

Legal Practice

Law Students and Graduates Gain Valuable Experience as Clerks

By JOSEPH BEDNAR

They often work behind the scenes, providing support to attorneys, judges, and others — writing, researching, and otherwise witnessing the mechanics of law. They're clerks, usually law students or recent graduates, and they present a true win-win situation, gaining experience and making connections at a time when both are critical to break into a very tight job market for lawyers. That makes a clerkship a highly desirable goal — and the challenge of procuring one very competitive.

“There’s a reason,” Kevin Maltby said, “that it’s called the *practice* of law.”

He was referring specifically to the role of clerk — specifically, law students or recent law-school graduates who work for a short time, typically one or two years, in a law firm or court system to gain valuable career experience. Or, as he put it, practice.

“I think clerking is one of the best opportunities students can have, in terms of learning by actually being in the law practice,” said Maltby, an associate with Bacon Wilson, P.C. who helps oversee the firm’s efforts to bring in clerks each year. Typically the firm hires four individuals each spring for a one-year clerkship; they come from many different schools, but the current crop are all students at Western New England College School of Law.

“They are excellent students, excellent writers, great researchers,” he told *BusinessWest*, **“and we get to use those skills in exchange for teaching them and exposing them to things they might not be exposed to in law school.”**

Jared Olinski agrees. A 2011 graduate of WNEU, he is on his second clerkship; after working for a year at the Connecticut Appellate Court, he’s now clerking in the U.S. District Court in Springfield.

“I think it’s kind of a prestigious thing to have on your résumé,” he said. **“You’re getting great experience but also seeing the inside of the court system, seeing how the**



Kevin Maltby says clerkships offer educational experiences that law students don’t necessarily get in the classroom.

judges make their decisions, meeting lawyers, possibly making some connections ... so I think it’s very beneficial for a recent law graduate.”

In many ways, the advantages of clerking haven’t changed much over the years. Sandy Dibble, partner at Bulkley Richardson in Springfield, graduated from Suffolk University Law School in 1974. Around that time, he worked as a summer clerk both at a Boston law firm and at the Massachusetts Supreme Judicial Court for respected judge

Francis Quirico; he also served unpaid stints with the consumer protection division of the Massachusetts Attorney General’s office and with a legal-aid clinic outside Boston.

“All those positions, including the volunteer positions, help you learn and expose you to people who have a lot of experience, so you see how they do things,” Dibble said. **“If it’s a law firm, you see how law firms operate; if it’s the judicial system, you see how the court operates. And you get evaluated all the time. You’re in an environment where people function at a very high level, and expectations are high.”**

Dibble noted that the word ‘clerk’ covers a lot of territory, including the full-time workers who perform the administrative tasks of a court system; that’s a different class of law professional altogether. As for young, temporary clerks, Dibble explained, they fall into two categories: those who work during the school year, and summer clerks.

“Our firm may be different from some others, but we don’t hire a lot of clerks during the school year,” he said. **“We have, and sometimes do — usually somebody who can do a lot of things, or somebody who has a particular skill set we need.”**

“Summer clerks tend to be more of a formalized thing,” he continued. **“I was a summer clerk at a big law firm in Boston a long time ago, and a lot of lawyers here worked as summer clerks in law school. That’s usually a pretty desirable position. Most firms use the law-clerk program as a kind of extended interviewing process on both sides.”**

In addition to the obvious connections and career opportunities the experience can open up, Maltby said, **the clerks at Bacon Wilson are constantly learning, from the time they arrive, in ways they can’t from the vantage point of a classroom desk.**

“Whether in a law firm or clerking for the court system or for the DA’s office, they’re learning from day one to practice law,” he explained. **“They’re getting some good experience here, and there are other things they learn as well about the practice in terms of client relationships, as we sometimes bring them on client meetings and so forth.”**

For this issue’s focus on law, *BusinessWest* explores the world of law clerks, discovering in the process that, while practice doesn’t

make perfect, it can often make for better career opportunities in what has become a very tight market for today's law-school graduates.

Different Worlds

Olinski said his two very different judicial clerkships have provided him with a wide range of experiences. On the appellate level, "in Connecticut, almost all cases have an automatic right of appeal; if the losing party chooses, it can appeal to the appellate court, which then has to take the case. The parties submit a brief and the reason why they think the trial court got it wrong."

Here, he explained, the clerks often work with judges to research cases, write internal memos, and, depending on the judge, perhaps help produce decisions. "It's very substantive work, very fulfilling.

"It's different dealing on the trial level," Olinski said of his current role in Springfield. "You'll deal with all types of cases, and it's kind of rare that cases go to trial, so you're usually dealing with pre-trial stuff — like if one of the parties is trying to get the case dismissed before trial for whatever reason. Or you may research, do some writing, and help the judge prepare for trial."

When Nancy Frankel Pelletier attended law school in the early 1980s, she chose George Washington University "because it was one of the only schools in the country that had a clinical program that allowed law students to gain real-life experience while in law school," she explained. "It was a pretty unusual situation back then."

Now, many schools have clinical programs, said Frankel Pelletier, an attorney with Robinson Donovan in Springfield. "As a result of changes in the law over the past five to seven years, law schools have been expanding in terms of programs for clerkships, programs that are now called externship programs."

She said there are significant pros and cons for law firms that employ clerks. "The upside, obviously, is that it provides you someone to work for you, but the downside is that taking somebody brand new in and training them takes an enormous amount of work."

She cited Northeastern University's program that places students in law firms full-time for a full semester. "We had one, who was outstanding. You spend time educating them and training them, but they are working under the auspices of an American Bar Assoc. program, and they have to meet certain criteria. These programs can be pretty flexible — anywhere from working a few hours a week to

the extensive Northeastern model."

