



MEHRSA BARADARAN



SHIMA BARADARAN



BRIGHAM DANIELS



CAROLINA NÚÑEZ

BYU Law School Welcomes New Faculty Members

J. Reuben Clark Law School is pleased to welcome new faculty members Mehrsa Baradaran, Shima Baradaran, Brigham Daniels, and Carolina Núñez.

As an academic research fellow at NYU Law School, Professor Mehrsa Baradaran has been researching banking regulation, securities, and administrative law since May 2009. She brings her teaching interests in banking regulation, bankruptcy, secured transactions, administrative law, commercial law, and property law to BYU Law School.

Professor Baradaran attended BYU on a University Trustee Scholarship and graduated cum laude from the English department in 2002. In 2005 she graduated from New York University Law School, also cum laude. At NYU she was a Deans Merit Scholar, a member of the Law Review, and president of the Middle Eastern Law Student Association, and she participated in an immigration rights clinic. Following her graduation from law school, Professor Baradaran worked as a corporate law associate at Davis, Polk & Wardwell in New York City for three years.

Professor Shima Baradaran comes to J. Reuben Clark Law School from the University of Malawi, where she worked as a Fulbright senior scholar. She also served as a senior legal aide in the Malawi Legal Aid Department, where she represented indigent clients in criminal and civil actions and managed a \$12-million criminal justice project for the UK Department for International Development. Building on her experience in Malawi, Professor Baradaran will focus her teaching and research on criminal law and procedure.

As an undergraduate, Professor Baradaran studied sociology at Brigham Young University and graduated as department valedictorian. As a law student at J. Reuben Clark Law School ('04), she graduated first in her class while serving as editor in chief of the *BYU Law Review* and as a teaching assistant in both civil procedure and constitutional law. After law school graduation, Professor Baradaran clerked for the Honorable Jay Bybee on the Ninth Circuit Court of Appeals and then worked as an associate at Kirkland & Ellis in New York City from 2005 to 2008.

Professor Brigham Daniels just completed his second year as an assistant professor of law at the University of Houston Law Center, where he taught environmental law, property law, and related courses. In May 2010 Professor Daniels received a PhD in environmental science and policy from Duke University's Nicholas School of the Environment.

Professor Daniels graduated magna cum laude in economics from the University of Utah in 1998 and was a recipient of the Harry S. Truman Scholarship. He also earned an MPA from the University of Utah. In 2003 Professor Daniels received a juris doctorate from Stanford Law School, where he was an associate editor of the *Stanford Law Review*. Between graduating from law school and returning to Duke to pursue his PhD, Professor Daniels served as a federal district court law clerk to the Honorable Ted Stewart (District of Utah) and worked as an associate at Parsons, Behle, & Latimer in Salt Lake City.

Professor Carolina Núñez has been teaching at the Law School as a visiting assistant professor since 2008. During that time she has taught immigration law, torts,

and professional responsibility. She researches and writes about immigration and alienage law, with a specific emphasis on undocumented immigrants. In *Fractured Membership: Deconstructing Territoriality to Secure Rights and Remedies for the Undocumented Worker*, published in the *Wisconsin Law Review* in July 2010 (see also *Clark Memorandum*, spring 2010), she analyzes the intersection between alienage and employment law in the context of broader membership theory. Professor Núñez also addresses the Fourth Amendment rights of undocumented immigrants in a working paper titled *Verdugo's "Substantial Connections" Test: Toward a Post-Territorial Conception of the Fourth Amendment*.

Professor Núñez graduated magna cum laude from Brigham Young University in 2001 with a degree in international studies. A summa cum laude graduate of BYU Law School and managing editor of the *BYU Law Review*, Professor Núñez clerked for Judge Fortunato P. Benavides on the U.S. Court of Appeals for the Fifth Circuit. She subsequently practiced commercial litigation at Stoel Rives LLP in Salt Lake City.

Professors David Thomas and Stephen Wood Retire

BY LISA ANDERSON

Professor David Thomas, the longest-serving faculty member at J. Reuben Clark Law School, retired at the end of August 2010. He joined the Law School faculty in April 1974 and taught for the last 36 years.

"When I first came to the Law School, we were still in our first year of operation," Thomas said. "In the fall of '73 we had seven full-time faculty members. We had to double the faculty for the second year. I was the first after that original seven to come on."

Thomas is one of the few professors who remembers when classes were held at a local Catholic school while waiting for the current law school building to be finished.

