

A Law Clerkship in Judge Ripple's Chambers

Each year, law clerkship candidates pose important questions about a law clerkship in this chambers that deserve comprehensive answers. Many of these questions are recurring in nature. When valuable time is spent during the interview imparting this basic information, the judge and the candidate have less time in which to get to know each other. The following material is designed to answer those questions and to permit the judge and the candidate to get beyond these important, but preliminary, matters and to spend the interview time more productively. Of course, a particular candidate may have additional questions about the matters covered here and should not hesitate to explore an area of interest further during the visit with the judge.

1. Please explain your general approach to working with law clerks.

We must begin with the firm understanding that the judicial task is not, as a matter of constitutional responsibility, a delegable function. The judge, and only the judge, must make every judicial decision that is required. Yet, anyone exercising judicial authority can use help in working through the issues that must be decided.

Because I am color-blind, I often find the following analogy helpful in describing the law clerk's role. Remember the physics demonstration in high school in which white light is passed through a prism and reveals all the colors of the spectrum. It takes a keen eye, keener than mine, to see all of the different variations in color. The human problems that come before judges are even more varied and a great deal more complex. Cases rarely present choices in black and white, but rather in varying shades of grey. Before coming to a decision, the judge must discern all the shades of grey. Yet, no judge's life experience, no matter how varied, is adequate preparation for seeing all those shades. In examining a case and appreciating all of its implications, the law clerk adds a set of trained "eyes" to those of the judge. The law clerk is, therefore, first and foremost, an intellectual companion of the judge. Along with the judge, the clerk must explore the record of proceedings and the applicable law. The law clerk helps the judge to see all the nuances in the facts and all the shades of meaning in the governing law. This process requires a relationship of complete trust and candor; the focus always must be on the quality of the final work product.

2. How do you and your clerks work together on the cases?

The assessment of each case takes place within the decision-making framework of the appellate proceeding. The following sketch will give you an idea of how "Judge and Company" work together. Please remember, however, that, in order to get the job done efficiently, adjustments are often made in this approach. Not all cases are alike, and the judge must vary the approach to get to the truth quickly.

a. Upon the arrival of the cases for a newly-assigned argument day, I review the cases and determine the sort of preargument assistance that is indicated. One clerk is designated to accompany me to court and, usually, that clerk takes the greatest share of cases for that particular day. (The clerks rotate in this role). As the year progresses, additional assignments depend upon the amount of work already assigned to a clerk, my particular needs in preparation, and the need of a particular clerk to obtain exposure to a particular kind of case or to a particular methodological situation. With respect to this last consideration, I attempt to ensure that each clerk has an opportunity to experience the principal facets of modern federal appellate practice, to explore new areas, and to hone skills needed for later professional work.

b. During the preparation period, the clerk studies the briefs, researches the applicable law, examines the applicable law and usually prepares a bench summary. I study the case during the same period and consult with the clerk as indicated. Before argument day, we have a more formal conference to discuss the cases. This conference allows me to hear a "dry run" of the oral argument that I shall hear in court and to identify questions that need to be posed to counsel. It also affords me the benefit of the views of my clerks on each case. It also allows the clerks to gain experience in oral presentation.

c. After conference, I debrief with the clerks, and critique for their benefit the performance of counsel.

d. Work begins in earnest on the opinion. The pattern changes according to the demands of the case. When possible, I prefer to begin work on a draft and then to ask the clerk for additions. The draft is then passed back and forth between me and the clerk until I am satisfied that an acceptable draft has been achieved. The clerk then shares the draft, with the other clerks and obtains their substantive and stylistic critique. I then have a final session with the clerk on the draft and I make adjustments on the basis of the clerks' critique.

e. The clerk and the secretary then carefully review the text for technical correctness.

3. Does the law clerk receive "feedback" as the year progresses?

Law clerkships are the equivalent of residency programs for new physicians. For the new physician, the primary goal must always be the health of the patient. For the new lawyer, the primary goal must always be the quality of the judicial decision. However, achieving that goal brings with it the opportunity for significant professional growth. I was, and am, a law professor and regard the clerkship as a continuation of the educational experience.

