

Brett Scharffs is a talented and energetic man whose life has been filled with academic excellence and cultural exchange. Brett has spent time in Japan, China, England, and the Netherlands both serving others and educating himself. His experiences there continue to influence his life today in many ways. ~ Brett grew up in Salt Lake City and was edu-

cated in the local public schools. This is where he first came to, in his words, “benefit from the care and tough love of several great teachers.” Because education is such an integral part of Brett’s life, it is no wonder that “many of my heroes, including

AN my father and mother, have been teachers. As a law professor my goal is to have an influence on others that somehow reflects this fortunate inheritance.” ~ His academic promise was recognized early by his teachers, and his outstanding high school years

OCCIDENTAL LIFESTYLE WITH AN ORIENTAL FLAVOR

culminated in being selected as Skyline High School’s 1981 general scholarship sterling scholar. The Walt Disney Foundation also recognized Brett’s promise and awarded him their prestigious Junior

Achievement Scholarship, given to only one high school student in the nation each year. It provides a four-year, full-tuition scholarship to any university in the United States.

So, after graduating from high school, Brett chose to enroll at Georgetown University to seek his undergraduate degree. While living in DC, Brett began a brief career working at the U.S. Senate—as a parking attendant. After his freshman

year, Brett left Georgetown to serve a mission for the Church in Japan (1982–84). When he left for his mission, it was unclear whether the Disney Foundation would honor his scholarship after a two-year absence, but Brett felt he should not postpone

his mission, and upon his return from Japan, he learned that the university had intervened on his behalf and the Disney Foundation support continued for the next three years.

After returning to Georgetown, Brett continued his study of Japanese. He also spent a summer at the East China (Jiao Tong) University in Shanghai, China, for intensive Chinese language study. At this time, many people thought China, not the Soviet Union, would open up politically and economically. But Brett said he “developed a real sense of uneasiness about the political climate in China.” He felt “China was so uncertain, even in this summer of optimism, that I did not want to hitch my wagon to this star.”

Nevertheless, Brett had begun to develop a deep respect for Asian cultures and traditions as well as a real appreciation for Japanese cooking, an interest he still actively pursues. The combination of the taste of the food and the simplicity of its preparation evokes for him many fond memories.

During his junior and senior years he worked in the university president’s office as a student assistant for federal relations. During that time he also met Deirdre Mason Crane, whom he would later marry. On the same day in 1986, Brett and Deirdre graduated from Georgetown—Brett with a BSBA (magna cum laude) in international management and a minor in theology and Deirdre with a BA in history. A year later, Brett was awarded a master of arts degree in philosophy from Georgetown, graduating summa cum laude (4.0 grade point average).

Brett remembers with great fondness his time at Georgetown. He was one of few Mormons enrolled. It was ironic, then, that he came under the influence of Jesuit priests. Of this interaction, Brett says he “benefited enormously from their ideal of living a life of action and religious commitment.” That is one reason he accepted a teaching position at BYU. “I believe there is a very important place within the pantheon of universities for religiously distinct universities such as BYU. BYU also plays a crucial role for the Church. Although I have never been a student at BYU, in a very real way I feel as if I am coming home.”

Only a few men and women experience the thrill and challenge of being awarded a Rhodes Scholarship. From 1987–89, Brett enjoyed the opportunity to study at Oxford University as a Rhodes scholar. His studies focused on moral and political philosophy and Aristotle. His thesis topic is illustrative of his erudition: “Interpretation in Adjudication: Some Philosophical Aspects of a Current Debate.” In 1989 he received a bachelor’s in philosophy. During his second year at Oxford, Brett and Deirdre were married in the Washington, DC, Temple, and Deirdre joined Brett at Oxford, where she worked at the Oxford Museum of Modern Art.

Yale. His teaching assignment in the fall was two weekly sections for Professor Jean Shrodel (“Introduction to American Government”), followed by one weekly section for Professor Phil Klinkner in the spring (“Political Parties and Elections”). Simultaneously, he interned in the New Haven Office of State’s Attorney. During the summer of 1990, he was an associate with VanCott, Bagley, Cornwall & McCarthy in Salt Lake City. Finally, in 1990, he began a three-year stint as research assistant to Professor Anthony Kronman, who was writing *The Lost Lawyer*, a book on character and practical wisdom in the legal profession. “My interaction with Professor



After a full day sizing up the housing market, Deirdre and Brett Scharffs break for a photograph with three-year-old Elliot and Sophie, born last March.