"A lot of the faculty and students came as sort of an act of faith. Would it be a really good law school or an average law school?" Thomas said. "From the day we opened our doors, we got high-quality students who had plenty of opportunities to go to other schools and chose to come here to us. It's the quality of students just as much as the quality of faculty that have contributed to the growth of the Law School's quality reputation."

Thomas is a nationally recognized expert on property law, civil procedure, legal history, and legal education, having published over 40 books and several dozen articles on the topics. He authored and edited a 15-volume national property law treatise that is recognized as the authoritative source for national property law and has been cited in hundreds of court cases. He has

been heavily involved in the American Bar Association (ABA), the Association of American Law Schools, and the American Association of Law Libraries.

Professor Thomas has focused on teaching good lawyering practices, legal analysis and reason, and models of behavior. He wants his students to know: "Not all lawyers are arrogant and nasty. You can be a very effective lawyer and be a kind and gentle person."

After he retires, Thomas hopes to spend time with his wife, eight children (two of whom graduated from BYU Law School), and 16 grandchildren. He hopes to serve a mission with his wife.

"David Thomas is known by his colleagues at the Law School as a gentleman, a scholar, and a friend," said Scott Cameron, an associate dean of the Law School. "People are conscious of his sense of calm and equanimity, and he creates a favorable impression whenever he represents the Law School. He will be deeply missed by his colleagues."

Professor Stephen Wood will retire at the end of winter semester 2010 after 34 years of teaching at J. Reuben Clark Law School. His early teaching experiences were largely intertwined with those of his wife, Mary Anne Wood. In 1976 they were both offered positions at BYU Law School, thus becoming the first spouses to teach there at the same time. Mary Anne Wood was also the first woman and mother to be hired as a law professor at BYU.

Stephen Wood, who has taught administrative law at the Law School since joining the faculty, became involved in the Utah Administrative Law Advisory Committee (UALAC) nearly 20 years ago. He initially served as reporter for UALAC; subsequently, he became its chair. UALAC drafted Utah's Administrative Procedures Act (Utah APA), which was signed by Governor Norman Bangerter in 1987.

"We had some tough negotiations [in successfully lobbying for the Utah APA's enactment]," Wood said. "To everybody's amazement the legislation was proposed, it was considered, and it was passed nearly unanimously in both the House and the Senate and became law. It was one of those legislative miracles."

After enactment the big question was if the Utah APA would be effective. Wood and Alvin Robert Thorup, who also was a member of UALAC, have answered that question in their book *Utah's Experiences with Its Administrative Procedures Act: A 20-Year Perspective*, looking both backward—providing a historical account of their experiences in creating the Utah APA—and forward in time. Consequently, the book will be of interest to both those who are interested in the practice of administrative law and those who are or might become involved in law reform.

"Did we create a uniform floor of administrative procedure for all administrative agencies in the state of Utah when engaged in



DAVID THOMAS



STEPHEN WOOD

adjudication? Yes. Is that a good thing? Yes," Stephen Wood said.

In addition to his work for UALAC, Stephen Wood serves as the director of the American Association for the Comparative Study of Law. He served as an associate dean of the Law School from 1979 to 1981. Professor Wood also practiced law in New York and Washington, D.C., for several years before coming to the Law School.

Faculty members respect Professor Wood as a colleague and friend, someone who has had a great influence on the Law School. "Professor Wood's impact on the Law School as a dean and faculty member is marked by his sound judgment and his desire to support the institution and all of its employees," said Associate Dean Scott Cameron.

Professor Tom Lee Becomes Member of Utah Supreme Court

BYU law professor Thomas R. Lee became the newest member of the Utah Supreme Court after the Utah Senate unanimously confirmed his nomination on June 23, 2010.

Lee said he was pleased and excited about this upcoming challenge, although he will miss the full-time association he has had with students and colleagues at the Law School over the past 13 years.

"I have some mixed emotions as this appointment has become a reality—anticipation and excitement over what lies ahead but also a little bit of sadness and regret over what I'm leaving behind," Lee said. "After I get my feet on the ground at this new position, I hope to have time to teach as an adjunct professor at the Law School."

According to Lee, judges have an important but limited role to play in our system of government. They are not policy makers or legislators; they simply implement and apply the law to new circumstances and cases as they arise. As a judge decides a case, Lee explained, it is important that he or she articulate the opinions of the court in a clear, straightforward, and understandable manner.

"I aspire to be a judge whose opinions are accessible to all those who look to the court to govern themselves in accordance with the law," he said. "A judge must decide the cases that come before him in a careful, impartial way, in accordance with the

law. It's crucial that a judge's opinions be clear and understandable."

