

How Jones Day Cornered the Market on SCOTUS Clerks

The unprecedented Jones Day spree is a testament to the cachet of Supreme Court clerks and the unspoken presumption that all of them—or almost all—emerge from the nation's highest court polished and ready to take on whatever legal task is handed them.

BY TONY MAURO

It began with a photograph.

Jones Day had been consistently looking to hire Supreme Court clerks and often succeeded. But the number reached six in 2012.

A photo was taken of the spiffy young lawyers. A press release was written and sent out, and soon the firm began to be viewed as the preferred home for waves of former law clerks eager to join a top-tier Supreme Court or appellate practice.

Beth Heifetz, head of the firm's issues and appeals practice, said it was not a concerted campaign, but rather a matter of getting "a little bit better at reaching out to clerks, and getting out the message about who we are."

Five years and 30 Supreme Court clerk hires later, the firm is still raking them in in numbers that other firms have not matched. Perhaps with a tinge of jealousy, some naysayers have wondered whether the firm has gotten its money's worth



Jones Day associates hired 2012 through 2014 who previously clerked for U.S. Supreme Court justices.

from all the hires. With hiring bonuses for Supreme Court clerks ranging from \$280,000 in 2012 to \$350,000 now, a fair estimate would place the cost of recruiting the clerks at more than \$10 million—not counting their salaries—over the last five years.

But Heifetz harbors no such doubts. "We're thrilled about the numbers, and we're also proud that we're recruiting from across all the justices," she said

without hesitation. Clerks who worked for all of the current justices—except for newcomer Neil Gorsuch—have landed at Jones Day. And given the firm's zealous recruitment, it's likely a Gorsuch clerk will join the firm within the next year or so.

In 2015, the firm reached the peak, hiring 10 of the 39 Supreme Court clerks hired by sitting and retired justices from the previous term—almost one-fourth of the class, and certainly

the highest number in a single term for any firm in history. This past year the firm recruited five former clerks from the 2016 “class.”

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“Lawyers from other law firms that are recruiting Supreme Court clerks ask, ‘What’s your secret?’” Heifetz said. “Our ability to hire Supreme Court clerks isn’t about what we do in the recruiting process. It’s about what happens when the clerks come to the firm.” Arguing cases right off the bat, plus the interesting work and camaraderie, Heifetz said, “ends up being our best recruiting point because the next year, the people who are then clerking on the court, hear about the experiences of the previous year’s clerks who have come to Jones Day.”

That was what drew in Aaron Tang, a former clerk to Justice Sonia Sotomayor. “I was looking at the quality of the work, the quality of the people, work-life balance and long-term career prospects,” Tang said. “Jones Day has all four. It was exactly as advertised.”

Working with a “critical mass” of fellow clerks was also appealing, he said. “We were all in the same office. We got along very well; there was a certain comfort level.”

During the year of the 10 hires, some practitioners expressed doubt that the firm would have enough time to train them or the work to keep them busy. But Tang, who arrived the year before, said, “Over-saturation was not a problem. We were not sitting around with nothing to do.”

After two years Tang left Jones Day, as have roughly 10 others among the 36 hired since 2012. “I had a great opportunity to teach on the West Coast,” he said. Now a professor at University of California, Davis, School of Law, Tang said, “I never felt any hostility or anger” about leaving. “We’ve stayed in touch.” Others have left for the Trump administration and government positions in states including Illinois, Michigan, Georgia and Wisconsin.

Early on, some practitioners predicted the departures and questioned Jones Day’s strategy. “As an economic matter, to pay \$280,000 for someone who works for one or two years is not a very satisfactory proposition,” Waxman said in 2012.

Heifetz disagrees. “People leave for different reasons,” she said. “We’ve had people leaving

to teach or to go into state government. ... We hope that they get tremendous experience in those positions, and come back to Jones Day. The way I look at it is, when people leave for public service or to teach, we hope that the relationship continues. If they don’t return, we hope they recommend students to us or collaborate with us on briefs, or on other kinds of writing. We see it as kind of a win-win situation.”

Since the beginning of Jones Day’s efforts to hire Supreme Court clerks, Heifetz said firm management has approved despite the costs. “From the top of the firm down, there is full support for Supreme Court clerk recruiting. The firm encourages me to do it, and lawyers from across the firm make themselves available to help in recruiting Supreme Court clerks.”

Heifetz added, “Every year we have the same conversation within the firm. And every year we come back to try to hire as many terrific clerks as we can.”

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