

Michael A. Neider, '76, left Tyhee, Idaho, to attend Brigham Young University as an undergraduate and then continued on at the new J. Reuben Clark Law School, one of the members of the first graduating class. These experiences would shape the rest of his life, and law school graduation was one of the highlights. He relates:

The capstone of my experience occurred at our baccalaureate graduation exercises when Dean Rex E. Lee told us we had been taught in law school to know there are many answers to any one question. Then in a way that has been a solace to me over the years, he assured us that there were verities upon which we could rely. He proceeded to share his witness of the truth he knew, including his testimony of the Savior and the latter-day restoration. We could not have had a greater mentor in law school than Dean Rex Lee.

Michael Neider Called to Young Men General Presidency

The young attorney began a litigation practice in Salt Lake City and was further taught by clients and judges, as related by his following account.

Early on I was retained after his trial by an honorable man from Idaho who was a sheep rancher. He had helped organize an SBA company, and when several of the borrowers promptly returned matching funds to private lenders, he was indicted and found guilty with three others for filing false claims under federal law based on his signing the federal application. I took the appeal and made the argument to the 10th Circuit Court of Appeals in Denver that the verdict could not be supported by the evidence. It was a long shot. I reasoned with the three-judge panel that the only evidence against my client was the application, the deposit of money he made into the company bank account, and the checks he signed to the borrowers. There was no evidence that he was knowingly a part of a conspiracy. When one of the members of the court asked if I was serious in asking it to overturn the conviction

based on lack of supporting evidence, he laughed and said before all those present, 'You are a dreamer, Mr. Neider!' After the conviction was upheld, I continued my enthusiasm for the case with a petition for a rehearing en banc. While I was worrying about the possible future bearing and the reassertion of the 'dreamer' charge, we received in the mail not a denial or grant of the petition for rehearing but a reversal of the conviction on a previously unnoticed but more compelling ground. My client was free and exonerated. The decision was signed by none other than the Honorable Justice Monroe McKay. He had taken the time to thoroughly review the case, see other grounds for the defective decision, and then make the right decision. Of course, he is another great mentor from the Law School.

Michael Neider and his wife, Rosemary (Curtis), are the parents of eight children and grandparents of six. Michael testifies:

My experiences in law school, practicing law, and in life have con-

firmed my belief in God and that the Spirit is an important guide to what we do each day. These experiences have reaffirmed my belief in the relative goodness of humankind, that we have many good laws that protect us, and that there are multitudes of honorable men and women who work hard to promote justice and limit evil. I have come to be more aware of God's influence in our lives as He protects his children through the ideals, values, talent, and efforts of everyday, common individuals with uncommon virtue.

Sustained this year as the second counselor in the Young Men general presidency, Neider brings his enthusiasm for the youth to this calling and a belief in their special potential. Like the experiences that shaped his path, he believes young men will develop in the same ways. "They need to have activities and opportunities to experience values and make correct decisions that help bring happiness and security to themselves, so they can bring those blessings to their future families."



Community Mediation Center Flourishes in Provo

BY ARWEN TAYLOR

For the last four years, low-income and marginalized populations of Utah Valley have found a viable alternative to taking disputes to court. This alternative lies in the Community Mediation Center, a flowering of collaborative efforts within the Utah Valley community. Staffed mostly by volunteers and students, the Mediation Center keeps its fees low and focuses its efforts on low-income and underprivileged fractions of the community.

The center opened its first office in 2000, with a second opening in south Provo in May of 2004 through the generous help of the United Way. Tamara Fackrell, '98, is the executive director and a founder of the Community Mediation Center and works with the BYU Law School's Susan Bradshaw, '97, director of the Schooley

Mediation Program; Associate Dean Katherine Pullins, '88; and Professor Jim Backman. She is also assisted by Ryan Thomas, '79; Hugh Rode, '01; Brent Bullock, '87; and Ellen Hall Loveland, '01, at UVSC. Fackrell wanted to give the community a more effective—and more peaceful—venue for solving disputes. The Schooley Mediation Program, which teaches mediation to BYU law students, runs small-claims court mediations in Provo, Orem, American Fork, and Spanish Fork, but Fackrell and others wanted a venue geared to more general disputes in the community. In the fall of 2000, 10 students were trained to become the Mediation Center's first generation of trained volunteer mediators at the Law School.

