings students in the future.
c) Inform Career Services about any changes in judge information (e.g., retired, change of address).

d) Inform new applicants about the application process; share your experience with Hastings students.

e) If you did not obtain a clerkship, remember it is not a measure of your abilities. Consider applying again after 1-2 years of practice.

More Information and Resources

Please contact Isabelle Mussard in Career Services by email at: mussardi@uchastings.edu. You may schedule an appointment with her by calling Maria Galarza at 415-565-4619.

Judicial Externships

If you feel your chances of obtaining a clerkship are slim (no journal experience or lower grades), there is hope. Look into the possibility of obtaining a Judicial Externship. Most judges who take on clerks will also take on volunteer externs during the course of the year. Typically, an extern is given a portion of the clerk’s workload and often has direct contact with the judge. Some judges will treat you just like one of their clerks. Although unpaid, externships provide very valuable experience. Externships last one semester or one summer and may be the resume booster you need to make you more competitive for a judicial clerkship or the job market in general. Hastings offers academic credit for externships during the school year. However, course credit is not available until spring semester of a student’s second year. Therefore, if you wish to work for a judge sooner, such as the summer after your first year or fall semester of your second year, no academic credit is available. For more information on judicial externships, contact Nancy Stuart, Clinical Program Director at (415) 565-4620 or Professor Marsha Cohen at (415) 565-4676.