

Spring 2007

# Clark Memorandum: Spring 2007

J. Reuben Clark Law Society

BYU Law School Alumni Association

J. Reuben Clark Law School

Follow this and additional works at: <https://digitalcommons.law.byu.edu/clarkmemorandum>



Part of the [Family, Life Course, and Society Commons](#), [Legal Education Commons](#), [Legal Ethics and Professional Responsibility Commons](#), and the [Legal Profession Commons](#)

---

## Recommended Citation

J. Reuben Clark Law Society, BYU Law School Alumni Association, and J. Reuben Clark Law School, "Clark Memorandum: Spring 2007" (2007). *The Clark Memorandum*. 41.  
<https://digitalcommons.law.byu.edu/clarkmemorandum/41>

This Article is brought to you for free and open access by the Law School Archives at BYU Law Digital Commons. It has been accepted for inclusion in The Clark Memorandum by an authorized administrator of BYU Law Digital Commons. For more information, please contact [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu).



# cm

CLARK MEMORANDUM

J. Reuben Clark  
Law School  
Brigham Young  
University  
Spring » 2007

The House That Rex Built

## contents



8

Learning from Our Conflicts

*Gerald R. Williams*

2

Aligning Our Ethical Compass

*Deborah L. Rhode*

14

Balancing Family, Church, and Profession

*Panel Discussion*

22

The House That Rex Built

*Judge Dee V. Benson*


29 MEMORANDA

*The Fight Against Internet Pornography**Class Notes**Life in the Law*

**Kevin J. Worthen**, PUBLISHER  
**Scott W. Cameron**, EXECUTIVE EDITOR  
**Jane H. Wise**, EDITOR  
**Joyce Janetski**, ASSOCIATE EDITOR  
**David Eliason**, ART DIRECTOR  
**Bradley Slade**, PHOTOGRAPHER

The *Clark Memorandum* is published by the J. Reuben Clark Law Society, the BYU Law School Alumni Association, and the J. Reuben Clark Law School, Brigham Young University. © Copyright 2007 by Brigham Young University. All rights reserved.

The J. Reuben Clark Law Society draws on the philosophy and personal example of the Law School's namesake, J. Reuben Clark Jr., in fulfilling the following mission: We affirm the strength brought to the law by a lawyer's personal religious conviction. We strive through public service and professional excellence to promote fairness and virtue founded upon the rule of law.



The following  
devotional  
was presented at  
the Marriott  
Center on  
June 27, 2006.

BY GERALD R. WILLIAMS

\*\*\*\*\*

## LEARNING FROM OUR CONFLICTS

\*\*\*\*\*

Some months ago, when I was invited to speak today, I asked what I should talk about. After a long pause the voice said, "Well, people usually talk about things they're good at." So my topic today is conflict.

PHOTOGRAPHY BY BRADLEY SLADE





I used to think other people had conflicts but that I was immune. Then I came upon two incidents in the life of the Prophet Joseph Smith that completely changed my understanding of conflicts and forced me to admit I probably have as many as anybody else.

What is a conflict? For our purposes today, a conflict is any situation in which both sides feel the other is in the wrong.

I'll begin with seven propositions about conflicts.

**1** It is strange, but unless we had a conflict in the last few hours, most of us don't remember our conflicts. This may be good, because it saves us pain, but it creates a problem. If we don't remember our conflicts, we can't learn anything from them.

**2** We probably experience conflicts differently—depending on our personalities, our prior experiences (such as the way conflicts were handled in the home where we grew up), and perhaps other factors such as gender and culture.

**3** In Mormon culture most people are conflict avoiders. However, some of us are neutral about conflict, and some of us actually enjoy a good conflict.

**4** If we are in relationships with others, there will be conflicts. They may be small or they may be large, but there will surely be conflicts. Can you think of any conflicts in your life right now? Perhaps a few hints will help. If you do think of a conflict or two, I hope you will jot them down.

**a** Conflicts with family, such as father, mother, siblings, spouse, children, or in-laws.

**b** Conflicts with people you see often who are *not* family: neighbors, landlords, merchants, even people at church. President Brigham Young summed it up in rhyme:

*To live with Saints in Heaven is bliss and glory  
To live with Saints on Earth is another story.<sup>1</sup>*

**5** It takes two sides to create a conflict. More important, there is almost always fault on *both* sides. As someone said, "It's a mighty thin pancake that only has one side."

**6** During a conflict we are usually blind to our own fault and we blame the other side.

**7** A final proposition introduces my theme. When we remember our conflicts and reflect on them, they are like mirrors that can teach us things about ourselves that are otherwise difficult to discover. If we per-

mit them, our conflicts will show us where we are weak, defensive, prideful, or otherwise in need of repair.

### First Example

I'll illustrate the value of conflicts with three examples. Two are from the life of the Prophet Joseph Smith. These both involve Oliver Cowdery, who, at the time, was Joseph's most trusted associate. These conflicts occurred very close to each other in the summer of 1830, just after the Church was organized. Joseph was 24 years old, and Oliver was 23.

Joseph was busy copying and arranging revelations for publication. Oliver was staying with the Whitmer family in Fayette, 80 miles to the north. Out of the blue, Joseph received a letter from Oliver.

Joseph recorded:

[Oliver] wrote to inform me that he had discovered an error in one of the commandments—Book of Doctrine and Covenants: "And truly manifest by their works that they have received of the Spirit of Christ unto a remission of their sins" [D&C 20:37].

The above quotation, [Oliver] said, was erroneous, and added: "I command you in the name of God to erase those words, that no priestcraft be amongst us!"

The Prophet continued:

I immediately wrote to him in reply, in which I asked him by what authority he took upon him to command me to alter or erase, to add to or diminish from, a revelation or commandment from Almighty God.<sup>2</sup>

Doctrinally, Oliver was wrong and Joseph was right. But knowing that doesn't solve the problem. These two trusted friends were now in a conflict—both felt the other was in the wrong. The doctrinal issue could be solved, but what about the bad feelings that had arisen between them?

Realizing his letter had not really answered the doctrinal question and had made the interpersonal problem worse, Joseph traveled 80 miles to the Whitmer home to meet with Oliver and the Whitmers.

Joseph reported:

I found the [Whitmer] family in general of [Oliver's] opinion concerning the words above quoted, and it was not without both labor and perse-

verance that I could prevail with any of them to reason calmly on the subject. . . . Finally, with [Christian Whitmer's] assistance, I succeeded in bringing, not only the Whitmer family, but also Oliver Cowdery to acknowledge that they had been in error, and that the sentence in dispute was in accordance with the rest of the commandment.

