

JUDICIAL CLERKSHIPS: THE NEXT GENERATION

By Vicki Heubner



ILLUSTRATIONS BY

ROBERT NEUBECKER

When I was younger, I looked forward to my family's weekly ritual of watching *Star Trek*.¹ The characters were so exciting and the plots so intriguing that I was disappointed when this series ended. I later learned that *Star Trek: The Next Generation* was being produced and would be aired. I was sure this new series would never equal the original *Star Trek*. Who could be as exciting as Captain James T. Kirk or add as much color to a cast of characters as

Scotty? Moreover, I was sure that *Star Trek: The Next Generation* was simply

going to be a cheap reproduction of the original, perhaps repeating the same plots without any original thought and, therefore, spoiling my memories of the *Star Trek* series. However, after watching a few episodes of *Star Trek: The Next Generation*, I noted that the new series was equally intriguing. I quickly decided that despite the different characters and plots, both shows were very entertaining in their own way.



Similarly, I often find myself becoming

captivated as I hear reminiscences about the “great ones,” previous Law School graduates or J. Reuben Clark Law Society members who worked as judicial law clerks and have now established prominent and satisfying legal careers. I am always struck by the brilliance and intelligence of these previous law clerks. I am also impressed by their tenacity and ability to showcase the Law School as an outstanding academic institution and develop its national reputation. Because of their accomplishments, one must wonder whether the current or “next generation” of graduates will be able to continue this tradition of excellence.



Like *Star Trek: The Next Generation*, there is a new cast of characters preparing in the wings to enter the stage. All new graduates offer their gifts and talents to the legal profession in their own unique manner. After observing and associating with the Law School’s current students for one year, I can affirmatively state that the “next generation” measures up to past graduates and will continue to establish BYU’s solid reputation among the judiciary through their performances.



Anyone who becomes acquainted with these students recognizes their potential and ability to contribute to the legal community. Let’s take a “sneak peak” at these new characters as they prepare to enter the world stage.

ELIZABETH CLARK

After graduating in April 1997, Elizabeth Clark will move to California, where she will clerk for Judge J. Clifford Wallace of the United States Court of Appeals, Ninth Circuit. Elizabeth moved from the Washington, D.C., area to attend BYU for her undergraduate and legal studies. She has particularly enjoyed the manner in which BYU combines spiritual and secular training.

As an undergraduate, Elizabeth double majored in Russian and comparative literature. Her language and writing skills have been beneficial during law school. Because of her excellent writing, organizational, and leadership skills, she was elected editor-in-chief of the *BYU Law Review*.



Additionally, Elizabeth used her language skills during her first summer clerkship when she worked in the Czech Republic and again during the Law School’s International

Church and State Symposium. This past summer, she worked at Holme, Roberts & Owen, where she was able to assist with international law issues.

Elizabeth decided to apply for her clerkship after speaking with Professor James Rasband, who had previously clerked for Judge Wallace, and with other faculty members. She was also interested in working for Judge Wallace because of his involvement with international judicial administration. Elizabeth is looking forward to “working with an outstanding jurist.” Through her clerkship experiences, she hopes to gain a better understanding of the judicial process, serve others, and better understand the law.

Upon completion of her clerkship, Elizabeth would like to pursue a career in public service and eventually teach law.

TANYA CLUFF

Tanya Cluff, a 1996 Law School graduate, is currently working as a judicial law clerk for Judge Norman H. Jackson of the Utah Court of Appeals. After completing her current clerkship, she will continue to work in the court system as a law clerk for Judge Michael R. Murphy of the United States Court of Appeals, Tenth Circuit.

A Utah native, Tanya received her Bachelor of Arts in English from the University of Utah. She received her Juris Doctor this past April and will receive her master’s degree in English from BYU in 1997. While in law school, she showcased her writing abilities as an editor of the *BYU Law Review*.

When asked why she pursued a judicial clerkship, Tanya replied, “I was encouraged to apply for a judicial clerkship by

many people, including Professor Frederick M. Gedicks, other Law School faculty members, and Judge Jackson's former law clerks." Listening to these people describe their own clerkship experiences and the benefits of a clerkship interested her in this career option. She also noted that the support of her professors was essential to receiving her job offers. Besides providing career advice, the faculty wrote strong letters of recommendation on her behalf.

