



THE UNIVERSITY OF
MEMPHIS

Memphis Law Law

Cecil C Humphreys School of Law

3715 Central Ave | Memphis TN | 38152
Career Services, Suite 107 | (901)678-3217

JUDICIAL CLERKSHIPS

<http://www.law.memphis.edu/career/judicialclerklinks.htm>





Why should I be interested in a Judicial Clerkship?

A judicial clerkship is one of the most prestigious, interesting, and professionally rewarding jobs in the legal profession. Judicial clerkships provide a credential, skills, and connections that will benefit you for your entire legal career. A judicial clerk obtains behind-the-scenes experience with the workings of the judicial system, has the opportunity to develop and refine research, writing, and legal analysis skills, and learns the intricacies of trial or appellate procedure. Because such positions are limited and viewed as highly prestigious, a judicial clerkship can further career goals and provide a competitive edge in seeking both private and public sector legal employment.

What is a Judicial Clerkship?

A judicial clerk is a law school graduate who assists a judge in carrying out the responsibilities of the judicial office. Legal writing and research are at the core of the duties of a judicial clerk, although duties can vary widely depending upon the preference of individual judges. A judicial clerk may review and observe the written and oral arguments of parties before the court and may draft bench memoranda that assist the judge's preparation for trial, hearings, or oral arguments. The clerk may also confer with the judge on pending matters and draft or assist in editing opinions and orders. Depending on the individual judge, a judicial clerk may also assist with the judge's scholarly writing or speeches, administrative matters regarding disposition of the court's docket, or other miscellaneous tasks associated with operation of the judge's chambers.

Judicial clerkships are usually one- or two-year appointments, although some judges hire permanent or career judicial clerks. Judicial clerkships are different from judicial internships, which are performed by law student volunteers either part-time during the school year or full-time during the summer. A judicial clerkship is generally a law graduate's first full-time legal job, although it is becoming more common for judges to hire judicial clerks with one or more years of prior, post-graduate legal work experience.


What are the primary advantages of a Judicial Clerkship?

Students sometimes are reluctant to seek judicial clerkships because of the perception that a clerkship postpones the beginning of law practice and requires the loss of a year of law firm earnings. Although the compensation for judicial clerks may be less than that of top law firms, it is often quite substantial. Moreover, students should consider the many other compelling benefits to judicial clerkships, including:

→ **Educational value.** A judicial clerkship is a unique educational experience. Judicial clerks gain invaluable insight into the inner workings of the legal system and what constitutes persuasive legal writing and effective oral advocacy. The clerk experiences the judicial system from the perspective of the judge and is able to observe how judges react to lawyers, briefs, and arguments. Judicial clerks are typically exposed to a significant variety of cases and thus gain broad familiarity with a wide range of legal issues. Moreover, a judicial clerk spends a year (or more) performing rigorous, supervised legal writing and research and thus is better prepared for that aspect of legal practice than someone who has not had that experience. Knowledge gained and lessons learned through such active, behind-the-scenes participation in the judicial process can provide significant advantages through the entirety of a subsequent legal career.

→ **Career choices.** Many law students are undecided about what sort of legal jobs to pursue – litigation, government work, corporate practice, public interest work, etc. A judicial clerkship allows an additional year (or more) for undecided students to consider their options. Judicial clerks have the opportunity to observe a wide variety of lawyers and practice areas. Importantly, judicial clerkships are not just for future litigators. A judicial clerkship can provide valuable insight into many different types of legal careers, including corporate or transactional work.

→ **Credential value.** Legal employers view judicial clerkships as an extremely valuable experience. A judicial clerkship carries considerable prestige as a legal credential because of the competitive nature of the selection process and the intensive and unique training experience the position entails. In a competitive job market, law graduates who have served as judicial clerks are often more



sought after by potential employers than those who possess otherwise comparable credentials.


→ **Networking.** A judicial clerk develops contacts with judges, other clerks, and lawyers throughout the community. It is not unusual for clerks to become members of an extended family of former and future clerks for that judge. Further, many judges will act as mentors to their law clerks and provide them with career advice and supportive recommendations. Contacts developed during a judicial clerkship can last a lifetime and prove extremely valuable.

→ **Rewarding experience.** The value of a judicial clerkship extends far beyond its weight as a resume and career building block. Many former clerks describe their clerkships as the most intellectually rewarding and enjoyable professional experience of their careers. The rapport that can develop between the judge and the clerk, and among co-clerks or other clerks on the same court, is part of the unique rewards of a judicial clerkship.

