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Lessons of the Court

An alumna's year in the highest court in the land

Susan A. Weber was practicing at a Philadelphia law firm when she got the call. Her application for a clerkship had been favorably received. Would she be able to come to Washington for an interview with Justice Byron R. White, senior member of the U.S. Supreme Court?

She would indeed. And thus began a year behind the scenes at the nation's highest court — reading, researching and writing on behalf of a justice whose leaning-toward-conservative legal views she didn't always agree with. (Early this year, Justice White announced that he would retire at the end of the current session of the Supreme Court).

Weber, 34, was attracted by the intellectual challenge of it all. A 1989 graduate of UB Law School, she had served as assistant editor of the *Buffalo Law Review* and as a research assistant to Professor David Engel. She also had completed a clerkship in the 4th Circuit, U.S. Court of Appeals, in Lewisburg, W. Va., so she knew the job was part drudgery, part nail-biting tension.

But when the Supreme Court calls, there's no looking back. She moved to Washington, and in July 1991 got down to work as one of Justice White's four clerks for the term.

It was to be a high-profile year for the Court, made more so by the nasty confirmation hearings in the Senate for Justice Clarence Thomas. But Weber discovered that most of the legal motions that reach the Supreme Court Building are, well, less than ground breaking.

"When you trudge through hun-

dreds of cert petitions, a lot of it is pretty boring," she says. "The Supreme Court gets appeals from a fair amount of nut cases. A lot of people say that child support and driver's licenses are unconstitutional. It doesn't take a lot of legal analysis to figure out that they don't have a case."

More interesting was when she was asked to draft an opinion for the boss — a job she took on seven times during the year. "When you're actually working on an opinion, it's very exciting," Weber says.

Her own liberal views, she says, caused surprisingly little friction with Justice White. "If it was something I thought I would have trouble sleeping nights if I wrote the opinion, I just wouldn't take the case," she says.

"We would have the chance to make arguments either face to face or in memos," she says. "Justice White really did pay attention to those memos, and I thought he really took them into consideration.

"But when it comes down to it, he's the justice. You don't push when there's something where the justice has really made up his mind."

The four clerks took turns serving as administrative clerk — doling out the work and taking the lead in communicating with the justice. Beyond that, Weber says, "how you organized your time was entirely a product of your own work habits. The justice didn't particularly care whether you were sitting at your desk reading briefs or taking them home and reading them."

Still, she says, when the term was in full swing it was her usual practice to work 12-hour days on the weekdays

and maybe a half-day on Saturday. And when emergency petitions arrived — capital punishment cases, congressional reapportionment appeals — sometimes the clerks would be up all night.

For the privilege, Weber says, clerks earn about \$38,000 annually.

"Frankly," she says, "it's kind of the Court to pay us at all. A lot of people would do it for free."

She retained some semblance of a normal life by buying season tickets to the Kennedy Center for the Performing Arts. "Because I had paid for them in advance, it sort of forced me to get out and do things," Weber says. "The job really can become all-consuming, and you have to fight that. If a case isn't going the way you want it to go, you can really get wrapped up in that, to the point of depression."

It was an unusual term, because right in the middle came the contentious Senate confirmation hearings for the Court's newest member. As millions of Americans stopped what they were doing to listen to law professor Anita Hill's allegations of sexual harassment by Court nominee Clarence Thomas, the justices pretty much kept to themselves about the whole thing.

"There were a whole lot of TVs on around the Court," Weber says. "And there was some speculation, but it was more in a political sense — 'what do you think the chances for confirmation are today, up or down from yesterday?'"

The justices, of course, didn't take sides publicly. The only comment Weber heard from Justice White — whose own confirmation hearings in 1962 were a far more gentlemanly process — was

that the Senate was a far different place in 1992.

The Supreme Court does most of its thinking out of the public eye, and even now, Weber won't discuss details of the cases she worked on. That vow of silence, she says, is "not unlike the obligation that any lawyer has to protect the confidences of the client. You're supposed to respect the confidences of the Court."

That's all the more difficult, she says, because the Court is always under scrutiny. "If you're doing normal legal practice, you don't have lawyers and reporters coming around asking you what's going on. At the Supreme Court, people are interested."

Weber attended some sessions of the Court, when the justices were deal-

ing with a case she had worked on or when somebody impressive was speaking. But behind the ornate beauty of the hearing room, the Supreme Court Building is just another office complex.

"The fancy high ceilings are out in the public places," she says. "I had a friend in and he was surprised the justice's office wasn't bigger than it was. You know how you walk into some law firms where they've gone for the antiques look, and you get the sense of luxury everywhere? Here it's luxury nowhere."

Only the third UB Law School graduate to have held a Supreme Court clerkship, Weber speaks highly of the school and its faculty. She credits letters of recommendation by Engel, former Associate Dean Lee A. Albert and Pro-

fessors Alfred Konefsky and Charles Ewing with putting her in a position to win the job.

"I very much enjoyed going to UB," says Weber, who also earned an MBA at the university. "I certainly was very well equipped to do what I needed to do in practice and in the clerkship.

"Buffalo is very highly thought of. I think getting a foundation in research and writing is crucial, and at the time I was at the Law School, the research and writing programs definitely accomplished that."

Weber now has returned to her hometown Chicago, where she is practicing — appellate work, media law and general litigation — with the firm Sidley & Austin. ■



Susan A. Weber '89