The Community Mediation Center is largely focused on the lower-income population, emphasizing in its mission statement that it strives to "educate members of the community, especially those with limited

resources, about available services to assist with family housing and employment issues," and to "communicate with populations frequently overlooked, such as Spanish-speaking members of the community, about resources and services." The Community Mediation Center works closely with the Centro Hispano to help the Spanish-speaking community with dispute resolution.

Mediation is a process especially valuable to families and individuals with few resources because conflicts can be settled without the time and financial investment demanded by the courts. Trained mediator volunteers from the center meet with the parties in conflict, talk through the problems, and put agreements into writing. These written agreements, authorized by certified mediators, are legally

binding. Mediation has all of the useful outcomes of going to court without the outlays of time and money. "Court isn't always the best answer for relationship issues," Fackrell explains. The big reason mediation works, she says, is that it allows people to solve their own problems. "It seems like the problem-makers should be the problem-solvers. Mediation helps people who have a problem to solve it without having to go to someone outside. We facilitate people talking to one another, and the participants come to their own decisions, which is very empowering for them."

The Mediation Center deals with all kinds of cases, from domestic disputes such as divorce and parent-child issues to employment disputes and restorative justice issues like misdemeanor restitution.

Cases come from people in the community, referrals from attorneys, or the Juvenile Court system, and the center sets up a mediator to work with the parties involved. Because the center utilizes volunteers and staff mediators, the fees for the parties can be kept very low.

In addition to coordinating mediation and training volunteers, the Mediation Center serves the community with a program run on a grant from the Commission on Criminal and Juvenile Justice. During fall and winter semesters, Fackrell supervises four undergraduate mediation classes in the School of Social Work; the Department of Marriage, Family, and Human Development; the Department of Psychology; and prelaw at BYU. These students, along with UVSC mediation students, go to at-risk sites such as Slate Canyon Youth Lock-Up and teach children conflict resolution skills like communicating, negotiating, and anger management. In the 2002–2003 school year, 54 BYU students donated nearly 1,400 hours to teaching these classes in the Provo School District.

The Mediation Center is located at 817 S. Freedom Boulevard, Provo, Utah, and may be reached by phone at (801) 371-6790. The Mediation Center Web site is located at www.communitymediationcenter.org



*Tamara Fackrell,
executive director
of the center.*

It's a long way from Tel-Aviv, Israel, to Provo, Utah. It's even a bigger jump imagining a private practice Israeli attorney connecting with the J. Reuben Clark Law School as an LLM student. But that's exactly what happened when Yoram Chady entered the Law School in the fall of 2003.

First of all, it's not easy to get into Tel-Aviv University's Law School in Israel: typically only the top 2–3 percent of all applicants are admitted, based on grades and placement scores. For Chady, born in the small town of Petch Tikva in Israel, one of seven brothers and one sister, the dream of being a lawyer began at age 15 when he realized how fascinated he was with legal ideas. He began then to plan and prepare for law school in Tel-Aviv. Several years later he was admitted, graduating in 1990 in the top 5 percent of his class.

In 1992 he founded his own law firm, Yoram Chady Law Offices, in Tel-Aviv, specializing in property, business, and Internet law. He counseled clients, drafted local and international contracts, wrote legal opinions, and litigated cases in every court in Israel, including the supreme court. These experiences followed a stint of working in the United States in Dallas, Texas, right after graduation.



From Tel-Aviv to Provo: Yoram Chady, Attorney and BYU Student

The key factor in coming to Utah was marrying Tonia Lambert, a U.S. citizen from Park City who was working in Israel, in 1990. From the time of their marriage, the Chadys made their home in Israel with children Sean (age 11), Shenan (age 8), and Jason (age 3), until Tonia convinced Yoram to return to the United States because of the ever-present threat of suicide bombers near their home.

Yoram and Tonia moved their family to Park City, with Yoram maintaining his law firm in Israel. But he wanted to take the Utah bar exam, and there is a mandatory requirement to take at least five courses at an accredited law school before a foreign attorney can sit for it. Then he met Michael Goldsmith, faculty member at the J. Reuben Clark Law School and a resident of Park City, who recommended BYU's Law School, because "it combined excellent academics with a unique atmosphere."

Yoram came to Provo and met with Professor David Thomas, who talked about the predominantly LDS population of students and the "unique" atmosphere of the school.

