

Labor and Employment Law Summer Clerkship

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Receiving this clerkship gave me the opportunity to work with the Employment Division of the Seattle City Attorney's Office. I spent over 330 hours there over a period of 14 weeks. I participated in a wide range of projects that raised many interesting issues in employment and labor law. These included research projects in preparation for litigation as well as more hands on projects that enabled me to interact with witnesses and clients, and assist other attorneys with advising different departments of the City. I also spent some time observing different proceedings, including a deposition, mediation and several appellate arguments. The most striking and interesting aspect of working at the City is the wide range of jurisdictional issues that arise, and the different bodies of law and practice that are important to being an employment attorney with such a broad practice. I thoroughly enjoyed my experience and feel that it was very valuable in exposing me to a variety of areas within labor and employment law. I now have an even stronger interest in labor and employment law, and am very excited about graduating and practicing in this area next year.

At least half of my time with the City was spent doing research on topics relating to issues that were raised in opposing counsels' briefs in current cases. For example, my first project involved an attorney fee dispute. I did research to investigate whether the Court of Appeals had discretion to award attorney fees when the original attorney fee request was denied by the trial court and not overturned by the original appellate court decision. In this case, my research taught me the importance of procedure and technical matters in employment cases (and I'm sure in all legal matters). Because attorney's fees can be a major part of the award in

employment cases, the law around how and when to make an adequate fee request can be just as important as the substantive issues in dispute. Other research projects included: (1) The extent of the City's obligation to provide information that it considers to be privileged, or akin to internal deliberations, to a union; (2) Whether federal labor standards and NLRB precedent in *Johnny's Poultry* is applicable to cases involving certain City supervisors who are organized at the State or local level; (3) The standards in WA for issuing a stay of proceedings.

These research projects were challenging at times, particularly in situations where it was difficult to find precedent that was directly on point. In order to reach a conclusion in those cases, I was required to gain a broader understanding of the legal analysis on those topics. These projects were also challenging because they involved different areas of law with their own jurisprudence, such as Title 7 disability and discrimination law, Federal labor law under the NLRA, State Public Employee Relations Commission (PERC) precedent, and State and local procedural rules.

In addition to research for trial briefs, I also did research on topics that arise when the departments of the City request advice regarding how to deal with employee issues with legal implications. For example, I did research on how courts deal with situations where a disabled employee may require accommodations that are inconsistent with a collective bargaining agreement. In that particular situation, giving a position to accommodate an employee who suffered from a disability would result in a violation of the CBA's seniority clause. My conclusion, that it was likely that the CBA would predominate, was given to the client to help determine the best course of action. I also did research to determine whether rest and meal breaks provided to a specific department's employees are in compliance with State laws and

regulations regarding breaks. This information was used to help the employer respond to employee complaints and suggestions of future litigation.

One of my longer-term projects involved advising a City department on how to develop a policy regarding employees who receive honoraria to testify as expert witnesses in cases involving some of their duties and expertise as City employees. I researched how City Ethics Rules might impact an employee's freedom to testify or the content/scope of their testimony. I also did research into First Amendment concerns that might arise in establishing department policies that limit employees from acting as expert witnesses in some or all cases, and whether notice to the employer is or could be required. This research culminated in a written memo, and a meeting with the client department to discuss a framework for creating a department policy. It was very rewarding to analyze a big question like this for a real client. I was struck by the volume of information I had to get through in order to come to a few simple conclusions. The department was also very receptive and appreciative of my advice, which made the project one of the highlights of my time with the City.

A third aspect of my job with the City involved observing and participating in a number of proceedings at different stages of litigation. One case involved a Civil Service employee contesting her termination. I originally joined the lead attorney on this matter because we expected it to go to a hearing appealing the decision of the Civil Service Commission. In preparation for hearing, I participated in several witness interviews. I also reviewed documents produced by the opposing party and wrote reports on witness meetings to prepare for testimony. Ultimately, this case was resolved at a mediation, which I attended. I know that many employment matters are settled in mediation, so it was very interesting to be part of a mediation first-hand. I also appreciated that the attorney I worked with, as well as the City clients, were

open to any input that I might want to add to the proceedings. The City Attorneys on the whole encouraged me to observe as many arguments, depositions, and other proceedings as I could. They informed me of the cases and issues and were very inclusive in general. This made my experience at the City a very enjoyable one.

The above is just a snapshot of the 14 weeks I spent at the Employment Division of the City Attorney's Office. Overall, this was a valuable experience that I am sure will be useful as I embark on my early legal career. I am very grateful for this opportunity and would undoubtedly support this kind of program in the future.