

## BOOK REVIEWS

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### *A SHORT & HAPPY GUIDE TO JUDICIAL CLERKSHIPS* DELIVERS, ESPECIALLY THE HAPPY PART

Douglas R. M. Nazarian\*

For many law school graduates, the year or two that we spent serving as judicial law clerks was the best job we ever had; for me, it was the best job I had until I was appointed to the bench. Judicial clerkships function in the legal profession in much the same role as residencies and fellowships in the medical profession, as an immersive and intensive learning opportunity in which new graduates get to apply the book learning of law school to real-life cases. Clerkships bring you inside the judicial branch to see and experience courtroom lawyering (good and bad) and judicial decision-making first-hand. And a clerkship can, and should, be a transformative personal and professional relationship for new lawyers. We identify ourselves as lawyers by a few key professional markers, and our clerkships are a big one. Judges are life-long mentors for their clerks, and the judge's extended clerk family is a ready-made and durable professional network. My judge, The Honorable James B. Loken,<sup>1</sup> said that a judge's legacy on the bench isn't measured by the opinions they write or the decisions they make, but by the lawyers that they send out into the world. That principle motivated me as a clerk and guides

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1. Judge Loken serves on the United States Court of Appeals for the Eighth Circuit. He entered judicial service in January 1991 and remains in full active service at age 83.

me as a judge. The work of the judicial branch depends, literally, on our ability as judges to execute against and live out that principle. And no matter what their ultimate career aspirations, I counsel all law students to clerk after graduation—to find a court and a judge who are a good fit for them and to use that experience as a springboard to wherever they'd like to go.

Professor Tessa Dysart, a proud Shedd Clerk,<sup>2</sup> shares the view that clerkships are the best first (or at least early) job in the law. But as formative as the clerkship experience can be, law students come to school and go through school with real asymmetries of information about them. Students with lawyers in their lives and connections in the legal profession enter law school with clerkships in mind; students without that sort of head start, especially students from disadvantaged backgrounds and underrepresented communities, learn about clerkships a lot later or not at all. And those asymmetries of information create asymmetries of opportunity. *A Short & Happy Guide to Judicial Clerkships* seeks to overcome the information gap that begets the clerkship gaps, and it does more than just collect the information students should have—the *Guide* helps students see, for themselves and in concrete and executable terms, that clerking is a good post-graduation step for them, that clerkships are attainable for everyone who wants one, and that they're not mysteriously inaccessible.

Take, for example, a common premise underlying the broader and social media discourse on clerkships: the only clerkships that matter are clerkships with federal judges. That premise is incomplete and leaves out the large bulk of opportunities. Of course, federal clerkships are excellent and desirable opportunities. They're also highly competitive, and the successful applicants come substantially from the top echelon of law schools.

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2. Professor Dysart, Assistant Director of Legal Writing and Clinical Professor of Law at the University of Arizona James E. Rogers School of Law, clerked for The Honorable Dennis Shedd on the United States Court of Appeals for the Fourth Circuit.

American law schools graduated over 35,000 students in 2021,<sup>3</sup> and there are approximately 4,250 total clerk positions available in the federal judiciary.<sup>4</sup> But the rest of the story lies in state courts, administrative agencies, and specialized courts, all of which need and hire clerks each year too. The 30,000 state court judges in the United States,<sup>5</sup> tribal court judges, administrative law judges, and even foreign judges all are hiring clerks alongside our federal colleagues, and our clerks come from the same pool of new and recent graduates. This is one of the happier features of the *Guide*—as students learn about and consider the full range of clerkship opportunities, they can see that the judges *need* them and that there *will* be a clerkship environment that fits their skills and goals. A student who wants to practice family law, for example, will see literally none of that in a federal clerkship, whereas family law features prominently in most state court clerkships. The book encourages students to think positively and introspectively about who they are and what they want to do, and to think about clerkships as a way to support and encourage their interests and ambitions rather than merely as a credential. And it's never too late. A student who misses the standard application window (as I did) can look for newly appointed judges who need to hire off-cycle, or work for a year or two before clerking. Many judges prefer to hire clerks who have some work experience, including a prior clerkship. The *Guide* helps students see and understand that there is no single model, profile, or skill set for aspiring law clerks, and that there is a place for each of them.