Yoram attributes those two conversations to his growing desire to attend BYU's Law School. The other options now seemed unattractive in comparison. He met with assis-

tant dean Carl Hernandez, who smoothed the way for Yoram to join the fall LLM class of 2003, even though the class was already two weeks into the semester. "I could tell Yoram was going to add a valuable viewpoint to the school," said Dean Hernandez. "He had a desire to be here, and I knew right then that he would make a positive impact."

Lovisa Lyman, who runs the legal-writing class for LLM students, was somewhat skeptical that Yoram could successfully make up the work that the students had already completed. "But he caught up and did every assignment in a short amount of time. He worked hard and did very, very well in the class."

For his part, Chady was overwhelmed with what he experienced in the Law School.

The students and faculty that I met seemed to have a kind of mission in their hearts different from other students and professors I had known. There was a passion for the law as well as no division between that and their values. The students were so good—what a willingness to help me. I have talked frankly with others about the wonder of this experience. I think it has to do with religion and the moral values of the people here. It was thrilling to be part of this school, where on one hand you have professors who teach from their hearts and passionately profess the value of the law as a tool for the people it aims to serve and protect. On the other hand, there are the students who wish to serve the law with faith, high values, and compassion.

Yoram Chady took the Utah bar in July 2004 and will practice in Park City as well as Israel. He is the first Israeli student to attend the J. Reuben Clark Law School.



Bruce T. Reese Named Chair of National Association of Broadcasters Radio Board

Bruce T. Reese, '76, has recently been elected chair of the National Association of Broadcasters Radio Board for 2004-2005.

As president and chief executive officer of Bonneville International Corporation, headquartered in Salt Lake City, Reese oversees 35 radio stations, an NBC-affiliated television station, and related operating divisions. Vice chair of the NAB Radio Board in 2003-2004, Reese now heads a 35-person board representing owners and operations of radio stations in addressing policy planning and needs. He will spend time in Washington, D.C., formulating policies concerning issues from both regulatory and legislative standpoints in areas such as public-service obligations, content issues, and changing from analog to digital.

The National Association of Broadcasters is a trade association that promotes and protects the interests of radio and television broadcasters nationally and internationally. The organization is the broadcaster's voice before Congress, federal agencies, and the courts. Reese also sits on the NAB executive committee and will likely succeed to the chairmanship of the NAB Board for 2005-2006.

Professor Takes Department of Justice Post



"We certainly have had some similar interests," says Thomas Lee of his father, the late Rex E. Lee, assistant attorney general for the civil division in the U.S. Department of Justice during the 1970s. In April 2004 President George W. Bush appointed Thomas Lee a deputy assistant attorney general. "I share my father's enthusiasm for public service. It's a dream come true. If I could create my own dream job, this would be it."

Thomas Lee will lead more than 100 attorneys of the Federal Programs Branch representing the U.S. president, cabinet officers, and federal agencies. The branch defends the constitutionality of federal statutes and the legality of government decisions. It also opposes suits seeking to overturn government policies and programs, and initiates litigation on behalf of the federal government.

"I'm looking forward to being involved in a broad range of exciting cases," says Lee. "I feel honored to have the opportunity to represent the country, the president, and other federal officers in that capacity."

Cases overseen by Lee's branch include partial-birth abortion, counterterrorism, and recent laws restricting children's access to pornography. "It's a fascinating area that will have a significant impact on many

cutting-edge questions of constitutional law."

Like his father, Thomas Lee has been a professor at the J. Reuben Clark Law School. His father was the founding dean of the Law School, taking a leave of absence for government service. Rex Lee later served as the U.S. solicitor general. Thomas Lee is also taking a leave of absence from the Law School and will return after his government service is complete.

Thomas Lee joined the Law School faculty in 1997, teaching courses on constitutional, procedural, and public law. He has published more than two dozen articles in national law journals. Two years ago Lee represented Utah before the U.S. Supreme Court, arguing that unlawful census methods had cost Utah an additional seat in the U.S. House of Representatives.

After graduating from BYU and with high honors from the University of Chicago Law School, Lee clerked for Supreme Court Justice Clarence Thomas. He then practiced with the law firm of Parr, Waddoups, Brown, Gee and Loveless in Salt Lake City.

"This is a wonderful recognition of Tom's professional stature and ability," said H. Reese Hansen, outgoing dean of the Law School. "This opportunity will be a strength in Tom's career and for his future students."