Although Lee will be missed greatly at BYU Law School, his colleagues have been very supportive of his new position. "I am confident that Tom Lee will

state well. We will miss him at the Law School."

Lee anticipates working closely with his colleagues on the court. All four of the current members of the Utah Supreme Court are people he knows and respects. Lee has

will be a privilege to work closely with such a distinguished body of jurists."

Professor Lee joined BYU Law School in 1997. He clerked for Judge J. Harvie Wilkinson III, U.S. Court of Appeals for the Fourth Circuit, 1991-1992, and Justice Clarence Thomas, United States Supreme Court, 1994-1995.

At BYU, Professor Lee has taught courses in civil procedure, intellectual property, and legal interpretation and analysis. He has had articles published on the topics of trademark and copyright law. Professor Lee is also an accomplished courtroom advocate, having presented oral arguments on trademark issues in federal courts throughout the United States. He currently serves as a member of the International Trademark Association.

Professor Lee's past research has examined varied topics, from the principle of *stare decisis* in Supreme Court precedent to federal jurisdiction over Internet domain names, the history of the use of the preliminary injunction, and even the original meaning of the Census Clause of the Constitution. His scholarly work has often overlapped with appellate work that he has performed for various clients, including a case he argued in the United States Supreme Court challenging the 2000 census for the state of Utah. He has served on the Utah Supreme Court's Advisory Committee on Rules of Civil Procedure and as a member of the Executive Committee for American Inns of Court I.



THOMAS R. LEE

make a superb justice," said Jim Rasband, dean of J. Reuben Clark Law School at Brigham Young University. "Tom is a gifted classroom teacher, an accomplished scholar, and a giving colleague. Those traits, as well as his sound judgment and love and respect for the law, will serve the

even had the opportunity to work closely with two of them in prior legal positions.

"I really look forward to the process of interacting with my new colleagues on the court," Lee said. "An appellate court is a collegial body that decides cases by collaborations and consensus. It

BYU Law Alumnus 2010 Pro Bono Attorney of the Year



Scott R. Jenkins, J. Reuben Clark Law School alumnus ('77), was selected by the Utah State Bar as the 2010 Pro Bono Attorney of the Year. Jenkins, who is currently an attorney and shareholder at Strong & Hanni, was honored at the Utah State Bar 2010 Pro Bono Public Awards lunch.

Jenkins has spent countless hours providing pro bono legal services to Sudanese refugees, counseling them about legal cases and immigration matters. He helped launch and is general counsel of the organization MADF (Makol Ariik Development

Foundation), which sponsors Sudanese students in graduate studies. In addition, he has continued to serve as pro bono legal counsel for Children of the Andes Humanitarian, an organization that operates an elementary school for children living in the Andes Mountains near Otavalo, Ecuador.

For more than 30 years Jenkins has advised individuals, entities, and charitable organizations on legal matters affecting their lives, families, and businesses, including business organization, public offerings, private

placements, and SEC reporting. He also has counseled with hundreds of individuals regarding their wills, living trusts, legal planning, and probate and litigation matters. He has worked with attorneys in the Middle East, Europe, Africa, South America, and the Far East.

Jenkins earned his JD in 1977 and his BA in history in 1974 from Brigham Young University. He was admitted to the Utah State Bar and the U.S. District Court, District of Utah, in 1978 and the U.S. Court of Appeals, Tenth Circuit, in 1979.

James D. Gordon III Appointed Assistant to the President at BYU

President Cecil O. Samuelson has appointed James D. Gordon III as assistant to the president for Planning and Assessment at Brigham Young University. Gordon will replace Gerrit Gong, who was named to the First Quorum of the Seventy of The Church of Jesus Christ of Latter-day Saints during the Church's April 2010 general conference.

Gordon, whose appointment was effective June 1, is currently the Marion B. and Rulon A. Earl Professor of Law at J. Reuben Clark Law School at BYU. He has served as associate academic vice president for faculty at BYU and as an associate dean and interim dean of the Law School.

"In addition to being a popular teacher and an excellent scholar, Jim is highly regarded for his wise and discerning leadership," said President Samuelson. "His years of administrative experience and scholarship suit him well for this position, which manages the accreditation process for the university. He is an expert on matters pertaining to religious freedom. Through the years he has helped BYU address issues regarding our mission to develop students of faith, intellect, and character."

The president also noted that Gordon has been an exemplary university citizen, participating on numerous university committees

and willingly serving as an interim dean of the Law School.