Joseph then reflected on what he learned from this experience. His conclusions are the centerpiece of my message today:

*And thus was this error rooted out, which having its rise in presumption and rash judgment, was . . . particularly calculated (when once fairly understood) to teach each and all of us the necessity of humility and meekness before the Lord, that He might teach us of His ways.<sup>3</sup>*

Judging from his emphasis on humility and meekness, Joseph was commenting not only on Oliver's doctrinal error but also on the interpersonal conflict between them and, I think, on the nature of conflicts in general. With prophetic insight he taught two important lessons. His first point was that conflicts arise "in presumption and rash judgment." *Presumptuous* means overconfident or even offensive. *Rash* means hasty or impetuous. With these definitions in mind, let us look again at Oliver's message to Joseph. He said: "I command you in the name of God to erase those words, that no priestcraft be amongst us!"<sup>4</sup>

Do you see any ways in which Oliver's statement might be considered rash or presumptuous? Certainly commanding another person risks being offensive, especially if it is your ecclesiastical leader. Commanding "in the name of God" would raise offensiveness a degree or two. Accusing your leader of priestcraft would undoubtedly qualify.

I move to the next statement with trepidation, but Joseph invited us to consider the effect of his reply as well. Joseph "immediately wrote to [Oliver]," asking: "By what authority he took upon him to command me to alter or erase, to add to or diminish from, a revelation or commandment from Almighty God."

Are there ways in which Joseph's words might have lacked "humility and meekness"? At a minimum he might have responded with a comment and a question such as, "Oliver, I love you and I value your opinion. Would you help me understand your objection to this passage?"

Joseph's second point added power to the first. He concluded that "[conflicts are] particularly calculated (when once fairly understood) to teach each and all of us."

Three ideas stand out in this statement. First, conflicts are particularly calculated to teach us something. Second, we can't learn from them until they are fairly understood, until we can see both sides—meaning we need to cool off before we can learn from them. Third, in a marvelous illustration of his own humility, Joseph included himself as one who learned something important from this conflict.

If our conflicts are particularly calculated to teach us something, what are we supposed to learn? Joseph's answer goes deep: Conflicts are particularly calculated to teach us "the

necessity of humility and meekness before the Lord, that He might teach us of His ways."

Why did Joseph say humility "before the Lord"? Why didn't he say "before the person on the other side"? To learn from our conflicts we must be willing to see our own faults, and we need the Lord's help to do that. Only then can He begin to "teach us of *His* ways" (emphasis added).

We come to the ultimate question: What *are* the Lord's ways for dealing with conflict? They are illustrated in a second conflict between Joseph and Oliver.

### Second Example

Just a month after the first conflict, to escape persecution, Joseph and Emma moved

80 miles north to the Whitmer home in Fayette—the home Joseph had so recently visited to resolve the first conflict. Arriving at the Whitmer home, Joseph was grieved to learn that Hiram Page, one of the eight witnesses to the Book of Mormon, had been receiving revelations through a "seer stone" that purported to give instructions on how the Church should operate. Newel Knight was with Joseph, and he described the seriousness of the problem:

[Hiram Page] *had managed to get up some dissension of feeling among the brethren by giving revelations concerning the government of the Church . . . , which he claimed to have received through the medium of a stone he possessed. . . . Even Oliver Cowdery and the Whitmer family had given heed to them.*<sup>5</sup>

What could have been more painful and frustrating to Joseph than this? If Joseph had followed his earlier pattern, he would have demanded of Hiram Page by what authority he presumed to receive revelations for the Church, and he would have demanded of Oliver what on earth he was thinking to believe in such things. But Joseph was more aware that a hasty and intemperate response would not solve the problem. Joseph knew what *not* to do, but he wasn't sure what he *ought* to do.

Newel Knight wrote:

*Joseph was perplexed and scarcely knew how to meet this new exigency. That night I occupied the same room that he did and the greater part of the night was spent in prayer and supplication.*<sup>6</sup>

Rather than react defensively, Joseph patiently sought counsel from the Lord. He was soon granted an answer in the form of a revelation, which is now section 28 of the Doctrine and Covenants.

### Doctrine and Covenants, Section 28

Section 28 is well known for answering the question of who *can*—and who *cannot*—receive revelation for the Church. It is also a model of the Lord's willingness to see wrongdoers in the larger context of their lives and to show divine confidence in them while reproofing or correcting them.

The Lord spoke in the first person directly to Oliver: "Behold, I say unto thee, Oliver, that it shall be given unto thee that



thou shalt be heard by the church in all things whatsoever thou shalt teach them . . .” The Lord’s first words were an affirmation of Oliver’s good standing in the Lord’s eyes. Then He added this stipulation: “. . . by the Comforter, concerning the revelations and commandments which I have given.”<sup>7</sup>

After clarifying that only the prophet can receive revelation for the Church, the Lord reaffirmed His divine confidence in Oliver: “And if thou art led at any time by the Comforter to *peak* . . . by the way of commandment unto the church, thou mayest do it.”<sup>8</sup> And then, again, He outlined the limits on Oliver’s authority: “But thou shalt not *write* by way of commandment, but by wisdom; And thou shalt not command him who is at thy head, and at the head of the church.”<sup>9</sup>

The Lord then turned to the source of the problem: Hiram Page. I am struck that He spoke with the same concern for Hiram’s feelings as He had shown for Oliver’s. This exemplifies the Lord’s way, and it makes it much easier for Hiram to accept correction: “Take thy brother, Hiram Page, between him and thee alone, and tell him that those things which he hath written from that stone are not of me.”<sup>10</sup>

Instructed and corrected in this loving and reaffirming way, both Oliver Cowdery and Hiram Page recognized their error and continued in full fellowship in the Church for a long while.

### Third Example

These two events in the life of the Prophet Joseph prepare us for one other scriptural example—the painful misunderstanding between Moroni and Pahoran in Alma 59 through 62. I wonder if this is where the Prophet Joseph gained his own understanding that conflicts are meaningful and we must learn from them.

Moroni is one of the great military leaders in all of scripture. At the early age of 25 he was made captain over all the Nephite armies. As you will recall, when the prophet Mormon abridged the records of Moroni’s military leadership, he called him “a man of a perfect understanding”<sup>11</sup> and honored him with this remarkable endorsement:

*If all men had been, and were, and ever would be, like unto Moroni, behold, the very powers of*

*bell would have been shaken forever; yea, the devil would never have power over the hearts of the children of men.*

*Behold, he was a man like unto Ammon . . . , and even the other sons of Mosiah, yea, and also Alma and his sons, for they were all men of God.*<sup>12</sup>

It has always astonished me that this same Mormon included, as part of his abridged record, a vivid account of Moroni’s conflict with Pahoran, the chief judge and governor of the Nephites.