Christopher Newton, '89, won the primary election for Vigo County Division 4 Superior Court judge in Indiana. He will begin serving on January 1, 2005. Newton's extensive trial experience stems from a 15-year legal practice focusing on family law and the protection of children and parents.



Jeff S. Penney, '89, was appointed Superior Court judge for Placer County, California, after winning the March 2004 election by a 75/25 percent margin, the largest victory in county history for an open-seat office.



Samuel McVey, '83, was appointed a judge to the Fourth District Court for the State of Utah in April 2004, after returning from active duty in Virginia to help with the Marine Corps' effort to establish a new court system in Iraq. He was a partner in the law firm of Kirton & McConkie from 1989 to 2003.



Derek P. Pullan, '93, was appointed a judge to the Fourth District Court for the State of Utah in September 2003. He previously served as Wasatch County attorney.

In Memoriam

Gary L. Barnett, '76, passed away at his home on April 16, 2004. He practiced law in his own law firm for 28 years. Prior to becoming an attorney, he earned a doctoral degree in languages and taught for several years. Barnett is survived by his wife, Ana Maria, and their four children: Daniel (Aubrey), David, Rachel, and Jared; and his three children by his late wife, Mirtala: Rebecca, Gary, and Michelle.

Henry Keonaona Chai II, '79, battled cancer for 10 months before dying on August 1, 2004, in his home in South Jordan, Utah. He was a founding partner in the Salt Lake City law firm of Blackburn and Stoll, where he practiced law until the time of his death. A stake president for nine years, he completed service as a mission president in 1998. Chai is survived by his wife of 28 years, Judith Ann Christensen; their six children: Nathan, 27 (Mary); Kristin, 25 (Jeff); Erin, 22; Stephen, 21; Ryan, 15;

and Jordan, 12); and two grandchildren, Isaac and Melea'ana.

Melissa Hawkley Davis, '93, died March 12, 2004, after battling a brain tumor for two years. She leaves her husband, Phil Davis, and two children: Hawkley, 5; and London, 3. A fund has been set up at the Bank of American Fork to help with medical costs. Donations can be made to the Melissa Davis Medical Fund, 712 East Main Street, American Fork, Utah 84043.

Attorney, civic leader, and Law School donor **Rulon Earl** passed away on June 29, 2004, in Las Vegas, Nevada, at age 94. Born in the Mormon settlement of Bunkerville, Nevada, the 18th of 19 children in his family, Earl worked his way through George Washington University during the Great Depression, then moved back West, where he guided the Las Vegas Housing Authority and the Church through some of its most dynamic growth in the valley. He was

the "last of the old-time lawyers," says son District Judge Allan R. Earl—a quiet, kind visionary, whose word was his bond.

Emma Rebecca Thomas, '77, passed away unexpectedly in Provo, Utah, on March 4, 2004. She was appointed as chair of the Utah Workforce Appeals Board by Governor Michael O. Leavitt in 1997. Becky is survived by her husband, David B. Thomas, '79, assistant general counsel at BYU, and their three daughters, Emma, Alexandra, and Hannah.

Mary Alice Woolley, lifetime friend of the J. Reuben Clark Law School, died August 10, 2003. She was born January 6, 1919, to Roland and Mary Alice Spry Woolley in Salt Lake City. Woolley lived most of her life in North Hollywood, California, and visited the Law School just six weeks before her death. Thousands of law students benefited from the funds her family left in trust in the Woolley Law School Loan Fund.



Alumni Weekend 2004



Friday, October 15, 2004

- ☐ 18-Hole Golf Scramble Tournament at South Mountain Golf Course
- ☐ Brunch and Alumni Women Law Forum Panel: "Lds Women Law Clerks: Life After the Supreme Court"
- ☐ Continuing Legal Education (CLE) Ethics Seminar
- ☐ Alumni Reception
- ☐ Alumni Weekend Western BBQ Dinner
- ☐ Reunions: Classes of 1979, 1984, 1989, 1994, and 1999



Saturday, October 15, 2004

- ☐ Homecoming Parade
- ☐ Tailgate Party for Family and Friends
- ☐ Football Game: BYU v. Wyoming

FOR MORE INFORMATION SEE

http://www.law2.byu.edu/Law_School/alumni/alumni_weekend_activities.htm





New Mission President

Lon D. Packard, '77, and his wife, Debra, have been called to lead the Chile Santiago West Mission from July 1, 2004, until June 30, 2007. President and Sister Packard will be accompanied by their daughter Laura Anne and son Brett, who will both attend school in Chile. Daughter Kristen will visit with her parents this summer and return to college in the fall, while Becky, who recently completed her bachelor's degree, will be performing humanitarian service in Africa until she returns to graduate school. Married daughters, Melanie Squire (and husband, Jim) and Melissa Sanchez (and husband, Mark) will be taking good care of the Packard's four grandchildren in California.