Tanya is particularly excited about the opportunity to perform two judicial clerkships at two different court levels. She explained, "A clerkship provides valuable insight into the inner workings of the court and the judicial decision-making process. My clerkships will give me an opportunity to further develop my analytical, research, and legal writing skills."

Upon completion of both clerkships, Tanya will pursue a

nontraditional career where she can continue to use her writing skills. Although she has not chosen a specific employer for whom to work, she is confident that her judicial clerkship experiences will provide her with the knowledge and skills to pursue many different career paths.

TOM ISAACSON

Tom Isaacson, a December 1996 graduate, will begin working for Judge J. Thomas Greene of the United States District Court, District of Utah, in January 1997. During his first year of law school, Tom decided to pursue a judicial externship. He received not only one externship offer but two, one of which was with Judge Greene, who he enjoyed working with so much that he later applied for a judicial clerkship.

Tom described his externship as "a very rewarding work experience." He is looking forward to meeting the challenges of a judicial clerkship—researching complex legal issues and assisting Judge Greene to write his opinions.

Since Tom has an electrical engineering degree from the University of Utah and has been very active in the Law School's moot court program,² his career goal is to work as a patent attorney and a patent litigator. He feels that this opportunity to observe successful and unsuccessful courtroom techniques and to review excellent and fair pleadings will help him become a better lawyer.

JAY JORGENSEN

After spending approximately 20 years living and working as a cattle hand in rural Utah, Jay Jorgensen will begin his legal career in New

Jersey. An April 1997 graduate, he will work next fall for Judge Samuel A. Alito, Jr., of the United States Court of Appeals, Third Circuit.

During law school, Jay has participated in various activities, including the *BYU Law Review*, first- and second-year trial advocacy competitions, and the Federalist Society for Law & Public Studies.

This past summer, Jay worked in the Washington, D.C., office of Kirkland & Ellis, where he had the opportunity to become acquainted with former Solicitor General Kenneth W. Starr. General Starr would occasionally spend time with Kirkland & Ellis' law clerks

discussing his litigation background. This experience confirmed Jay's desire to seek a litigation and appellate practice after his clerkship. He said that he pursued his judicial clerkship because it "seemed like a natural way to continue building on the litigation and appellate skills taught in law school."

After reading several Third Circuit opinions, Jay became particularly interested in working for Judge Alito. "I was impressed by several opinions [Judge Alito] authored, and several professors and practitioners recommended I apply to him," he said. Jay credits his success in obtaining his judicial clerkship to the Law School's faculty and to many members of the J. Reuben Clark Law Society who encouraged him to apply for a judicial clerkship, shared information about particular judges, advised him about application procedures, and recommended him to Judge Alito.

MICHAEL LEE

After moving across the country several times, Michael (Mike) Lee will remain in Utah at least one more year. A 1997 graduate, Mike will begin a judicial clerkship for Judge Dee V. Benson of the United States District Court, District of Utah, next fall.

Mike's interest in the law began early in life; he said that his family's dinner conversations often focused on constitutional law issues.

Additionally, he watched his father, Rex E. Lee, argue many cases before the Supreme Court. Moreover, as a political science major at BYU, Mike researched and debated constitutional law issues, particularly



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the last 60 years of Supreme Court jurisprudence regarding the Tenth Amendment's commerce clause. He remains interested in constitutional law and is a member of the Federalist Society for Law & Public Studies.³

After completing his clerkship, Mike would like to work in a firm as a litigator. He feels that nothing can prepare him as well for a litigation career as can a clerkship with Judge Benson. Mike was particularly interested in working for Judge Benson because of the opportunity he would have to hear the judge's opinion regarding different trial techniques and litigation strategies. He hopes to acquire some of Judge Benson's skills and knowledge.

JAMES MOSS

The latest 1997 graduate to receive a clerkship is James Moss. Jim targeted his clerkship search on the Los Angeles area and received an offer from Judge A. Andrew Hauk of the United States District Court, Central District of California.