What qualifications are required for a Judicial Clerkship?

The judicial clerkship application process is highly competitive. Strong academic performance is important, although the specific law school credentials judges are willing to consider can vary depending on the specific judge or court in question. Judges typically give considerable weight to academic record and evidence of an applicant's writing ability. Thus, membership on Law Review can be a significant advantage and for some judges even a requirement. If you are not on Law Review, you should seek other opportunities to develop and display your writing skills. This may include taking courses that require papers or engaging in co-curricular activities such as moot court competitions that include written briefs. Working as a research assistant to a law professor also provides opportunities to demonstrate legal writing and research skills.

A judicial clerkship position is demanding and carries with it significant responsibilities. Judges will thus seek candidates with demonstrated maturity, integrity and judgment in addition to the intellectual ability necessary to perform the job. The close confines of the judge's chambers also induce judges to consider carefully the personalities of applicants. A judge will want to know whether a person would be an enjoyable colleague to work with in times of



significant stress and deadline pressure. Thus, judges will carefully consider information relating to such factors from numerous sources, including recommendations provided by law professors or prior employers.

Judicial clerkships with the federal courts are intensely competitive and the application process is focused on good grades, high class rank, and Law Review (especially editorial board) experience. State court judges also value good grades and Law Review experience. However, some federal trial court judges and many state court judges may value Moot Court experience as much as Law Review experience. Moreover, some judges in the state court systems may not focus exclusively on class rank and Law Review. Thus, students without Law Review experience or top grades should not be deterred from pursuing the many outstanding judicial clerkship opportunities available in the state court systems.

What types of Judicial Clerkships are available?

Judicial clerkships generally can be divided into trial and appellate court and federal and state court opportunities. Although all clerkship opportunities vary to some extent with the judge, some generalizations can be made in contrasting clerkship experiences in these general categories.

Trial courts

Trial court clerks generally perform a wide variety of litigation related tasks, often on a time sensitive basis. These tasks may include the following: researching and drafting memoranda on a variety of motions, including recommendations for disposition; attending oral arguments; attending settlement and scheduling conferences; researching and drafting trial memoranda, opinions and orders; advising and assisting the judge during trial; researching and writing jury instructions; performing record-keeping and administrative tasks; and interacting with attorneys and witnesses. Clerks have numerous opportunities to observe trials and generally have daily exposure to the process of litigation. Thus, such clerkships offer an opportunity to acquire first-hand working knowledge of the mechanics of litigation and the rules of evidence and procedure.

Appellate courts

Appellate court clerks generally focus on research and writing. Appellate court clerks often perform such tasks as researching and drafting memoranda on issues raised on appeal, including questions for oral argument; assisting with preparations for oral argument; attending oral arguments; and drafting the final opinion, dissent, or a concurring opinion according to instructions from the judge. An appellate court clerk may be asked to consult with clerks in other judges' chambers regarding various cases, arguments or proposed opinions. Appellate court clerks generally read more briefs and do more intensive research and writing than their counterparts in the trial courts, but they will rarely, if ever, deal with counsel or litigants. While trial judges are likely to have a weekly schedule for hearing motions, appellate judges generally have only monthly sittings. As a result, appellate court clerks go to court much less frequently than do trial court clerks.

Federal courts

In the **federal court system**, judicial clerks work for individual judges on the U.S. Supreme Court, the U.S. Circuit Courts of Appeals, the U.S. District Courts, and the U.S. Bankruptcy Courts. In addition, clerks are hired to work with judges on the specialty courts such as the U.S. Tax Court, the U.S. Court of Federal Claims, the U.S. Court of International Trade, the U.S. Court of Appeals for the Armed Forces, and the U.S. Court of Veterans Appeals.

→ **United States Courts of Appeals.** There are thirteen different federal courts of appeals, including the Federal Circuit, D.C. Circuit, and the First through Eleventh Circuits. Tennessee is in the Sixth Circuit, located in Cincinnati, Ohio, although individual judges on the court have chambers in Memphis, Nashville, and Knoxville. Most appellate judges hire three to four law clerks, usually for one-year clerkships, but some for two-year terms.

→ **United States District Courts.** There are ninety-four federal districts with the district courts serving as the trial level of the federal court system. There are three federal districts in Tennessee (Western, Middle and Eastern); the federal district court of the Western District of Tennessee is located in Memphis and Jackson. Each federal district court judge generally hires two to three law clerks.

Most hire for one-year clerkships, but some require a two-year commitment, and a few hire permanent or career clerks.