As we learn in Alma 59, Moroni’s army was caught in a dangerous situation. Lamanite armies were rapidly gaining ground against them. As chief military leader, Moroni wrote Pahoran for reinforcements. Receiving none, the scripture reports, “Moroni was angry with the government, because of their indifference concerning the freedom of their country.”<sup>13</sup>

When no help came from the government, Moroni wrote Pahoran again. He began with the facts: the suffering of his men, the slaughter of thousands of the Nephite people, and other atrocities of war. But Moroni didn’t realize that Pahoran had been driven from his throne by the king-men and forced to take refuge in Gideon, and Moroni wrongly accused Pahoran of being a traitor to his own country. Moroni concluded with these challenging words: “Behold, the Lord saith unto me: If those whom ye have appointed your governors do not repent of their sins and iniquities, ye shall go up to battle against them.”<sup>14</sup>

We are treading sacred ground here. Is there any question whether the Lord had inspired Moroni to know there were problems at the government level that called for military help? Not at all. However, in his abridgment, Mormon made it clear that Moroni mistakenly assumed Pahoran was part of the problem and threatened to remove him as head of the government.

I have puzzled many years why Mormon would include a detailed account of this uncharacteristic error by the great Captain Moroni. I expect it was for at least two reasons.

One would be to show us that none of us, not even the great Captain Moroni, is immune from presumption and rash judgment. What a comfort it is to me, and I hope to you, that we are in the best of company when we make errors of this kind. This is not



to excuse them but to give us permission to admit our mistakes and to learn from them.

The second reason is to show us one of the best examples in all of scripture of how to respond to an unjust accusation. We know very little about Pahoran except that he was an upright ruler committed to standing “fast in that liberty in . . . which God . . . made us free.”<sup>15</sup> In chapter 61, Mormon, as editor, gave us Pahoran’s entire response to Captain Moroni. I will quote only two of the 20 verses included in his answer:

*I, Pahoran, who am the chief governor of this land, do send these words. . . . Behold, I say unto you, Moroni, that I do not joy in your great afflictions, yea, it grieves my soul. . . .*

*And now, in your epistle you have censured me, but it mattereth not; I am not angry, but do rejoice in the greatness of your heart.*<sup>16</sup>

How did Pahoran do it? How could he respond in such humility and meekness before the Lord? He probably sat right down and wrote an angry reply, venting his injured



## Gerald Williams and ADR

A professor at the Law School since 1973, Gerald Williams has been instrumental in promoting alternative dispute resolution (ADR). In 1984 he became the founding member and chair of the AALS Section on Alternative Dispute Resolution, Association of American Law Schools.

Since that time he has remained a major participant in writing and lecturing on negotiation and conflict resolution. His textbook *Legal Negotiation and Settlement* has been used in more than 100 law schools and business schools in the U.S. and abroad, and he serves on the editorial boards of the *Dispute Resolution Journal* and *Alternatives to the High Cost of Litigation*.

In recent years he has taught seminars in negotiation and conflict resolution for many professional groups, including the U.S. Department of Justice, large corporations such as Apple Computer, major law firms, and many national organizations.

feelings against Moroni. If so, when he was finished, he did what we all must do—he tore it up and threw it away. Then he must have spent long hours in supplication to the Lord to find the strength to overlook the unjust accusations and to reply with such compassion and love.

In Proverbs we read that “grievous words stir up anger” and “a soft answer turneth away wrath.”<sup>17</sup> Pahoran’s soft answer is a beautiful example of what the Prophet Joseph said about “the necessity of humility and meekness before the Lord, that He might teach us of His ways.”<sup>18</sup>

Even in this misjudgment Moroni is also our model. When he learned of his error, he was not prideful. He immediately marched to the aid of Pahoran, and with their combined forces they overthrew the king-men and the Lamanites, and peace was restored in the land.

As you reflect on these examples, do they call to mind any other gospel principles? I’m thinking in particular of that favorite scripture, Ether 12:27:

*And if men come unto me I will show unto them their weakness. I give unto men weakness that they may be humble; and my grace is sufficient for all men that humble themselves before me; for if they humble themselves before me, and have faith in me, then will I make weak things become strong unto them.*

President Kimball taught this gospel principle in terms of mirrors. He said, “Our vision is completely obscured when we have no mirror to [show us] our own faults and [we] look only for the foibles of others.”<sup>19</sup>

Edward Edinger, a wise psychologist, wrote this about mirrors:

*[A mirror] shows us what we otherwise cannot see for ourselves because we are too close to it. Without a mirror, for instance, we would never even know what our face looks like; since we are inside looking out, there can be no self-knowledge, even the elementary self-knowledge of what we look like, unless there is some device that can turn the light back on us.*<sup>20</sup>

### Final Observations

I conclude with a few final observations about conflicts. Again, more could be said, but you will understand.

1 Conflicts are easy to get into but difficult to get out of. If we have the courage to face them early, they are easier to resolve and to learn from.

2 Conflicts can be dangerous, because they easily fly out of control. They need good containers—such as good friendships and solid marriages—to hold them in. Early detection helps.

3 There are plenty of conflicts. They are also cyclical. If we don’t learn from one, that’s okay; wait a while, and, sure enough, the conflict will come around again and again until it either destroys a relationship or we learn from it. (If we learn from it, we move on to the next level of conflict, higher up on the plane of progression.)

4 Things often get worse before they get better. But it is generally better to face the problem now than to wait for the next time around.

5 It’s cruel that it should be this way, but the thing we’re supposed to learn about ourselves is usually obvious to the person we’re in conflict with.

6 Even when we are right, we may be wrong. Even when we are right—or especially when we are right—if we are presumptuous

and rash, we will give offense and become a stumbling block to others.

7 We learn by experience; but experience is not a very good teacher unless we remember our conflicts. It is a mark of greatness to remember and to learn from our conflicts.

### Conclusion

We should think of our conflicts as mirrors that reflect back upon us things about ourselves we would rather not know. As we learn in Ether 12:27, it is a gift from heaven to be shown our weakness. If we will reflect upon our weakness, as the Prophet Joseph did upon his, the Lord will make us strong where we are weak.

I pray we may learn from our conflicts, that the Lord may teach us of His ways. In the name of Jesus Christ, amen.

Gerald R. Williams is a professor of law at the J. Reuben Clark Law School at Brigham Young University.

### NOTES

① Barbara Neff Autograph Book, LDS Church Historical Department, Salt Lake City; quoted in Richard Neitzel Holzapfel and Jeni Broberg Holzapfel, *Women of Nauvoo* (Salt Lake City: Bookcraft, 1992), 68.

② HC 1:105.

③ HC 1:105.

④ HC 1:105.

⑤ Newel Knight’s Journal, in *Scraps of Biography* (Salt Lake City: Juvenile Instructor Office, 1883), 64; also in *They Knew the Prophet*, comp. Hyrum L. Andrus and Helen Mae Andrus (Salt Lake City: Bookcraft, 1974), 13.

⑥ In *Scraps of Biography*, 65; also *They Knew*, 13.

⑦ D&C 28:1.

⑧ D&C 28:4; emphasis added.

⑨ D&C 28:5–6; emphasis added.

⑩ D&C 28:11.

⑪ Alma 48:11.

⑫ Alma 48:17–18.

