

NALP JUDICIAL CLERKSHIP SECTION

Quarterly Report to the Board of Directors
October 21, 2010

Submitted by: Sheila Driscoll, George Washington, Chair

Since the last quarterly report, members of our section have been busy managing their respective clerkship programs. The height of the judicial clerkship hiring season has just passed, and our group held a section-wide conference call on Tuesday, October 19th to discuss trends and issues that arose. We also heard updates on progress of work groups, programs for the 2011 conference and Bulletin articles.

Conference Programs and Bulletin Articles

Four of the sections' conference proposals were accepted:

- **Beyond the Basics – Tips and Tricks for Using OSCAR Efficiently** submitted by: Katie Wilkinson (Tulane), Kirsten Solberg (Harvard), Matt Zimmerman (Georgetown)
- **The Rise of Alumni Clerks: Challenges and Opportunities for Career Counselors and Legal Recruiting Professionals** submitted by: Michele Hoff (Connecticut), Eric Stern (Berkeley), Laurie Logan-Priscot (Carmody & Torrance, LLP), Marilyn Drees (Yale)
- **The Three Year Plan for a Successful Clerkship Program at Your Law School** submitted by Eric Stern (Berkeley) and Melissa Lennon (Temple)
- **Improving Racial and Ethnic Diversity in Federal Clerkships** submitted by Hanna Stotland (Northwestern), Christian Garza, Irma Gonzalez, and Frank Wu (co-sponsored by Diversity Section)

The following Bulletin articles have been tentatively scheduled for publication:

January 2011: Liz Peck (Cornell) is writing an update on the December 2008 staff attorney article.

February 2011: Tentative Title: Clerkships as Launching Pads to Public Service Careers. Lorri Olan (Washington & Lee).

April 2011: Tricia Hackleman (Georgia) will write an article about conflicts/ethics issues for attorneys hired as law clerks after working for a couple of years.

June 2011: An article focusing on ALJ's in state court systems. Author (TBD)

Work Groups

OSCAR Work Group. Chair Marilyn Drees (Yale) reports the following:

The OSCAR work group hosted a conference call for section members in July to highlight OSCAR features, share tips on working in OSCAR, and answer questions about the system. Approximately 30 callers participated and feedback was positive. Once the dust settled from the Labor Day clerkship application round, the work group held a conference call with the OSCAR staff on October 13. The staff reported no major problems with OSCAR 6.0 and did not foresee major changes in the upcoming year. The staff is now compiling the suggestions for modifications and enhancements submitted by users and will share them with the work group later in October for feedback and assistance in setting priorities. In addition, the annual meeting of the federal judiciary's OSCAR working group is slated for November 4, 2010, in at the Administrative Office of the US Courts in Washington, DC. Marilyn Drees and Katie Wilkinson O'Leary (Tulane) will attend the meeting as the NALP work group representatives.

State Court Work Group. Co-chairs Melissa Lennon (Temple) and Lori Olan (Washington & Lee) report the following:

The state court work group continues to invite volunteers to submit tips and tricks to add to our growing guide, "Insight and Information for Select State Court Clerkships." So far, we have 15 jurisdictions, which include: Colorado, Connecticut, Georgia, Illinois, Iowa, Maryland, New Jersey, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, and Washington D.C. We have a commitment from two members to add Florida, and we hope to solicit additional volunteers. Also, if NALP members review the guide and find they would like to make suggestions to the content already provided, we would welcome that, too.

Administrative Law Judge Hiring. Chair Chris Fritton (Pennsylvania)

Chris Fritton with the help of approximately 9 members has produced a document with information on ALJ hiring for most federal agencies, with the exception of the Department of Homeland Security. That document has been submitted to NALP for inclusion on the web site, and a link will be distributed to members ASAP. Chris would like to especially thank Danielle Sorkin (Brooklyn) who shared information that she had already gathered on ALJ hiring which made the work group's task much easier.

Experienced Attorney Hiring Work Group

As noted in the last quarterly report, this work group has been inactive during the clerkship busy season. The group discussion about the past hiring cycle summarized below focused on judges hiring alumni and highlighted the need to continue to explore this topic. In addition, a program on alumni hiring has been selected for the 2011 conference in Palm Springs. Marilyn Drees (Yale) along with her co-presenters plan on reaching out to members on this topic in preparation for the program, and she hopes that this will help identify members interested in the topic and lead to members formally joining the work group to focus on these issues in a more systematic way. Members who are interested in getting involved in the work group should feel free to contact me directly at sdriscoll@law.gwu.edu or Marilyn Drees.