At Bacon Wilson, Maltby said, clerks are able to "pick from the whole buffet" when it comes to the experience they gain.

"They provide litigation support, which means helping the litigation department with legal research and writing, helping prepare discovery materials," he explained. "On the corporate side of things, they assist in transactions, maybe shooting over to a governmental agency or to the register of deeds to

.....
"All those positions, including the volunteer positions, help you learn and expose you to people who have a lot of experience, so you see how they do things. If it's a law firm, you see how law firms operate; if it's the judicial system, you see how the court operates. And you get evaluated all the time. You're in an environment where people function at a very high level, and expectations are high."
.....

look things up. In family law or probate practice, there are a lot of documents we may need help with, and they'll witness signings, and sometimes they come to court to get some experience in that regard.

"Or they'll do research for us in conjunction with our own legal research," Maltby continued. "We have them do the initial legal research and then work with them, a lot like a mentor-mentee relationship. For me personally, I have them give it their best shot and come back to me and show me what they've done, and I work with them on what I would like to see on the final product."

Frankel Pelletier said clerkship can result in a hire afterward, in which case it operates as a sort of temp-to-perm work experience. "We have the opportunity to see the person at work and make a determination whether it's the right fit from both perspectives."

Even clerks who move on to other opportunities have a leg up, which is critical in today's tight job market; only 55% of the class of 2011 at American law schools landed a job within nine months of graduation.

Those who have clerked, however, "can say they've had an opportunity to work," she noted. "Having real-world work experience obviously puts a student in a much different category than a student who has not had that experience."

Tough Competition

Naturally, that tight job market has also made clerkship opportunities far more competitive.

"The legal market has not been very kind for recent graduates," Olinski said. "I think, even before this downturn, clerkships were very competitive, and they're even more so now. Generally judges want someone who has done very well in law school, someone who has done law review, top of the class. Some people send applications across the country, especially for the federal courts, which are even more competitive.

Paula Zimmer, assistant dean and director of Law Career Services at WNEU School of Law, said clerkships are becoming increasingly popular for a variety of reasons. "People love clerking because it puts all their legal education into play — the research, the writing, the first-hand look at courts and what it's like to practice law.

"It's a great opportunity, but a competitive opportunity as well," she continued. "There are always more people interested in clerking than there are clerks. We have a judicial clerkships committee comprised of faculty, and we keep all kinds of materials on clerkships and deadlines, and we send recommendations."

Zimmer, like Olinski, noted that the intensity of competition for clerkships varies depending on the venue. For instance, "it's very, very competitive to get one at the federal level, at the state supreme court level, even at the state appellate level. It's still competitive to get into the superior trial-court level, but the trial-court level tends to be open to a broader range of good students.

"Clerkship is a really good credential for someone after law school; it adds a certain prestige to someone's résumé," she added. "It's particularly helpful, especially in this environment, to make connections at law firms and with judges. Often judges will serve as a recommendation for you, and it helps you when transitioning into the workforce."

She noted, however, that not every qualified student wants to do a clerkship. "Some

people have a job at a firm and are offered a clerkship, but they'd just as soon go to work. Most large firms will defer your offer — they'll say, 'come to us in a year,' and they'll often give a bonus to make up for the fact that a clerkship pays less than a large firm's salary."

Still, Zimmer said, "because there are fewer jobs, more people are applying to clerkships at every level of law school. One of our sweet spots has been at the appellate-court level."

Harris Freeman, a professor of Legal Research and Writing at WNEU Law School — and a former clerk at the federal district-court level — told *BusinessWest* that a persistent lack of state funding has curtailed the number of clerkships at the trial-court level, although the appellate level and federal courts don't have the same problem.

The result, he and Zimmer noted, is not only a decrease in opportunities for students, but a slowing of judicial proceedings, which affects businesses as well as individuals seeking redress in the courts.

In law firms, Dibble noted, whether hiring school-year or summer clerks, practices are looking for top students, as well as those with at least a couple of school years under their belts. "There are a couple of reasons for that: one, they know more, they're older and a little more mature; and also, it's closer to the time when they'll decide what they're going to do."

If the firm is using a clerkship to gauge whether an individual will be invited back for

a job, he added, "it's a lot easier for everyone to think about that when they're only a year away from graduation."

.....
"They'll do research for us in conjunction with our own legal research. We have them do the initial legal research and then work with them, a lot like a mentor-mentee relationship."

Options Open

Maltby is pleased with the two-way benefits of clerkships. "I would like to think when these students move on to their next job, they're very well-qualified and prepared to handle a variety of different things."

At the same time, the experience of clerking can help someone figure out what to do. They might say, 'you know, I really don't want to do litigation; I want to do transactional work.' They're seeing options and talking to lawyers in the firm and coming to an

understanding of what they'd like to do, and that's good."

Frankel Pelletier agreed. "Sometimes they grow up wanting to be a trial lawyer, then they see what we do and say, 'no, I don't want to do that at all.' You don't get that kind of experience in law school, seeing exactly what it's like. This affords you that opportunity."

Dibble values his time clerking in the 1970s, but said the experience can vary for a student or graduate depending on the firm or judge.

"These kinds of positions are sought after by law students for the experience, the contacts, the possibilities," he said. "Some judges are known for spending a lot of time with law clerks, helping them advance and supporting them, and others are a little more standoffish about it."

As for Olinksi, his experiences have been overwhelmingly positive, and have helped him keep his options open. He is interested in litigation and has considered career paths in private practice, appeals, government work, even nonprofit practice.

"So it's good for someone like me to see so many different areas of the law, not really getting focused on one or specializing in one," he told *BusinessWest*. "Clerking is great if you haven't picked which area you want to be in."

And that's true no matter how much law practice you need. ■

Joseph Bednar can be reached at bednar@businesswest.com