⑬ Alma 59:13.

⑭ Alma 60:33.

⑮ Alma 61:9.

⑯ Alma 61:2, 9; emphasis added.

⑰ Proverbs 15:1.

⑱ HC 1:105; emphasis added.

⑲ Spencer W. Kimball, *The Miracle of Forgiveness* (Salt Lake City: Bookcraft, 1969), 269.

⑳ Edward F. Edinger, *The Eternal Drama: The Inner Meaning of Greek Mythology* (Boston: Shambhala, 1994), 85.

BY DEBORAH L. RHODE

The following address from the Law School's  
annual Distinguished Lecture Series  
was presented on September 29, 2006.

PHOTOGRAPHY BY BRADLEY SLADE

# ALIGNING OUR ETHICAL COMPASS

I am deeply honored to be here  
and am especially grateful to Cheryl  
Preston for making it possible.  
I am also grateful to all of you  
for showing up for a talk on the  
challenges of leadership. You are  
among the future leaders who  
will be grappling with critical  
problems, so there is some value  
in discussing the fix we're in and  
what needs to be done about it.



The massive moral meltdowns recently on display in Enron et al. have made clear the need for more attention to issues of moral leadership. These financial scandals have been estimated to cost as much as \$7 trillion in shareholder losses. The resulting wave of indictments, bankruptcies, investigations, and felony convictions makes clear that we have more than a few bad apples at leadership levels and more than enough lawyers willing to look the other way. In public opinion polls, only a quarter of Americans think that top executives are honest, but only a fifth think that lawyers are. We narrowly lose to used car salesmen in the race to the bottom of ethics ratings.

Surveys of employees also suggest that business and professional leaders aren't doing enough to foster ethical workplace cultures. Results vary somewhat, but they generally indicate that between a quarter to three-quarters of employees observe misconduct, only about half of which is reported. Of course, these estimates and surveys focus only on misconduct, not broader issues involving corporate social responsibility.

This portrait is hard to reconcile with the somewhat platitudinous party line of publications on moral leadership. These generally insist that ethics pays and that professionals and their employers do well by doing good. If that were true, there would appear to be a lot of smart people out there unable to do the math. And if virtue were always its own reward, we might expect to see more of it than has recently been on display. In some contexts principles come at a price, and a variety of forces conspire to compromise ethical judgment. Among those forces are skewed incentives, situational influences, peer pressure, and diffusion and displacement of responsibility. Let me say a word about each.

#### **SKewed REWARD STRUCTURES**

Corporate leaders who are too preoccupied with maximizing short-term profits may end up with decisions that undermine or compromise long-term values. Enron's plummet from the nation's seventh largest corporation to a bankrupt shell has been partly attributed to its relentless focus on immediate profits. In its pay-for-performance culture, those who didn't make their numbers were

humiliated and sometimes terminated; and ethics and accounting rules were seen as technicalities made to be stretched or circumvented. A *New Yorker* cartoon during the Enron debacle captured the mindset. It featured a CEO handing some corporate document to a lawyer with the instruction, "Diddle with this, Benson, until there's some truth to it." The result of this mindset was a lot of fudging on numbers and, ultimately, felony convictions, massive civil liability, and major losses of jobs and pensions. The attorneys who blessed these dubious financial transactions, like those involved in earlier financial scandals such as the massive savings and loans collapse, faced profit pressures of their own. Much of their billing was attributable to a single client possibly engaged in fraud, and they didn't want to acquire knowledge that might suggest that the conduct crossed legal boundaries.

#### **SITUATIONAL INFLUENCES**

A variety of situational pressures can also undermine moral conduct. A famous example of the influence of time pressures grows out of an experiment by Princeton psychologist John Darley. It found that students training for the ministry who were en route from a lecture on the Good Samaritan were unlikely to behave like one if they were late for another obligation. Most students hurried right by a moaning man in seeming need of medical care rather than stopping and providing assistance.

Once individuals yield to situational pressures, then other cognitive biases often kick in to entrap them in more serious misconduct. One such bias is the desire to reduce cognitive dissonance by rationalizing misconduct that would otherwise suggest a gap between one's principles and practices. Professionals, including lawyers who pad expenses or inflate their hours to meet unrealistic quotas, offer such rationalizations: their work is really worth more than the time they actually spent, or everyone else does it and expects it. The result is that auditors find fraud in about 5 to 10 percent of bills they review and questionable practices in another 25 to 35 percent. Such practices include overstating hours, performing unnecessary work, and double billing multiple clients for the same time or task. Leaders of firms with oppressive hourly billing requirements often

wink and nod at these abuses, and they fail to address the structural incentives that perpetuate it. Yet the rationalizations that support petty dishonesty in billing can readily spill over to other issues.

Another way of rationalizing complicity in dubious conduct involves redefining it. Euphemisms can serve that function, and a recent case study of the problem involves the highly publicized role of federal lawyers in drafting "torture memos" in the aftermath of the 9/11 terrorist attacks. Two of the most controversial memoranda came from the Office of Legal Counsel (OLC) and concluded that the Geneva Conventions do not cover al Qaeda or Taliban captives, a view almost universally rejected by experts in the field and, ultimately, by the Supreme Court.

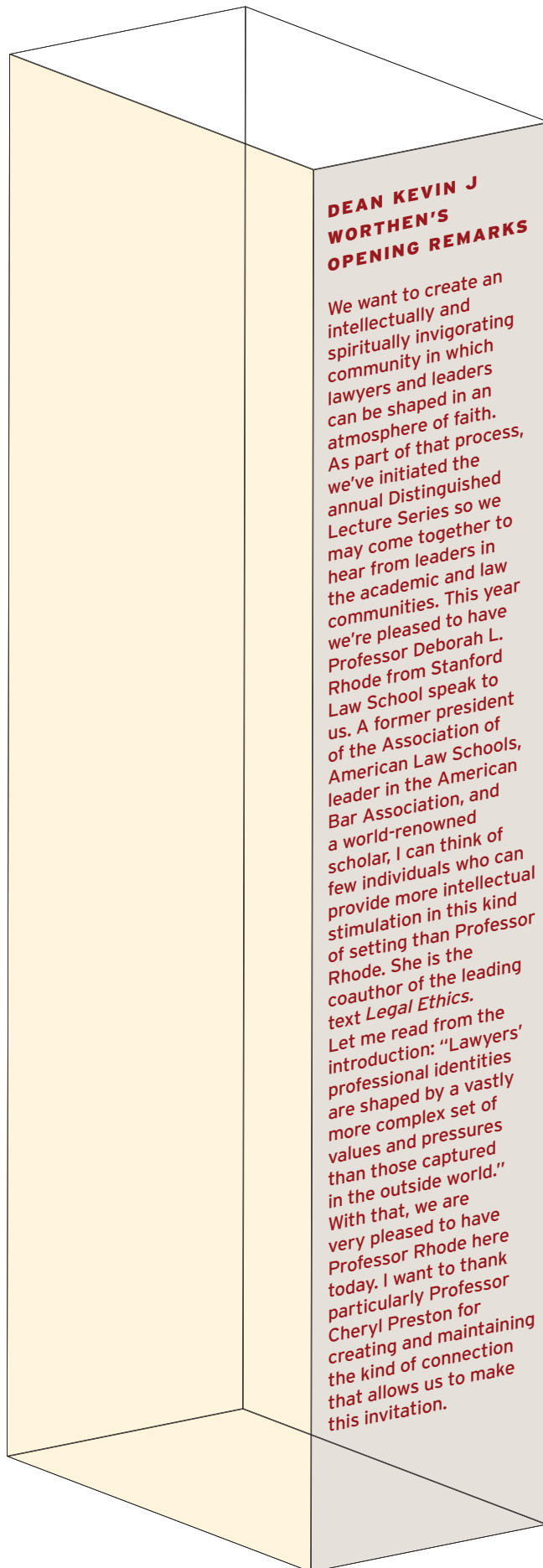
Did lawyers involved in preparing these memos all believe that the methods they legitimated were morally justified and consistent with international human rights? We don't know. But what we do know is that peer pressure and the desire to remain a team player often induces individuals to adjust their ethical compass.