In making this announcement, President Samuelson paid tribute to Elder Gong and expressed appreciation for his years of service to the university. "Gerrit has been a unique treasure at BYU," said President Samuelson. "He brought significant experience in planning and assessment to the university and has served with keen effectiveness. He is known as both a faithful man and a learned man, having excelled as a scholar with unwavering faith and devotion. Although he certainly will be missed at BYU, we know he will provide great service in his new assignment."

Gordon is well loved by his students for his respectful but often humorous perspective on the law. He has received the university's Abraham O. Smoot Citizenship Award, as well as a number of teaching awards. He has published numerous articles



in law journals, with his scholarship being primarily in the areas of religious freedom, contracts, securities regulation, and legal education.

After receiving a bachelor's degree in political science at BYU, Gordon earned a juris doctorate at the University of California, Berkeley. He clerked for Judge Monroe G. McKay of the U.S. Tenth Circuit Court of Appeals and then practiced law in Salt Lake City before his appointment at BYU.

Law Society Members Are New Mission Presidents

Six members of J. Reuben Clark Law Society left for their assignments as Church mission presidents this past summer. They are joined by their wives as they serve throughout the world.

Lawrence P. Blunck, '84, serves as the Peru Lima North Mission president. He steps away from a law practice with Blunck & Walhood LLC in West Linn, Oregon. He and his wife, Karen, are the parents of four children.

Kent H. Collins, '80, a senior attorney at Parr Brown Gee & Loveless in Salt Lake City, presides over the Indiana Indianapolis Mission. He and his wife, Connie, have three children.

J. Scott Dorius is the new president of the Peru Lima West Mission. A 1979 graduate of the University of San Diego School of Law, he is a shareholder at Tribsch & Frampton law firm in Turlock, California. He and wife Rebecca have two children.

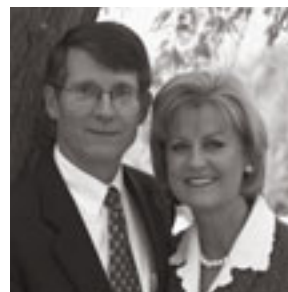
Randy D. Funk, a partner of Sherman & Howard LLC in Denver, Colorado, presides over the India Bangalore Mission. He received his JD from the University of Utah College of Law in 1979. He and his wife, Andrea, have six children.

Leonard D. Greer serves as the Washington Kennewick Mission president. He is partner of Raymond Greer & Sassaman PC in Phoenix and received his JD from the University of Arizona College of Law in 1982. He and his wife, Julie, are the parents of four children.

R. Marshall Tanner presides over the Brazil Campinas Mission. A 1977 graduate of UCLA School of Law, he is a partner of Sheppard, Mullin, Richter & Hampton LLP in Costa Mesa, California. He and his wife, Colleen, have seven children.



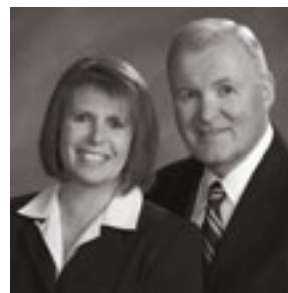
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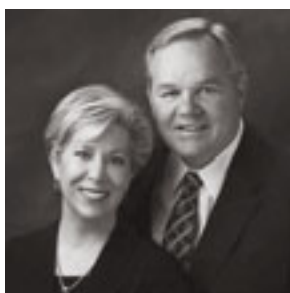
PRESIDENT AND
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PRESIDENT AND
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PRESIDENT AND
SISTER FUNK



PRESIDENT AND
SISTER GREER



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Law Alums
Become
New General
Authorities



KEVIN R. DUNCAN

Three J. Reuben Clark Law School alumni have been called as General Authorities of The Church of Jesus Christ of Latter-day Saints.

Kevin R. Duncan, '91, had been serving as a member of the Fifth Quorum of the Seventy in the Utah South Area when he was called to the First Quorum of the Seventy. Elder Duncan's service in the Church includes full-time missionary in Chile, Church service

missionary as associate international legal counsel in South America, and president of the Chile Santiago North Mission.

Elder Duncan earned a BS in accounting, an MACC in taxation, and a JD from Brigham Young University. He began his career as an associate attorney and later founded a corporation, from which he retired in 2005. He and his wife, Nancy, have five children.



DANE O. LEAVITT

Dane O. Leavitt, '83, has been called as an Area Seventy. He was recently released as president of the Cedar City University 2nd (student single) Stake. An attorney and the CEO of the Leavitt Group, he received BA and JD degrees from Brigham Young University. Elder Leavitt and his wife, Ruth, are the parents of six children.

Kevin J Worthen, '82, also serves as a new Area Seventy.