The federal district courts also have federal magistrate judges who perform a variety of tasks and who are subject to the supervision of the district court judges. Magistrate judges commonly conduct bail hearings, hold preliminary examinations, pass upon search and arrest warrants, and decide pre-trial motions. They also commonly have significant civil responsibilities such as conducting settlement conferences, managing pre-trial matters in complex cases, holding hearings, issuing reports and recommendations and supervising discovery. Magistrate judges may also conduct trials. Magistrate judges generally hire one to two clerks for a one-year term, and some hire permanent or career clerks.

→ **United States Bankruptcy Courts.** Each federal district has a Bankruptcy Court that handles individual and business reorganizations and insolvency matters. Judicial clerks for bankruptcy judges are exposed not only to bankruptcy law and procedure, but also to a wide variety of commercial law issues and other types of legal claims that can be made against the debtor. Bankruptcy judges generally hire one to two law clerks.

State courts

The vast majority of all legal disputes are handled in the **state court systems**, including contract disputes, tort actions, probate and estate issues, family law, and the majority of criminal prosecutions. State courts handle these disputes through a hierarchy that includes trial courts, intermediate appellate courts (in most states), and the highest state appellate courts often referred to as that state's "supreme court." In Tennessee, the state court system includes the following courts:

→ **Tennessee Supreme Court.** The Supreme Court is the state's highest court and the court of last resort. Five justices are on the court which meets in Jackson, Knoxville, and Nashville as required by the state constitution. Each justice on the Supreme Court has two judicial clerks.

→ **Tennessee Court of Appeals.** The Court of Appeals hears appeals in civil or noncriminal cases from trial courts and certain state boards and commissions. The court has twelve judges who sit in panels of three in Jackson, Knoxville, and Nashville. Each judge on the Court of Appeals has one to two judicial clerks.

→ **Tennessee Court of Criminal Appeals.** The Court of Criminal Appeals hears trial court appeals in felony and misdemeanor cases, as well as post-conviction petitions. The court has twelve judges who sit in panels of three in Jackson, Knoxville, and Nashville. Each judge on the Court of Criminal Appeals has one to two judicial clerks.

→ **Tennessee Trial Courts.** The various trial courts in Tennessee are included within thirty-one judicial districts. The trial courts include Circuit Courts, Chancery Courts, Criminal Courts, Probate Courts, General Sessions Courts and Municipal Courts. In most judicial districts in Tennessee, trial judges do not hire judicial clerks. Some exceptions exist, however, in more populated districts such as Memphis, Nashville, and Chattanooga.

Other state court systems relatively proximate to Memphis, such as Mississippi, Arkansas, Missouri, and Kentucky, have hierarchical structures similar to Tennessee, including trial courts of general jurisdiction (Circuit Courts), intermediate level courts of appeal, and supreme courts. However, these states do not have bifurcated courts of appeals—their criminal and civil cases are heard by the same court. Also, each state has a trial court of limited jurisdiction that corresponds to Tennessee’s General Sessions Court, but these courts have different names such as District Courts or County Courts.

How does the application process work?


Students interested in judicial clerkships should begin investigating the opportunities **early in their law school career.** The Career Services website has numerous links to information concerning judicial clerkship opportunities in the federal courts, Tennessee state courts, and other state courts, which can be found at <http://www.law.memphis.edu/career/judicialclerklinks.htm>. **For federal court clerkships and state appellate court clerkships, students should start preparing for the process during the fall semester of their second year.**

Federal court judicial clerkships are governed by the Law Clerk Hiring Plan (linked to the Career Services website) which establishes a highly structured application process. Students should consult the *NALP Guidelines for Clerkship Hiring Plan Implementation* and the *Federal Law Clerk Information System* (both sources are linked to the Career Services website) for more information. Generally, federal judges adhering to the Hiring Plan will accept applications from third-year law students sent no sooner than the day after Labor Day (Tuesday, September 5 during 2006). Additionally, letters of recommendation from law faculty are not accepted prior to that day. Application packets (generally including a resume, cover letter, unofficial law school transcript, letters of recommendation, and writing samples) should be prepared in advance of the submission date so that all materials can be submitted at the very beginning of the hiring cycle and arrive together. Under the Hiring Plan, judges may not schedule interviews until the second Thursday after Labor Day, nor conduct interviews or extend offers before the third Thursday after Labor Day.