In his famous essay "The Inner Ring," C. S. Lewis describes the way that gradual immorality entraps those who long to be part of the leadership circle. He writes,

*Just at the moment when you are most anxious not to appear crude, or [naïve], or a prig—the hint will come. It will be the hint of something which is not quite in accordance with the technical rules of fair play; something which the public, the ignorant, romantic public, would never understand; . . . but something, says your new friend, which . . . "we always do." And you will be drawn in, if you are drawn in, not by desire for gain or ease, but simply because at that moment . . . you cannot bear to be thrust back again into the cold outer world. . . . And then, if you are drawn in, next week it will be something a little further from the rules, and next year something further still. . . . It may end in a crash, a scandal, and penal servitude; it may end in millions [and] a peerage. . . . But you will be a scoundrel. [C. S. Lewis, *The Weight of Glory and Other Addresses*, (San Francisco: HarperSan Francisco, 2001) 153–54]*

Lewis' description also captures the predicament of gradual acculturation to problematic conduct—what is known colloquially as the "the boiled frog" problem. A





frog thrown into boiling water will jump out of the pot. A frog placed in tepid water that gradually becomes hotter and hotter will calmly boil to death.

These pressures to be a team player and the incremental erosion of moral principle can be especially pronounced in contexts where professionals lack accountability for collective decision making. That is often true of lawyers; their individual reputations rarely suffer, and malpractice doctrine and insurance often insulate them from personal liability for involvement in illegal client conduct. A famous study by Wharton professor Scott Armstrong illustrates the pathologies that too often play out in organizational life where moral responsibility is defused. The experiment asked 57 groups of executives and business students to assume the role of an imaginary pharmaceutical company's board of directors. Each group received a fact pattern indicating that one of their company's most profitable drugs was causing an estimated 14 to 22 "unnecessary" deaths a year. The drug would likely be banned by regulators, because a competitor offered a safe medication with the same benefits at the same price. More than four fifths of the boards decided to continue marketing the product and to take legal and political actions to prevent a ban. By contrast, when a different group, this time individuals, with similar business backgrounds were asked for their personal views on the same hypothetical, 97 percent believed that continuing to market the product was socially irresponsible.

If we are serious about addressing these biases and pressures that impair ethical decision making, then we need to make professional, business, and policy leaders more knowledgeable about remedial strategies. For example, the value of ethical codes, consultants, and compliance structures both for law firms and their organizational clients should neither be overstated nor overlooked. Much depends on whether they are viewed as more than "window dressing" for someone to peddle a slightly sleazy transaction. Good "optics" was how one manager discussed Enron's ethical code, and shortly after the recent collapse, copies of the document were selling on eBay, advertised as "never been read." But some evidence suggests that when codes of conduct are well enforced, developed in consultation with employees, and respon-

sive to real concerns without being overly vague or legalistic, they can play a constructive role. The same is true of ethics training, law firm ethics counsel, whistle-blower protections, and related compliance structures. We also need to provide more positive recognition and reinforcement for lawyers and other employees who hold on to moral principles in their professional relationships. Both informal ethical codes and organizational reward structures need to do much more to foster basic ethical norms of honesty, fairness, and respect for public interests.

A second major ethical challenge involves diversity. I'll focus briefly on gender, both because that is my field and because a widespread assumption is that the "woman problem" has been solved.

The facts, however, suggest otherwise. Despite almost a half century of equal opportunity legislation, women's opportunities in legal, corporate, and political settings are anything but equal. In the United States women are a majority of the electorate but hold only 15 percent of congressional seats and slightly over 20 percent of state legislative positions. In management women account for about a third of MBA classes but only 16 percent of board members, 8 percent of top leaders, and 2 percent of CEOs in Fortune 500 companies. In law about half of new entrants are female, but less than a fifth of law firm partners, federal judges, and law school deans are female. The gap widens for women of color, who account for only about 4 percent of congressional legislators and 1 percent of corporate officers, law firm partners, and general counsels.

Yet for many constituencies the most convenient explanation for women's underrepresentation in leadership positions is women's choices. For example, Lisa Belkin's widely circulated cover story in the *New York Times Magazine* on the "opt-out revolution," claimed women are underrepresented in leadership positions less because "the workplace has failed women" than because "women are rejecting the workplace." "Why don't women run the world?" asks Belkin. "Maybe it's because they don't want to."

Such explanations capture only a partial truth. Almost a fifth of women with graduate or professional degrees are not in the labor force, compared with only 5 percent of similarly credentialed men. Yet what fades

from the "opt-out" narrative are the biases that drive women's decisions and constrain the opportunities for those who opt in. Also missing are the choices that men make, as spouses, policy leaders, and employers, which often limit the choices available to women.

One of the most intractable sources of inequality is the mismatch between the traits

notice and recall information that confirms their prior stereotypes. So, for example, when employers assume that a working mother is unlikely to be fully committed to her career, they more easily remember the times when she left early than the times when she stayed late. These perceptions can, in turn, prevent women from getting assignments that would demonstrate their capa-



traditionally associated with women and those with professional success. What is assertive or authoritative in men often seems abrasive in women, who risk seeming too feminine or not feminine enough. Having children makes women, but not men, appear less competent and less available to meet workplace responsibilities. Moreover, as psychologists note, people are most likely to

bility and commitment, and a cycle of self-fulfilling predictions is established.

A related problem involves what psychologists label "in-group favoritism." People are more likely to prefer and to assume competence among those who are like them in important ways, such as gender, race, and ethnicity, and more likely to include them in informal networks of mentoring and support.

