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LAWYER

# Looking Back a Decade Later at the Benefits of a Judicial Clerkship

BY ROMANT T. GALAS

*Special to the Legal*

Recently, I had the privilege of speaking on a Federalist Society panel that included a number of former and current judicial law clerks at various levels of the state and federal judiciary. Now a decade removed from my own two-year stint in the Eastern District of Pennsylvania, this panel provided me the opportunity to reflect back on the benefits of my clerkship. Whether you are a law student or young associate considering taking one on, or a hiring partner deciding between associate candidates, consider these five benefits that a lawyer with clerkship experience will have reaped.

## THINKING LIKE A JUDGE

Hands down, this is the biggest professional benefit of a clerkship. Whether your judge assigns you to draft opinions or write memos to prepare for a hearing, you are forced to place yourself into your judge's head, anticipating not just the potential outcome of the pending issue(s), but the sub-issues, legal or factual, with which he will wrestle, how he will approach and analyze those issues, and the reasoning that will lead to a potential outcome. You



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will benefit from the judge's feedback, if not by, say, a post-hearing debrief, then by osmosis in the back-and-forth discussions you have with the judge along the way, or in the opinion-revision process (my judge, for example was very generous with the red pen, which, though sometimes frustrating at the time, was invaluable to my growth as a lawyer). In that process with the judge, and in your position as a first-level reviewer of other lawyers' work, you will gain precious insight into the types of unfavorable facts and issues that need to be fronted (and how best to front them), the styles of arguments and rhetorical flourish that work or don't, and how to persuasively frame issues so the decision-maker is more likely to side with you.

You will learn how bad writing has a direct and adverse impact on the author's

credibility; if the writer can't use proper grammar and punctuation, format headings consistently or cite cases correctly (including pin-cites so the reader can actually find the quoted proposition), how can the reader trust that the author's substantive argument is accurate? This all benefits the law clerk when he becomes a firm associate because he will have valuable substantive insights to help steer and refine the arguments presented to a judge on the client's behalf; in short, from firsthand experience, the clerk knows what works.

## HONED LEGAL SKILLS

Whether you were on law review, a journal, a research assistant for a professor, or none of the above, your research and writing skills improve as a clerk. With law school not adequately equipping students

with all the practical skills necessary to become actual lawyers, a clerk gets to practice what it is to be a lawyer without actually being a practicing lawyer. Your primary job

is to compile a work product to which your judge will ultimately be willing to sign their name. To get there, you have to research every possible angle of the legal issues before your judge; if the parties fail to adequately brief them, you have to do some independent exploration. This means more than just Shepardizing cited cases; it means curiously nipping around the edges and using different search methods to fully map the various contours of the issues before you.

If the governing jurisdiction hasn't definitively tackled an issue, it means knowing where to look next, whether to decisions of

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sister district or circuit courts, to advisory committee notes or to learned treatises. Only then will your judge have confidence in the outcome you propose. Your writing, in turn, must be mistake-free, well-organized, cohesive and fully Bluebooked. As you will have to do someday as an associate writing for a partner, you will learn to write as if in the mind and voice of someone else: your judge (for me, this meant lots of footnotes, direct quotes over paraphrases, and writing “in that” instead of “because”). Put simply, a law clerk will have significantly sharpened their basic legal skills, thus gaining a leg up on other hiring candidates/associates.

## **EXPOSURE TO LEGAL ADVOCACY—THE GOOD, THE BAD, THE UGLY**

A law clerk will witness legal advocacy, written and oral, in all its forms. I had the unforgettable experience of watching now-U.S. District Judge Gerald McHugh of the Eastern District of Pennsylvania achieve a mid-six-figure products liability verdict (after we had ruled—gasp—against him on a pretrial *Azzarello*/risk-utility motion) against another talented litigator, James Keale. On the other end of the spectrum, I witnessed a lawyer (ultimately reported for the unauthorized practice of law) bungle a client’s case by submitting briefs that were

untimely and barely coherent, then resort during oral argument to personal attacks on my judge. I’ll never forget my judge’s response during lunch that day to my frustrated query of why he let someone talk to him that way: “Roman, sometimes you give someone some rope to hang themselves with.” And then there’s the pro se legal filings. If you’re lucky, they will be typed; otherwise, you’ll spend hours trying to decipher sometimes sloppy handwriting, which might continue via arrows onto the back of the paper or (even worse) somewhere in the middle a few pages later. And only after that do you begin the struggle of unpacking, deciphering and understanding the points the pro se litigant is trying to make.

Either way, a clerk will become a stronger lawyer from simple exposure to and absorption of the different levels of real-world advocacy before ever setting foot in a courtroom to argue a motion on a client’s behalf.

## **NETWORKING OPPORTUNITIES**

At the federal courthouse, I had the opportunity through law clerk happy hours and rec sports teams (Philadelphia has vibrant basketball and softball lawyer leagues) to mingle with upward of 100 fellow clerks—professional peers—who similarly were successful in law school, driven to succeed and enjoyed discussions about topics like the merits of parenthetical string-cites or, as in an episode of “The Office,” about the difference between the words “infer” and “imply.”

Four of my best friends to this day clerked for different judges in the same

courthouse. Through mingling with other clerks, I met at least a dozen other judges, becoming close enough with one that he called my now-managing partner (having recently presided over a trial of his) to recommend me as a hiring candidate. And this all is in addition to the close relationship I enjoy with my judge, with whom I speak regularly and see at least once a year at our annual judge-law clerk reunions. In short, not only did I gain in the short term from the opportunity to compare notes on everyone else’s experiences with their judges, but in the long term, in compiling a wide network of successful lawyers and judges from which I can draw upon for any number of reasons today.

## **SPACE TO GROW**

A clerkship is the last “9-to-5” legal job many will have. Enjoy it. Take advantage of the available networking opportunities; do lunch with other clerks and learn about their experiences, meet other judges. The clerkship comes beholden to no requirement to track billable hours or meet (exceed) billable hour requirements. It comes with no expectation of generating clients. A clerk does not have to sweat the so-called “business of law,” or the amount of time it may take to research all angles of a legal issue, piece together that perfect first draft, or work through the multiple rounds of the editing process. This gives the clerk space to not just perform the job at hand, but to soak in the wealth of lessons that come with it. He will be all the better and more valuable as a lawyer for it. •