Family solidarity runs deep with the Packards. Lon and his twin brother, Von, entered the

J. Reuben Clark Law School together and graduated together in December 1976. Previously, they both served missions in South America at the same time and graduated simultaneously from Stanford University in three years. After two years with two different firms in Southern and Northern California, respectively, they joined their brother Ron in Palo Alto in 1979. For the past 25 years they have been specializing in complex business litigations under the family firm name of Packard, Packard & Johnson, with offices in Palo Alto, California, and Salt Lake City, Utah. From 1993 to 1996 the firm supported Von, who had been called to serve as mission president in the Chile Santiago North Mission. Now Lon has an opportunity to serve.



Elder Dallin H. Oaks
will speak at the
Annual J. Reuben Clark
Devotional via Church
satellite network
on February 11, 2005.
The broadcast will
originate from the
Conference Center in
Salt Lake City, Utah.

Intersections of Law and Faith

BY CLAY M. SMITH

THERE ARE INTERSECTIONS BETWEEN OUR LIFE'S WORK, THE LAW, AND OUR LIFE'S PURPOSES. By referring to these points of contact as intersections, I do not mean to infer that they are clashes. Sometimes these intersections fit together like the pieces of a jigsaw puzzle, and sometimes they result in friction and sparks.

I want to look at some examples of these intersections to increase our awareness of them and perhaps prompt us to think about how best to deal with them.

Recently a lawyer came into court seeking an order of contempt for two witnesses' failure to appear at their deposition. His application was based upon his declaration that the witnesses had been served with subpoenas and then failed to appear—nothing more was stated. At the hearing, the witnesses and their attorney appeared and presented a much different picture. They explained that after having been served, they had obtained counsel, attempted to resolve the need for their deposition, and failing that, sent an objection to the lawyer. I felt completely misled by the first attorney and denied the relief he was requesting. Even in light of the Rules of Professional Conduct 5-200: "In presenting a matter to a tribunal a member . . . shall not seek to mislead the judge", the first lawyer left the hearing absolutely unable to appreciate my concerns about his actions. My belief in honesty in word and deed intersected with the law on professional conduct, and I ruled accordingly.

However, in a death penalty case in Logan, Utah, a jury prayed together and a group of the jurors gave a hands-on blessing to the sole holdout juror during the penalty phase. The jury then recommended a life sentence without parole. Under the law the jury takes an oath to decide issues based on evidence and the law; they set aside their personal philosophy and religious beliefs. Individual members of that Logan jury believed that it was essential to seek guidance and inspiration for their decisions, having faith that God could and would enlighten their minds to know what they should do in a difficult situation. Do you see an intersection here between law and faith? In this case, the law must control. There is a very real danger of conflict between the juror's conduct and their oath. Additionally, actual and apparent fairness to the defendant is paramount. There must be an allegiance to a system that mandates a decision based on the law and evidence.

The resolution is embedded in the 12th Article of Faith: "We believe in being subject to . . . magistrates, in obeying, honoring, and sustaining the law." This is a remarkable prophetic endorsement of the rule of law—remarkable because it was given at a time when our people were so deeply in need of the protective mantle of the law, and it was so often denied them.

So, Alabama Supreme Court Justice Roy Moore's refusal to obey a federal court order to remove the Ten Commandments monument from the supreme court building was incorrect, because it was not based on the lawful order of a higher court, agree with it or not. Compare the conduct of Justice Moore with these words from President Wilford Woodruff in Official Declaration 1: "Inasmuch as laws have been enacted by Congress . . . which laws have been pronounced constitutional by the court of last resort, I hereby declare my intention to submit to those laws, and use my influence with the members of the Church over which I preside to have them do likewise."

Clay M. Smith, '77, is the judge of the Orange County Superior Court. This talk was given to the Orange County J. Reuben Clark Law Society on May 19, 2004.

The Clark Memorandum welcomes the submission of short essays and anecdotes from its readers. Send your short article (750 words or less) for "Life in the Law" to wisej@lawgate.byu.edu.