The problem is captured in a *New Yorker* cartoon featuring a boardroom with all men and one woman, where the chair of the meeting announces, "That's an excellent point Miss Tighe. Now let's just wait for one of the men to make it."

The extent of the problem in law firms emerged clearly in a survey released just this last August by the ABA Commission on Women in the Profession. There, 44 percent of women of color and 39 percent of white women—but only 2 percent of white men—reported being passed over for desirable work assignments. About 60 percent of women, but only 4 percent of white men, felt excluded from formal and informal networking opportunities.

opt-out point, if women are not choosing to "run the world," it's partly because men are not choosing to run the washer/dryer.

Gender inequalities in family roles pose particular challenges for women in leadership positions requiring total availability. Hourly requirements in most professions have increased dramatically over the last two decades. What has not changed is the number of hours in the day. Technological innovations like e-mail, faxes, and BlackBerry cell phones have created as many problems as they have solved. Although they make it increasingly possible for women to

work at home,

upper-level positions. Not all formal mentoring programs, part-time policies, or diversity education initiatives are effective. Employers need to know what is and what isn't working and to make appropriate responses.

For example, although California now requires mandatory sex harassment training, what satisfies the requirement leaves much to be desired. The programs I have reviewed both highlight overly obvious or overly trivial examples of harassment and exaggerate the risk of

OF AMERICANS THINK THAT TOP EXECUTIVES ARE HONEST,  
BUT ONLY A FIFTH THINK THAT LAWYERS ARE. WE NARROWLY LOSE TO  
USED CAR SALESMEN IN THE RACE TO THE BOTTOM OF ETHICS RATINGS.

A final challenge regarding women's full representation in professional and leadership roles involves work-family conflicts. The home is no more an equal opportunity employer than is the workplace, except that in domestic matters the presumptions of competence are reversed and men are assumed to be unable or unwilling to assume an equal share of responsibility. Despite a significant increase in men's caretaking work over the last two decades, women continue to shoulder about 70 percent of the responsibilities in dual career couples. In one representative survey of high-achieving women, 4 of 10 felt that their husbands created more domestic work than they contributed. Double standards in domestic roles are deeply rooted in cultural attitudes and workplace practices. Working mothers are held to higher standards than working fathers and are often criticized for being insufficiently committed, either as parents or professionals. These mixed messages leave many women with the uncomfortable sense that whatever they are doing, they should be doing something else. When asked how women can solve the work-family conflict, Gloria Steinem aptly answered: "Women can't, until men are asking that question, too." To return to Belkin's

they also make it increasingly impossible not to. Many high-achieving women remain tethered to their office, and total availability is less the exception than the rule. Although the vast majority of law firms and corporate employers have part-time policies, they are often unavailable for partners or upper-level managers. And few of those eligible feel able to use them. In law less than 5 percent of lawyers take such status, and those who do often feel that their hourly limitations are not respected and that they are treated as second-class citizens in terms of assignments and career advancement. Inadequate public support for child care adds to women's work in the home and limits their opportunities in the world outside it.

We do not lack for plausible reform strategies. The most important factor in ensuring equal access to leadership opportunities is a commitment to that objective, which is reflected in workplace priorities, policies, and reward structures. That, in turn, requires accountability. Decision makers need to be held responsible for results in recruitment, retention, and promotion, as well as in practices that influence those results, such as evaluation, assignments, mentoring, and work-family accommodation. Accountability requires monitoring employees' perceptions of fairness as well as their representation in

personal liability for unintended offenses.

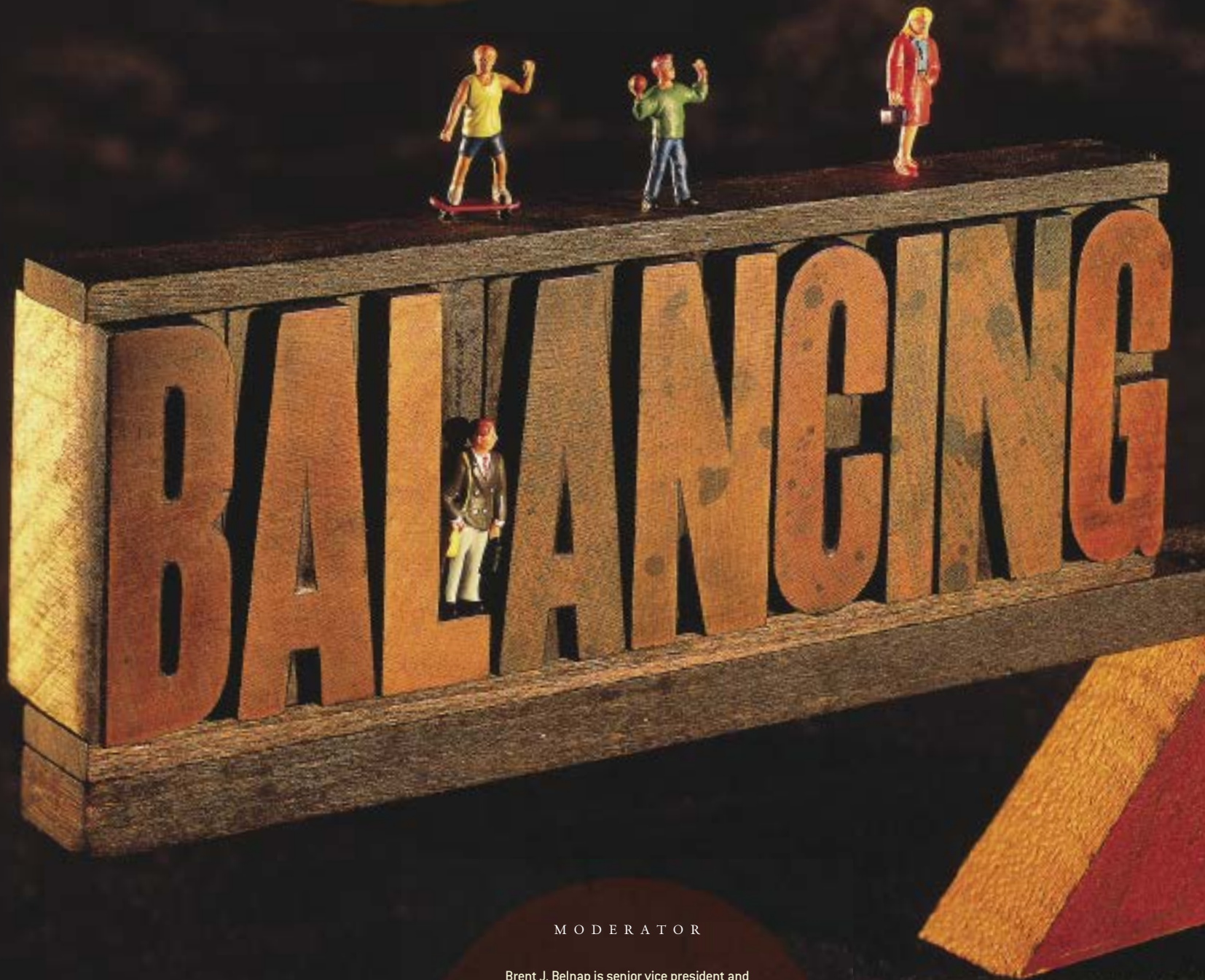
According to some courses, statements such as "You look nice in that dress" or acts of chivalry like holding a door open fall into a "dangerous grey area." Even inadvertent offenders can reportedly risk losing not only their "reputation" but also their "home, car, and life savings." For the clueless in California, some training includes instruction on what forms of workplace hugging are permissible. Although frontal hugs apparently are unacceptable, side hugs or squeezes may be unobjectionable. But then again, maybe not. Too many individuals may end up seeing these required programs—and the legal doctrine that they describe—as overblown reactions to oversensitive women who should get a life, not a law. As one exasperated male supervisor put it in his evaluation, "This appears to be a course designed by idiots for idiots."