After finishing his Oxford degree, Brett felt ready to study law. As is readily apparent, he was not the typical first-year student entering Yale Law School. In Brett’s first year, 1989–90, he was named lead editor of the *Yale Journal of Law and the Humanities*. In 1990 he was a teaching fellow in the Political Science Department at

Kronman was easily the highlight of my time at Yale,” said Brett.

Deirdre spent Brett’s first law school year working at the Yale Center for British Art. She then entered the Yale School of Management to pursue a master’s in public and private management (MPP), where she was able to combine her

interest in art history with her interest in museum administration.

Brett continued his display of intellectual achievement. In 1991–92 he was named senior editor of the *Yale Law Journal*, served as the student representative on the Campus Curriculum Committee, and continued teaching. He was a visiting lecturer at Yale and a visiting fellow at Saybrook College, one of the undergraduate colleges at Yale. At Saybrook he co-taught the undergraduate seminar “Legal Formalism and Its Critics.” He also taught by himself an undergraduate seminar titled “Theories of Adjudication.” At about the same time, he assisted Professor Joseph Hamburger in teaching a course about “Conservatism and Its Critics.”

Summer work continued at the same breakneck pace for Brett. In 1991 he was an associate with Jones, Day, Reavis and Pogue in Washington, DC. He also worked with Davis, Polk & Wardwell in their New York, Tokyo, and Washington, DC, offices. “My summer was split between four different offices, an approach I do not recommend, although there was an advantage to not being expected to know more than how to find the copier and the restroom.” The next summer Brett worked as an intern in the Office of Legal Counsel at the United States Department of Justice (Washington, DC).

While studying at Yale, Brett also somehow found time to take up golf. He felt it provided an excellent opportunity to, as Asian philosophers might say, “cleanse your mind and become one with nature.” He enjoys the blue sky and the green grass. As he puts it, “I’m a sufficiently poor golfer that I can enjoy the exercise without becoming too exercised.”

On a beautiful May day in 1992, Brett and Deirdre once again graduated together, Brett with his JD and Deirdre with a master’s in private and public management. After receiving his juris doctor, Brett became a law clerk for the Honorable David B. Sentelle of the United States Court of Appeals for the District of Columbia Circuit and the next year served as legal assistant to Judge George H. Aldrich at The Hague.

While living in the Netherlands, he pursued sculpting, an interest he has had

for many years. “The law deals with abstraction,” said Brett, “sculpture and sculpting is materiality.” For him, sculpting “taps a part of your soul that is very different.” His goal in sculpting is “to create a sense of movement in an inert object.” He continues to enjoy this avocation.

From 1994 to 1997 Brett was an associate with Sullivan & Cromwell in Washington, DC, where he worked in securities transactions including IPOs and registered and unregistered debt and equity offerings. He also did some investment company work. For example, Brett helped to establish a foreign securities index fund. Brett also continued to teach. In spring 1997 the George Washington University Law School named him associate professorial lecturer in law, and he taught an advanced international business transactions seminar. Meanwhile, Deirdre worked part-

time for Paul Mellon with his personal collection of art and rare books.

Brett’s teaching and research interests include corporate law, private and public international law, and philosophy of law.

One major reason he will be teaching at BYU is because he believes the “law school has an opportunity to reach out to BYU’s natural constituency around the world.”

Brett and Deirdre are the parents of two children. Elliot will be three years old in September, and Sophie was born in April of this year. Brett enjoys reading and writing poetry and children’s literature. He also skis. And if you are lucky, he may invite you over for a taste of sukiyaki, his favorite Japanese dish.

Though Brett Scharffs seems something of a Renaissance man in the European tradition, he still has a yen for the Orient.