After completing his first year of law school, Jim externed for Judge Davis at the Utah District Court, Fourth Judicial District. This positive experience was a factor in Jim's decision to apply for a judicial clerkship. He also received advice about judicial clerkships and was encouraged to apply for one by Law School faculty and J. Reuben Clark Law Society members.⁴

Since Jim grew up in Orem, Utah, and attended BYU for both his undergraduate and legal education,⁵ I asked him why he chose to relocate to Los Angeles.⁶ He explained

that many interesting cases and legal issues arise in that area, and he already has many friends currently living there. Since Jim wants to pursue a litigation career after his clerkship, he felt that a federal trial court clerkship in Los Angeles would be very exciting. Additionally, he explained that he was interested in working for Judge Hauk because he is known as a brilliant jurist with several years of experience on the federal bench.

JOI GARDNER PEARSON

Ever since she can remember, Joi Gardner Pearson wanted to be an attorney. Joi does not know where this desire came from since she was not acquainted with any lawyers. She says that she has always enjoyed defending causes, and law school appeared to be a perfect match.⁷ After graduating in April, she will have the opportunity to watch others present oral argument and to improve her appellate techniques as she works for Judge Stephen H. Anderson of the United States Court of Appeals, Tenth Circuit.

Joi said that she has thoroughly enjoyed her law school experience and the opportunity to participate in various programs. A member of the managing board of the *BYU Law Review*,⁸ she is a teaching assistant for legal writing and a tutor for criminal law. She said, "I was pleasantly surprised by the lack of competitiveness among my classmates and the opportunity I've had to make many friendships. This will be the first graduation that is really a bit sad."

She credits her success in obtaining a judicial clerkship

to the support of the Law School faculty.⁹ In particular, Professors Larry EchoHawk and Cole Durham wrote exceptional letters of recommendation for her, and Professor Durham went out of his way to speak with Judge Anderson and convince him that Joi would be an asset to his chambers. Although Joi will miss the Law School, she is looking forward to this new experience and the beginning of her legal career.

Upon the completion of her clerkship, she would like to work in a law firm or pursue her interest in juvenile law and eventually teach. "Combining [her] love for the law and [her] love of teaching would be the ultimate" job for her, she said.

MATTHEW RICHARDS

Matthew Richards is a man who knows what he wants. Matt decided early in law school that he wanted to work as a judicial law clerk in Salt Lake City. After he graduates in April, he will work for Justice I. Daniel Stewart of the Utah Supreme Court.

Matt enjoys writing, which is one reason he pursued a judicial clerkship.¹⁰ He uses his writing ability as a member of the managing board of the *BYU Law Review* and while working with Professor Richard Wilkins. "Professor Wilkins was very supportive of my decision to seek a judicial clerkship. [He] encouraged me to apply for a judicial clerkship, gave me advice about specific judges, and gave me an outstanding recommendation," Matt said. He also asserted that other faculty and members of the J. Reuben Clark Law Society were equally supportive.

Upon completion of his clerkship, Matt wants to work as a trial attorney for a law firm in Salt Lake City. This past summer he worked with Kirton & McConkie in its medical malpractice defense



department. He is very interested in tort law and would particularly enjoy defending medical malpractice clients again. In addition to refining his writing and advocacy skills, Matt feels that he “will gain a greater understanding of Utah law.”

DAVID TODD

David Todd is beginning his legal career by combining his prior educational and work experiences with his interest in law.¹ A 1997 graduate, he will begin clerking for Judge Randall R. Rader of the United States Court of Appeals, Federal Circuit, next fall.

David’s decision to attend law school was greatly influenced by his uncle, a patent attorney in Chicago. Although David may have known that he was going to attend law school, he was not always

certain whether he should pursue a judicial clerkship. Initially he wondered if a clerkship would only delay the beginning of his career. However, after much thought, he “realized that a judicial clerkship would not be a delay, but a ‘jump-started beginning’” to what is sure to be an exciting legal career.