Law students may apply for judicial clerkships on-line with participating federal judges through the Online System for Clerkship Application and Review (OSCAR) (linked to the Career Services website). OSCAR allows applicants to file their materials online and designate the judges to whom they want to apply. OSCAR also allows letters of recommendation to be placed confidentially in applicants' online files by the recommender.

Although most federal judges adhere to the Hiring Plan, some do not. Moreover, some judges that adhere to the Hiring Plan may vary the application criteria slightly. Students should consult the *Federal Law Clerk Information System* for information concerning specific application requirements and hiring plans for specific judges. Participation in this system is voluntary, however, and many federal judges may not list their openings on the system. If information is not available online as to a specific judge's application requirements, it may be necessary to contact the judge's chambers directly and speak with the judge's secretary or administrative assistant. It is important to ascertain each judge's specific requirements and to follow them carefully in submitting an application.

Application deadlines for Tennessee state court clerkships vary greatly. Some deadlines for some state court clerkships are in the early fall semester for third-year law students. Some judges accept resumes year-round and hold a file



of resumes until a clerkship becomes available. The application packet for these clerkships tends to be essentially identical to that for federal clerkships (cover letter, resume, transcript, writing sample, and two to three letters of recommendation). Students are encouraged to utilize the informational links on the Career Services website on Tennessee judicial clerkships for further information. Also, information on applications for clerkships may also be found on the Career Services website under the announcements of judicial clerkship job openings. If application deadline and process information is not found through those sources, call the judge's chambers directly and speak with the judge's secretary or administrative assistant.

Application packets should be prepared carefully. Investing the time necessary to prepare the most professional and polished resume possible is essential. At a minimum, resumes and cover letters must be free of typographical errors or spelling mistakes. Resumes should include your GPA and class rank. Cover letters should be brief, polite, and professional. Letters of recommendation from at least one or two members of the law school faculty are essential. Select faculty members who have had an opportunity to assess your writing skills. Writing samples should reflect your best writing and can vary from a law review comment or note to a seminar paper to an appellate brief. If you have questions about preparation of resumes and cover letters, or finding and preparing an appropriate writing sample, seek the advice of a faculty member.

There are general rules of etiquette that prevail in the judicial clerkship application process that may significantly vary from other types of job searches for legal employment. **As a rule, you should not apply to a judge unless you are certain you would be willing to accept his or her offer promptly – sometimes on the spot.** If at any time before or after an interview, you decide you would not accept a position with the judge if it were offered, you must withdraw your application. If you have accepted an offer from a judge, you must immediately contact all other judges to whom you have applied to withdraw your application. And, once you accept an offer, you will be expected to honor it.

Where can I obtain more information about judicial clerkships?

For more general reading, consult the Judicial Clerkships page on the Career Services website. Further, a number of faculty members at the Cecil C. Humphreys School of Law have had judicial clerkships and can be good resources for advice and information. Members of the faculty that served as judicial clerks include:

Professor Michele Alexandre

United States District Court, Eastern District of Pennsylvania

Professor Bob Banks

United States Tenth Circuit Court of Appeals

Professor David Case

United States Fifth Circuit Court of Appeals

Professor June Entman

Tennessee Court of Appeals

Professor Andrew McClurg

United States District Court, Middle District of Florida

Professor Steven Mulroy

United States District Court, Northern District of Florida


Professor Thad Pope

United States Seventh Circuit Court of Appeals

Dean Jim Smoot

United States Second Circuit Court of Appeals

The current faculty clerkship advisor is Professor David Case. Professor Case's office number is 244D. You may call him at his office (678-3225) or e-mail him at dwcase@memphis.edu.



Other helpful sources of information and insight into judicial clerkships include:

Debra M. Strauss, Behind the Bench: The Guide to Judicial Clerkships (The BarBri Group, 2002) (copy available in the Career Services office)

Ruggero J. Aldisert et al., *Rat Race: Insider Advice on Landing Judicial Clerkships*, 110 Penn. St. L. Rev. 835 (2006)

Christopher Avery et al., *The Market for Federal Judicial Law Clerks*, 68 U. Chi. L. Rev. 793 (2001)

Laura B. Bartell, *A Splendid Relationship – Judge and Law Clerk*, 52 La. L. Rev. 1429 (1992)

Louis F. Oberdorfer & Michael N. Levy, *On Clerkship Selection: A Reply to the Bad Apple*, 101 Yale L.J. 1097 (1992)

Alex Kozinski, *Confessions of a Bad Apple*, 100 Yale L.J. 1097 (1992)

Patricia M. Wald, *Selecting Law Clerks*, 89 Mich. L. Rev. 152 (1990)