At the beginning of the clerkship, I meet with each clerk and discuss that clerk's professional goals for the year. The clerk is expected to bring to that meeting a frank assessment of strengths and weaknesses. I attempt to point out those aspects of chambers work that might be particularly beneficial in achieving those goals. Throughout the September Term, I attempt to critique the clerk's submissions after each oral argument and to suggest avenues for improvement as well as areas of great strength. It is not at all uncommon for a law clerk to demonstrate strengths that have gone unnoticed previously. I advise the clerk of those strengths so that the clerk can take them into account in making future career decisions. At other points throughout the year, I speak with each clerk to discuss the clerk's progress and to suggest areas for concentrated effort. I also suggest that the clerk consider new areas in which the clerk shows newly discovered strengths. These needs are taken into account in making assignments of cases.

A very significant number of law clerks in this chambers make adjustments in their long-term professional goals because they discover talents or because they find that particular work brings them particular satisfaction.

4. How much time does the Clerk spend in Chicago?

Each clerk makes between 5-10 trips to Chicago during the year. Most of these trips involve a single night's stay. A few require a slightly longer stay. The clerk receives a per diem from the government for travel expenses.

On occasion, I shall sit in another court. One of the clerks will accompany me. These trips vary in length.

5. Can you describe living in South Bend?

South Bend is a metropolitan area of about a quarter of a million people. It has five institutions of higher learning in the area. Housing accommodations for professional people at the entry level are quite adequate.

The University of Notre Dame and Indiana University at South Bend provide a great number of cultural opportunities and, in selecting a place to live, the clerk might like to keep those opportunities in mind. The Law School at Notre Dame allows the clerks access to its library, and the clerks are invited to participate in the judging of the moot court competition and similar occasions. The Law School has expressed the desire that the clerks feel at home in this law school community during their stay in South Bend.

6. Do you prefer candidates from a particular law school?

No. However, I do keep advised of law school curriculum decisions and regard favorably the applications of candidates from schools with traditionally strong, no-nonsense programs. I believe that excellence in legal education can be found in many law school traditions.

7. Do recommendations make a difference?

Very much. It is important, however, that the letters be detailed and comprehensive in their assessment of the candidate. Letters from law firms at which a candidate has worked are very helpful because the attorneys in those firms are in a position to assess accurately the candidate's performance and potential. The quality, not the quantity, of the letters counts. These letters ought to stress the candidate's potential as well as achievements. A clerkship is a learning experience, and I am looking for candidates who will profit from the experience. Some candidates provide me with the names and phone numbers of additional professional references, and I often contact these supplemental references before making a decision.

8. My note is not completed, and I am reluctant to give you a

rough draft.

It is great help to see the candidate's writing, and a memorandum from first year writing class is usually not a very good example of the candidate's potential. Please remember that I served as a faculty member advisor to a law review. I have seen a great number of rough drafts over the years and understand the process of maturing a piece of formal legal writing. I shall evaluate a draft as a draft.

9. Will I have an opportunity to visit with your clerks?

Yes. If you join our chambers, I hope they will become your friends in years to come. During this initial visit with us, you will learn a great deal about the clerkship from the clerks. You also should visit with my secretary. She will be a valued friend and colleague if you join the chambers staff after graduation.

My clerks have a tradition of an annual homecoming weekend. It is a great event and allows us all to keep in touch over the years.

10. I note that you have part-time permanent clerks. Do those clerks have any supervisory role with respect to others?

Absolutely not. The permanent part-time clerks provide the chambers with a sense of continuity but work right along with the other clerks on the same work and on the same tasks as the other clerks. Their experiences in practice and in teaching provide a valuable contribution to the chamber's intellectual life.

11. Should I bring any particular information with me to the interview.

If you have not sent the material required, please try to send it in advance. If it is not available earlier, bring it with you. I also want to be able to spend some time on your writing sample before our visit.

I shall want to know the courses that you are now taking and shall ask you to give me an idea of your program plans for the remainder of law school. For the most part, however, the visit to chambers ought to be an opportunity for us to get to know one another. With all the basic information in place, you can tell

me of your hopes for the future and explore whether this clerkship fits into the picture.

12. Do your clerks work hard?

Yes. We all have a great responsibility to the Country, and our work affects the lives of many people for a long time to come. When my clerks leave at the end of the year, they can be very proud of what they have contributed to the law and to the Nation.