We can and must do better. And law schools can help in this mission by keeping the issues on the agenda of students like you, who will soon be leaders in our profession and in public policy. Your mission is to take up the challenges we have left unmet. As the social critic Elinor Smith once noted, "It has long since come to my attention that people of accomplishment rarely . . . [stayed] back and let things happen to them. They went out and happened to things." So go forth and make the world better. Thank you for joining me here today to address some crucial challenges that await your efforts.



## M O D E R A T O R

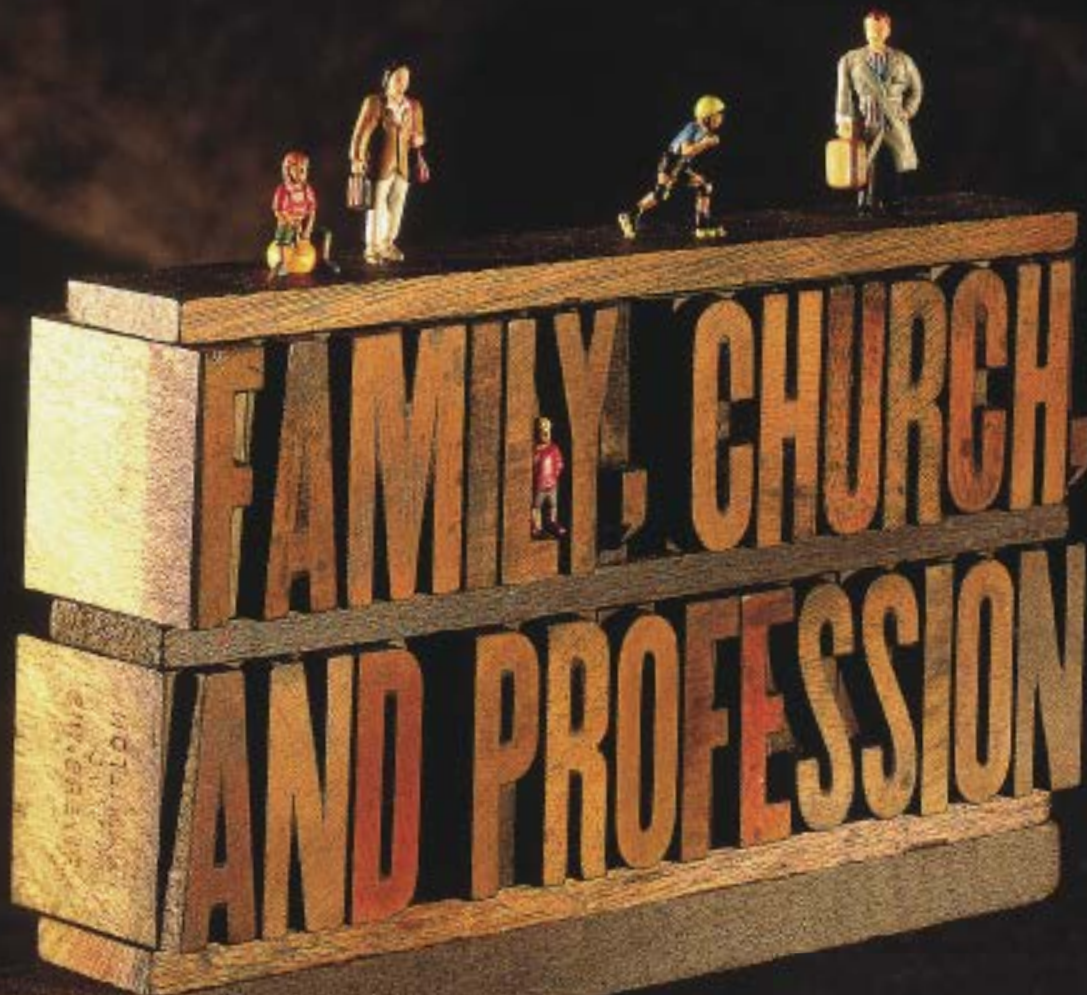
Annette W. Jarvis is a shareholder in the firm of Ray Quinney & Nebeker. She graduated with a JD from the J. Reuben Clark Law School in 1979. She has 27 years of experience practicing business bankruptcies and is a fellow in the American College of Bankruptcy and is included in the list of the Best Lawyers in America in Bankruptcy and Creditor-Debtor Rights Law. A member of the J. Reuben Clark Law Society International Board, she is an advocate for more family-friendly policies in law firms. She and her husband have five children.



## M O D E R A T O R

Brent J. Belnap is senior vice president and counsel with Citigroup Inc. He received a BA in political science from Brigham Young University and a JD from Columbia University. Chair-elect of the International Board of the J. Reuben Clark Law Society, he also serves on the advisory board of the New York LDS Professional Association. He is currently president of the New York New York Stake. He and his wife have five children and are expecting their sixth.





#### PANELIST

Elder Keith K. Hilbig was sustained a member of the First Quorum of the Seventy in April 2006. He has served in the Second Quorum of the Seventy, as an Area Seventy, and as president of the Switzerland Zurich Mission (1989–1992). He earned a bachelor's degree from Princeton University and a JD from Duke University.

He practiced as a trial attorney in Los Angeles, eventually forming his own firm. Elder Hilbig and his wife have six children and 24 grandchildren.

#### PANELIST

Elder Marcus B. Nash was sustained a member of the First Quorum of the Seventy in April 2006. Previously he was an Area Seventy in the North American Northwest Area. He earned a bachelor's degree from Brigham Young University, followed by a JD from the J. Reuben Clark Law School in 1984. He was a partner in a major Seattle law firm at the time of his calling to the Seventy. He and his wife are the parents of five children.

#### PANELIST

Elder Steven E. Snow was sustained a member of the First Quorum of the Seventy in March 2001.