The *Guide's* encouraging tone motivates the introspection and hard work that follows. Successful

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3. TESSA L. DYSART, A SHORT & HAPPY GUIDE TO JUDICIAL CLERKSHIPS 13, 23 n.11 (2023) (citing Statista Research Department, *Number of law graduates in the United States from 2013 to 2021*, STATISTA (April 29, 2022)).

4. *Id.* at 13.

5. *Id.* at 13, 23 n.12 (citing *FAQs: Judges in the United States*, UNIV. OF DENVER: INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. 3 (June 12, 2014)).

applicants can't just print out or scan a few documents over a weekend and send them out. A successful clerkship application grows out of a *process* that takes thought, planning, time, and, importantly, relationships. Students first must decide for themselves what kind of experience they want (appellate or trial, federal or state or administrative?) and where they should seek it (what level or court, local or national?). Those decisions require students to look inwardly, of course, but also to gain some understanding of their potential areas of practice and the legal or regulatory environments they would be entering. To use an example from my former life as a state utility commissioner, a student interested in energy should understand the kinds of real-life decisions made by the Federal Energy Regulatory Commission and state utility commissions, and they should think about whether a clerkship with a FERC administrative law judge or a state court that reviews utility commission decisions might be a better fit and better preparation for them than a clerkship in a United States District Court.<sup>6</sup> A full exploration of their possibilities and options requires each student to decide what courses to take, to connect with full-time and adjunct professors who have experience or knowledge in those areas and relationships with judges, and to pursue school activities and internships (including judicial internships) and employment opportunities that further their goals. That process needs to start early in law school, and students need to understand the timing implications of their choices. Some judges hire clerks during their second year of school, others later, and all proceed at their own time and in their own way. A student who waits until the spring of their second year to begin thinking about these issues may be way behind. The clerkships they want may

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6. To be fair, this hypothetical student is far more advanced and focused than I was as a student. I never in a million years planned to work in the utility world; I ended up chairing a state administrative agency despite never taking Administrative Law. A student who doesn't know with precision what they want to do, which is common and normal, can focus on what they do know—I knew only I wanted to try cases and win them—and find a broader-based opportunity that moves them in that direction.

already be gone, and even if not, students can't form relationships or connections overnight, corral recommendations over a weekend, or pull a strong application out of a hat. Read at the beginning of school, the *Guide* motivates students to plan their schooling, their professional growth, and their application process with intention and, as the title suggests, guides them happily on how to do it.

Indeed, the word “guide” is key to the *Guide*'s approach and impact. It focuses, appropriately, on the big picture and recognizes that the granular details specific to each student's individual journey and application remain for them to discover and develop on their own. The book leaves students to explore the courts or agencies and the judges themselves, as they must in any event, while identifying resources that can help them. The *Guide* recognizes, correctly, that judges are busy free agents and that each of us conducts our own individual process to find the one-to-four soon-to-be or recent graduates who are “the right fit” for us and our chambers environments. And the *Guide* recognizes, as it must, that access to information remains scattered and imperfect, especially information about specific chambers experiences. Students should work with their schools' clerkship coordinators and career services professionals, of course, and try wherever possible to learn what they can from people who know the chambers first-hand, including former clerks and interns.<sup>7</sup> And the *Guide* never loses sight of its overarching message to every student: you *should* clerk, you *can* clerk, and your clerkship might well be the best job you ever have (unless you get mine).

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7. The Legal Accountability Project's Clerkship Database will be another useful resource of direct information for students once it's fully available. See *Clerkships Database*, THE LEGAL ACCOUNTABILITY PROJECT, <https://www.legalaccountabilityproject.org/clerkships-database> (last accessed June 14, 2023).