Summary of Quarterly Conference Call on October 19, 2010

The main topic of the conference call was reflecting on this past hiring season.

Members agreed that they saw a remarkable rise in the number of 3Ls applying and the number of alumni applying. One member reported that she saw triple the number of alumni applying. Some members reported that alumni applicants appeared to have more success in obtaining clerkships than their 3L counterparts based on the ratio of number of applicants to number of clerkship offers.

Members also reported a great rise in the number of 3Ls applying for state court clerkships. One member reported having a separate email listserv just for students interested in state courts, because of the increase in interest.

Members shared their frustration with the challenges facing 3Ls applying in September only to find that many judges had finished hiring over the summer or earlier (either alumni hires or in some cases hiring 3Ls not in compliance with the federal law clerk hiring plan). Members also observed some increase in the number of judges making “future” offers, i.e. offers for clerkships starting in 2012 when students had originally interviewed for 2011 slots. The trend of judges wanting applicants with prior clerkship experience was also noted -- with a few district court judges reportedly hiring applicants with prior federal district court clerkships -- in addition to the more typical applicant moving from district to appellate or appellate to district courts.

There was general discussion about the federal law clerk hiring plan. It was noted that timing of hiring decisions lay entirely in the judges’ hands, and that the schools and NALP do not have much influence over that decision. Members also shared observations about judges not following the federal hiring plan dates as highlighted in a recent National Law Journal article. It was also noted that some judges, particularly many federal magistrate judges and bankruptcy judges, chose to wait until after the September deadlines to contact applicants and schedule interviews. Some members reported that at their school some individual 3Ls applied directly to off-plan judges before the September dates and bypassed the schools’ centralized bundling system.

Several members reported that they would focus on managing 3L expectations and encouraging unsuccessful applicants to apply again as alumni. Hanna Stotland at Northwestern shared that her school provided “bundling” services to graduating 3Ls and sent off applications in June as soon as grades were reported.

There was general discussion about why judges were hiring alumni, and whether it was because those judges truly believed that such applicants were better qualified and could hit the ground running, or whether it was more of a reaction to the compressed hiring timeline for 3Ls under the hiring plan. Melissa Lennon of Temple noted that graduating 3Ls had great research and writing skills and she hoped that judges would continue to value those skills versus skills acquired after a couple of years of experience. Another member noted that some judges also look for maturity and judgment in their clerks and that a couple of years of legal experience could make a difference.

There was also general discussion about the impact of alumni hiring on law firms. I reported that a prominent firm in Washington, DC had rescinded their recent policy, which prohibited associates from working at the firm for a year and leaving for a clerkship, and returned to a policy allowing associates to accept such clerkships with an expectation of returning. Diane Downs, from Akin Gump, noted that while law firms may have adjusted to the reality of federal judges

hiring from their associate ranks that did not take away from the fact that such hiring is disruptive to the firm and potentially on the associate's career path at the firm.

There was general discussion about working with the OSCAR system, and members suggested possible ways to improve the system, including adding the possibility for alumni to "update" their finalized applications (perhaps through giving administrators access to make updates – currently only judges are allowed to request updates from applicants). There was also discussion about the difficulty in determining which applicants had applied to which judges in OSCAR, and Marilyn Drees at Yale shared that judges have historically been reluctant to make that information readily accessible through OSCAR. Members also shared how more students this year continued to add applications on OSCAR even throughout Labor Day weekend just before the deadlines.

Environmental Scanning

An article by Karen Sloan in the National Law Journal highlighted many of the issues facing clerkship applicants, judges and clerkship advisors during this hiring season:

http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202473438279&Clkship_scramble

The issue of judges' ability to hire and pay non-citizens as judicial law clerks has also been in the news and discussed over the judclerk listserv. See, for example:

<http://legaltimes.typepad.com/blt/2010/09/can-federal-courts-pay-non-citizen-law-clerks.html>
and <http://abovethelaw.com/2010/09/clerkship-application-season-clarifications-about-non-citizen-clerks/>

Miscellaneous

I was interviewed in early October by members of the Newer Professional Section to give an overview of the work of the Judicial Clerkship Section and to provide helpful tips on ways that junior members can get more involved in the activities of other sections.