KEVIN J. WORTHEN

A former dean of the Law School, he currently serves as advancement vice president of Brigham Young University. Elder Worthen was recently released as president of the Provo Utah Sharon East Stake. He earned an associate's degree at the College of Eastern Utah and bachelor's and law degrees at BYU. Elder Worthen and his wife, Peggy, have three children.

Hafens Called to St. George Temple

Former BYU provost and Law School professor and dean, Bruce C. Hafen and his wife, Marie, will begin serving as president and matron of the St. George Temple in November 2010. >>>>> Hafen has been a member of the First Quorum of the Seventy of The Church of Jesus Christ of Latter-day Saints since 1996. He previously served as a regional representative, stake president's counselor, high counselor, and bishop's counselor. He was president of Brigham Young University—Idaho (then known as Ricks College) from 1978 to 1985. After serving as dean of J. Reuben Clark Law School at BYU from 1985 to 1989, he was named provost of the university, where he continued to serve until becoming a General Authority.



Criminal Defense Work in a War Zone

by Dan Schoeni, CAPTAIN, U.S. AIR FORCE*

FOR THE PAST YEAR, I HAVE SERVED AS AREA DEFENSE COUNSEL (ADC) AT AN UNDISCLOSED location in Southwest Asia in support of Operations Iraqi Freedom and Enduring Freedom. Before this assignment I worked for two years as ADC at Ramstein Air Base, Germany, and tried cases in Germany, Italy, Portugal, and Kuwait. || I am one of two air force judge advocates general (JAGs) providing criminal defense services to more than 30,000 airmen deployed to the United States Central Command and Joint Task Force–Horn of Africa from Djibouti to Kyrgyzstan, some 5,400 miles spanning four time zones. Traveling for courts-martial means donning body armor and helmet, arming up, and flying in and out of combat zones via C-130 or C-17 aircraft and Blackhawk helicopters. **AREA DEFENSE COUNSEL** Ours is a commander-based justice system. JAGs advise; commanders decide. Because of the concern that commanders might abuse their authority by leaning on defense counsel, the area defense counsel (or ADC) was created in 1976. Our posters tout: “We don’t work for the command. We work for you.” || Being an ADC affords litigation experience, teaches one to think like a defense lawyer, and helps better advise commanders. The air force values lawyers with defense experience. **DEPLOYED AREA DEFENSE COUNSEL** The ADC slogan is “Defending those who defend us.” But not everyone is at the tip of that spear. At Ramstein I represented a few aviators and special operators who were active warfighters. More often I was defending the guy who supported the guy who supported another guy who actually defended us. || That changes in a deployed environment. Everyone is on the front line. Cooks, mechanics, and engineers find themselves running for cover, or even returning fire. Minutes after my last court-martial in Iraq, for example, a rocket landed just outside the courthouse; fortunately it didn’t detonate. In a combat zone we’re all in harm’s way. || My travels for this assignment have taken me to Iraq, Saudi Arabia, Kuwait, Afghanistan, United Arab Emirates, and Kyrgyzstan. **HIGHLIGHTS** Some highlights have included an acquittal in a sexual assault case; charges being dropped after a pretrial hearing; a favorable sentence in an involuntary manslaughter case where the client killed his best friend with a single punch; and successfully advocating for a client—discharged for shooting his friend in the knee—to be chosen for the Return to Duty Program. || President John Adams, while a young lawyer in Boston, wrote to a friend about his love for the practice of law: “Now to what higher object, to what greater character, can any mortal aspire than to be possessed of all this knowledge, well digested and ready at command, to assist the feeble and friendless?” Though representing the “feeble and the friendless” has not been without its challenges, defending service members also has its rewards. Members of the armed forces are all volunteers and are a select group. It has been a privilege to represent our deployed airmen. **HOMECOMING** I returned in July and have looked forward to the comforts of home after four years abroad. My wife, Alicia, has often wondered aloud how I talked her into this. It has been a long year apart, but it has been the experience of a lifetime. Alicia and I have been impatiently awaiting an adoption referral since April 2007, and we will soon travel to China to pick up our little girl.

**Iowa native Captain Dan Schoeni graduated from Brigham Young University in 2000 with a degree in philosophy. He received a joint JD and MA in philosophy from the University of Iowa in 2003. Following graduation from law school, he clerked for Iowa Supreme Court Justice Jerry Larson. Capt. Schoeni was commissioned in the U.S. Air Force in 2004. This summer he moved to Washington, D.C., to work at the Air Force Appellate Defense Division. He is an LLM candidate in procurement and public policy at the University of Nottingham.*

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@law.byu.edu.