Fall 1995—the same time David began considering a judicial clerkship—he was required to write a case note as his law review assignment.² As he wrote, he became much more interested in patent law and became more aware of “the significance of the Federal Circuit in that area.” He decided that a clerkship on the Federal Circuit would be excellent preparation for a career in patent law and would open the door to eventually teaching patent law.

David’s law review case note also played a significant role during his interview with Judge Rader. As a writing sample, he excerpted a draft of his note, a discussion of a recent en banc Federal Circuit case. He and the judge discussed the case at length during the interview. Additionally, he attributes the Law School faculty with his success in obtaining his clerkship. Both Dean Reese Hansen and Associate Dean Scott Cameron championed him to Judge Rader, and David feels that their recommendations were a significant factor in the judge’s decision.

Notes

1. I must immediately and emphatically state that I am not a “Trekie.” Watching the *Star Trek* series was a

time for me to release and unwind and to bond with my predominantly male family. Although I continue to enjoy viewing *Star Trek*, I now only watch it occasionally. I have never attended a Star Trek convention, worn a Star Trek Halloween costume, or memorized individual episodes. Finally, I did not enjoy many of the *Star Trek* movies.

2. Tom won the Best Oralist Award during the first-year moot court competition and the Best Brief Award during the Law School’s National Moot Court Team demonstration and was appointed to the Board of Advocates to coach traveling moot court teams.

3. In addition to participating in student organizations, Mike is also one of the first BYU law students to simultaneously participate in two co-curricular programs. He is a member of the Law School’s National Moot Court Team, won the Best Oralist Award during the Law School’s National Team demonstration, and was a semifinalist at a national First Amendment moot court competition. Beginning this fall he will join the *BYU Law Review* and will retain his membership on the Law School’s National Moot Court Team.

4. In particular, Sterling Brennan, who previously clerked for Judge Hauk, advised Jim on application procedures and interviewing strategies. Brennan graduated from the Law School in 1986 and is active in the Orange County Chapter of the J. Reuben Clark Law Society.

5. As an undergraduate, Jim majored in political science and minored in philosophy. As a law student, he has contributed to the Law School by participating on the *BYU Law Review*.

6. I was raised in South Bay and Orange County and think that southern California is one of the best places to live. However, I realize my opinion is biased and not shared by everyone.

7. Joi explained that she began debating at a very early age. When she was five or six someone told her, “Anyone

who loves to argue and debate that much ought to be a lawyer!”

8. Joi will publish “Make It, Market It, and You May Have to Pay for It: An Evaluation of Gun Manufacturer Liability for Uniquely Dangerous Guns in Light of In re. 101 *California Street*” in a forthcoming edition of the *BYU Law Review*.
9. She also takes some credit due to her dart throwing abilities. During her visit to Judge Anderson’s chambers, Joi was challenged by the judge to a game of darts. After a brief lesson from one of Judge Anderson’s law clerks, Joi threw her first dart into the wood paneling of Judge Anderson’s library. On her second attempt, Judge Anderson tutored her himself. She did much better the second time, making a bull’s-eye. She guesses that second attempt helped her get the job.

10. As an undergraduate, Matt attended BYU, where he majored in English with an emphasis on composition.

11. Matt’s comment, “Utah’s Medical No-Fault Proposal: A Problem Fraught. Rejection of the Current Tort System,” was published in the 1996 edition of the *BYU Law Review* at page 103. He has also coauthored two articles with Professor Richard Wilkins: “The Supreme Court Voting Behavior: 1994 Term” and “The Supreme Court Voting Behavior: 1995 Term,” *U.C. Hastings Law Review*.

12. David received his mechanical engineering degree from BYU in 1994. He also worked as an engineering consultant, software development research assistant, and computer programmer before attending law school.

13. David is currently a member of the managing board of the *BYU Law Review*. His case note was “How Modern Treatment of 35 U.S.C. §§ 112(6) Has Caused Confusion: *Hilton Davis v. Warner-Jenkinson* and the Right to a Jury on the Issue of Patent Infringement Under the ‘Equitable’ Doctrine of Equivalents,” *BYU Law Review* 141.