Tom Lee is one of those rare individuals who can be accurately characterized as being indefatigable. Even as a youngster, he was always “running without being weary.” This has proved to be a tremendous asset in his life. He was blessed to be born in a family that provided a legacy of greatness. Tom describes his father Rex as “the person I admire most in the world.” Now that Tom

RUNNING

ON

FULL

has learned the nuances of the law, his respect for his father is even greater. This admiration for Rex Lee did not, however, originally evidence itself in a desire by Tom to pursue a career in law.

He admits that in high school he was determined to “do anything but follow in my father’s footsteps.” This attitude persisted during his freshman and sophomore years at Timpview High School in Provo. When his father was named solicitor general of the United States, Tom moved with his

family to McLean, Virginia, where he attended Langley High School, which is, as Tom says, “a stone’s throw from CIA headquarters, though I wouldn’t advise testing the description with an actual rock.” This proved to be a difficult move for Tom. He experienced culture shock and found the lifestyle of Washington, DC, intimidating.

While attending Langley High, Tom enrolled in a government course as a senior. It was while participating in a project in that class that he fell in love with the law. His favorite assignment was a mock trial project, for which he eventually made an appellate argument to the Virginia Supreme Court. He was hooked.

Tom was awarded a Trustee’s Scholarship by Brigham Young University in 1983, and he returned to the safe environs of Provo. After completing a year at BYU, Tom was called to serve a mission for the Church in Monterrey, Mexico.

His mission showed him the poverty and misfortune of others and taught him the marvelous ability of the human spirit to endure. He met many wonderful people who demonstrated the ability to find joy in the simple pleasures of life. Serving in small cities and in Mexico’s center of heavy industry, Tom enjoyed associating and speaking with the Mexican Saints and learning about their language and culture.

As his mission was coming to an end, Tom wrote a letter to his sister Wendy, suggesting she find someone for him to date when he returned home. This had been Wendy’s “job” for some time, and she was happy to oblige. Not seeing any need to look farther than her own apartment, she lined Tom up with Kimberly, her roommate.

Tom and Kimberly married during Tom’s senior year at BYU. They now have three children: Jordan, a vivacious young woman of eight; Jacob Rex, an active youngster of six; Benjamin Thomas, a bright boy of two. A fourth child is expected to arrive in early 1998.

In Tom’s final year at BYU, he received the Edwin S. Hinckley Scholarship and then graduated in economics, *summa cum laude*, in 1988. At this point he knew he wanted to go to law school, but, again, he was determined to not follow in his father’s footsteps to the University of Chicago.



Expecting a fourth child in a few months, Tom and Kim Lee choose firm ground while Jordan, eight, and Jacob Rex, six, display their aerobic skills. Two-year-old Benjamin had gone with his grandmother to Boise.

His first choice was the University of Virginia, where he was on a waiting list. Meanwhile, he was accepted for admission at the University of Chicago. After visiting the campus and sitting in on some classes, Tom decided to stay in Chicago. (In the meantime, he was accepted by the University of Virginia.) One reason he decided to seek a degree at Chicago was because he wanted to study the law “through the lens of economics.”

Early in his life, Rex Lee encouraged Tom to take up running. This practice has served Tom well over the years, and, as his life has shown, one has to run to keep up with him and his achievements. Tom feels running helps him clear his mind and relax, both of which were necessary to succeed at the University of Chicago. So, Tom and Kimberly arrived in 1988 to study law in Chicago.

Tom joined the Law Review Managing Editorial Board, where he served as the topics and comments editor during the 1990–91 year. After his second year, he was awarded the John M. Olin Fellowship in law and economics. In his first year he won the Joseph Henry Beale prize for outstanding work in first-year legal research and writing. Honors at graduation in 1991 included the John M. Olin Prize, awarded to the outstanding graduate in law and economics, induction into the Order of the Coif, and a juris doctor degree with high honors.

Following graduation, Tom clerked for the Honorable J. Harvie Wilkinson III, judge of the United States Court of Appeals for the Fourth Circuit, in Charlottesville, Virginia. This one-year position had a positive, lasting influence on Tom, who describes Wilkinson as a “good

boss to work for” because he taught his clerks much about writing. Tom remembers spending many hours in Wilkinson’s office carefully editing and refining decisions.

