



The Value of a State Court Clerkship

By D'Ann R. Penner

Prized clerkships, everyone knows, are federal. In fact, federal clerkships are so competitive that a computer program with a complicated ranking matrix narrows the selection pool to the most elite of stellar candidates. Employers will hold job offers for a year or two to allow their star summer interns to clerk for federal judges. Why then would anyone want to clerk for a state court judge?

From the summer of 2010 through the summer of 2014, it was my privilege to work in various capacities for four different judges at the Orleans Parish Civil District Court (CDC). In addition, Judge Kern Reese generously mentored me throughout my time at the CDC. From these experiences, I have concluded there is much to be learned from a clerkship for a state judge, depending on the type of law one intends to practice. For example, if one plans to be a transactional lawyer, clerking for a state court judge would be of little benefit. But if one's interest lies in complex tort litigation or contract disputes, including oil field contamination or asbestos claims, then courtroom experience from a state court judge's viewpoint is invaluable.

The diversity of judges before whom one appears in state court and the wisdom of tailoring one's approach to a particular judge's style become readily apparent when one works closely with more than one judge. I had the privilege of working for retired Judge Michael Bagneris, pro tempore Judge Val Exnicios, Judge Paulette Irons and pro tempore Judge Lynn Luker. Two of them were elected and two were appointed. One had more than two decades of experience as a defense attorney. Two had an average of 20 years of experience as plaintiffs' lawyers before taking the bench. The fourth was a very successful state representative. Some judges prepare for Rule Day by carefully scouring the pleadings and the exhibits in advance. Others prefer to size up the issues during oral arguments or after reading their law clerks' briefings on the issues. Some judges take the letter of the law quite seriously. Others are more activist judges, seeking to align their rulings with an internalized sense of justice. Some value complex arguments and scholarly writing. Others prefer colorful stories and a writing style more reminiscent of Hemingway than of Faulkner. In short, in the words of now retired Judge Michael Bagneris, "know your judge" is the first lesson provided by a state clerkship.

State clerkships provide a second advantage: the opportunity to learn firsthand the difference between effective and ineffective trial advocacy. As a law clerk, one usually knows how a judge intends to rule on an issue before he takes the bench. It is enlightening to watch the arguments and styles that convince a judge to rethink an issue in real time. Likewise, a live performance where an inept attorney pushes a judge to rule against a client the judge was previously inclined to rule in favor of makes a lasting impression on the young observer. Similarly, jury trials at the CDC sometimes teach that juries are not always impressed by experienced lawyering or rules of evidence. Instead, runaway juries may bestow astounding amounts of money upon their sentimental favorites, occasionally against all of the evidence. An added bonus to this benefit is that clerking for a state court judge can open unique doors to jobs in private practice or in the public sector.

Finally, spending time as a member of a state court judge's staff in any capacity offers a future litigator the chance to see how much discretion an individual judge has in tasking his staff with responsibilities that greatly impact an attorney's ability to represent his client to the best of his ability. Law school teaches one that writing to a law clerk's predilections can sometimes be

important. Less obvious is the importance of the person tasked with giving out trial settings, perhaps the minute clerk, or setting exceptions for hearing, possibly the crier. Disrespecting a member of a judge's staff or an employee of the clerk's office is rarely in a client's best interests. Complex litigation with tens of millions of dollars at stake frequently occurs in Louisiana state courts. A clerkship for a state court judge offers a unique vantage point on how decisions are reached by finders of fact.

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