Curiously, Wilkinson liked to, as Tom puts it, “drag his law clerks out every day to run.” Tom, of course, was more than willing to oblige. During these runs, conversation covered many diverse topics, including, but not limited to, politics, sports, and acc basketball. The disconcerting part of this daily exercise was Judge Wilkinson’s routine of going directly from running to eating lunch at a Charlottesville gathering place. Tom was embarrassed, considering his sweaty condition, but he learned to adapt.

When asked if he recalls any particular case, Tom responds quickly about a trademark violation case involving an enterprising college student. It seems this student produced T-shirts based on a parody of the Budweiser beer advertising campaign featuring the slogan “Budweiser, King of Beers.” The student sold shirts emblazoned with the motif of Myrtle Beach, “King of Beaches.” Budweiser sued for trademark infringement. A jury found the student not liable. The judge overruled the jury.

Of added interest in this case, retired United States Supreme Court Justice Lewis Powell was one of the three-member panel that heard the case. (Coincidentally, Wilkinson had been Powell’s first law clerk at the u.s. Supreme Court.) Justice Powell disagreed with Wilkinson and the other judge. Tom Lee was asked to help draft a majority decision that would not be offensive to Justice Powell. The majority decision was a validation of the jury’s original verdict.

In 1992 Tom became an associate with the Salt Lake City firm of Kimball, Parr, Waddoups, Brown & Gee, where he worked in intellectual property and employment litigation for two years. Then, in 1994, Tom accepted the rare opportunity to clerk for the Honorable Clarence Thomas, associate justice of the United States Supreme Court. He described this experience as the “most fun I have ever had at work,” and he characterized Justice Thomas as “the

best boss I have ever had. Unfortunately, very few people have an opportunity to know and appreciate his immense talents and his great intellectual and human qualities. His public image has taken a beating at the hands of the press, but the man I worked for is truly one of the finest human beings I have ever known.”

After spending many hours helping Thomas with his opinions, Tom nostalgically recalled how interesting the u.s. Supreme Court’s docket was and suggested there was never an easy case.

Tom was given the opportunity for a great deal of interaction, both professionally and personally, with Justice Thomas because Tom was chosen lead clerk. This meant that he and Thomas met each day to coordinate assignments among the four clerks and make sure the work was completed.

Justice Thomas is a man with whom Tom shares many interests. For example, it was common practice for Justice Thomas to throw a football to Tom on his front lawn or play basketball at the Supreme

Tom enjoys recounting Justice Thomas’s unique variation on a common game in the Supreme Court gym—instead of H-O-R-S-E, Thomas and Tom often combated in lengthy games of H-A-B-E-A-S C-O-R-P-U-S. These games grew increasingly competitive until Justice Thomas eventually dislocated his shoulder while attempting a half-court shot. Justice Thomas also frequently cooked for his clerks.

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In 1995 Tom returned to Kimball, Parr, Waddoups, Brown & Gee as a shareholder. One of his favorite assignments in the field of trademark enforcement litigation was representing the Porsche automobile company in the United States. Although their United States corporate headquarters are located in Reno, Nevada, Tom traveled from California to Virginia to represent their interests.

As a legal scholar, Tom has produced two outstanding articles. The first was “The Standing of Qui Tam Realtors Under the False Claims Act” (57 *University of Chicago Law Review*, 543). The second is a recent article (February 1997) for the *BYU Law Review*, “Pleading and Proof: The Economics of Legal Burdens.” He looks forward to doing more writing as well as teaching.

The BYU Law School seems to be a perfect fit for Tom. Dean Hansen is a longtime friend who was Tom’s basketball coach in his youth. Stan Neeleman helped Tom earn his Eagle Scout award,

and Tom and Richard Wilkins have kept in contact for years. Tom refers to the BYU Law School as “a great place,” and teaching is “what I want to do with my life.” His initial assignments will include teaching civil procedure and remedies.

Tom and his family are building a new home in Lindon. He is anxious to spend as much time as he can with his wife and children. He also hopes to play a little golf and tennis, relax some, and, of course, there will always be time for running.

Glenn V. Bird is a freelance writer from Springville, Utah.