Prior to his call he was a senior partner in the Utah law firm of Snow Nuffer. He received a bachelor's degree from Utah State University and a JD from the J. Reuben Clark Law School. He has served the Church as an Area Authority in the Fifth Quorum of the Seventy, a bishop, a stake president, and a mission president. He and his wife are the parents of four sons and have six grandchildren.

♦ ♦ ♦

*This panel  
discussion  
was pre-  
sented at a  
J. Reuben  
Clark Law  
Society  
fireside on  
January  
19, 2007.*

♦ ♦ ♦

**Belnap** Elder L. Tom Perry, of the Quorum of the Twelve Apostles, has said, “It is imperative that we not neglect our families. Nothing we have is more precious. Our wives and husbands and our children are deserving of the attention of their spouses and parents. When all is said and done, it is this family relationship that we will take into the life beyond. To paraphrase the words of scripture,” said Elder Perry, “What shall it profit a man, though he serve the Church or his career faithfully, if he shall lose his own family?”

**Jarvis** Elder Hilbig, maybe we could start with you. You worked at a large firm in a large city and then started your own law firm. In a large city with a very busy lifestyle, probably a long commute, how did you balance your professional life with your personal life?

**Elder Hilbig** First of all, I’m struck by the fact that there are three elements of this discussion: the role of our family, then of our Church responsibilities, and so also our professional obligations. I don’t think there is a single answer or solution to that problem of balance. It will probably vary among the three of us significantly. But I can tell you of one incident that really had an impact on me. Some 35 years ago I was a brand new bishop of a ward of 700 in Pasadena, California, working in LA and commuting everyday, and going right to the chapel following a day’s work. One Saturday morning, one rare Saturday morning, I was wrestling with our then four-year-old son, who, by the way, is here tonight and is a lawyer, so I couldn’t have damaged him too much in the process. But that Saturday morning we were wrestling together on the living room floor, and at the end of that wonderful experience, he said to me, “Dad, this is so much fun. When are you going to move in with us?” Then I realized that I left the house on the way to Los Angeles before he got up, and I came home from the chapel after he had gone to bed. I must say as a result of that, when I was released as a bishop, we moved closer to where I would work and actually changed our locale in order to provide more time for family without compromising Church responsibilities or employment.

**Belnap** Elder Snow, you decided to practice law in St. George, which I understand is your hometown. The question that I have for

you is this: How does that choice relate to your views on tonight’s topic of balancing life’s priorities? What was it in that decision, among the myriad of opportunities that were presented to you, that was actually at the core of your decision? What caused you to choose a smaller-town practice rather than some other opportunity?

**Elder Snow** When we’re in school, many of our decisions regarding our career are driven by money; we chase the dollars. I just worry that that’s not, in the long term, the best way to look at our careers. We need to really look at where we can be that will best serve our family needs, where we can serve, and what specialty we will be working in. I think too often the decision is driven by chasing the dollars, when we really ought to look into the future and have a vision of how things will look five and 10 years from now. The dollars generally will take care of themselves, but too often that seems to be the only thing we consider. I remember how that was—and it was important, obviously, to finally be able to have some income; but from our perspective a small town worked out very well for our family and for our needs.

**Jarvis** Elder Nash, there are times when our client’s needs are so strong that we can have no balance in our life. How do you deal with crunch times like that?

**Elder Nash** Well, I think there are two things you have to do. One is you have to do what you have to do as a professional. For example, I’m a trial lawyer and, as many of us know, when you’re in trial, those are long days, long nights, and early mornings. You have to plow through it and do it. But the other thing you have to do is not neglect your family. The way you do that is to pick up the phone one evening and join the family in family prayer; if you are off on a business trip and it is family home evening, you arrange your schedule so you can join them by phone for family home evening. If I could just say one thing, too, to the young lawyers out there: I think if you start young setting those parameters, then you’ve set your course and you don’t have to cross some difficult bridges later on in your life. I recall my first trip to New York City with a senior partner at our firm. I was a brand-new lawyer. To my dismay, I dis-



covered that he had scheduled an important witness interview on the Sabbath. When I found out, he and I sat down and I just explained to him how I kept the Sabbath. Never again in my 22 years of practice did I ever have an invitation to work on a Sunday.

**Elder Hilbig** There are times when one stands up and says I cannot, or I will not, do that, whatever the consequences. Most senior partners, when they finally understand, will come back with increased respect for you. They appreciate your having a position and holding to it. A critical element is the attitude. Another is your spouse's participation. Most of us are better lawyers because of the spouse we have, a spouse who will at least remind us of the balance that may have slipped our minds in the heat of the battle and

who can give insights that we might miss. So, I think it's important that a lawyer and his or her spouse be "equally yoked," as Paul said to the Corinthians, in objectives and ultimate purposes, in portioning time and resources. If that unity is there, it is much easier for a husband and wife to move through the levels and seasons of life as a lawyer or one married to a lawyer. It isn't the same in the beginning as it is in the middle, and it isn't the same at all at the end as it was at the beginning. But that equal yoking—those common objectives, expectations, and standards accepted by both—really eases the problem of balance.

**Elder Snow** One advantage of our profession is that once you get through the beginning years, we really do have more flexibility. Those first years are difficult, but one thing I

enjoyed about the law was the level of flexibility we have later on in the profession.

**Elder Nash** I was a brand-new lawyer, and I remember I was sitting in a priesthood leadership meeting at the stake center and the stake president asked one of the bishops how many hours he spent in his calling. I was just stunned at that number. I thought I could never be a bishop. Then just a few months later, I was invited to the stake president's office and asked to serve as a bishop. The first words out of my mouth were, "President, I don't want to be a bishop." (I can't believe I said that.) He said, "Well, no one in their right mind wants to be a bishop." And then he said, "But will you accept the calling from the Lord?" I said, "Of course."

I found that you could do it with the Lord's help. Now the thing that kind of triggered this is Sister Nash. We had this understanding that was almost unspoken but real. She had a veto power. That can sound funny, but it's true. When the pendulum had swung too far one way or the other, she had the right and the duty to stand in front of me and let me know that a time-out was needed.

**Jarvis** Let me turn to the topic of women in the law. Elder Snow, maybe I can ask you. The percentage of LDS women attorneys is increasing. What advice about balancing careers and families do you have for new women lawyers, women law students, or women thinking about going into the law?

**Elder Snow** Well, I personally think it's a great career choice for women. I think it gives them a lot of options, as it does men. It's a career where you can phase back how much you are doing. You can be part-time if you choose. You can take a sabbatical for a time, do your CLE, and come back into practice. I think with technology the way it is now, more women can work at home—more men can work at home. And I think that's all part of the balance that couples who are both employed need to reach. The reality, even in the Church, is both men and women are employed. I happen to personally believe that the choice of a law profession is a good one and gives a lot of flexibility, always keeping in mind that the family really is the most important thing. Whether it is mom or dad or a combination thereof, somebody's got to take



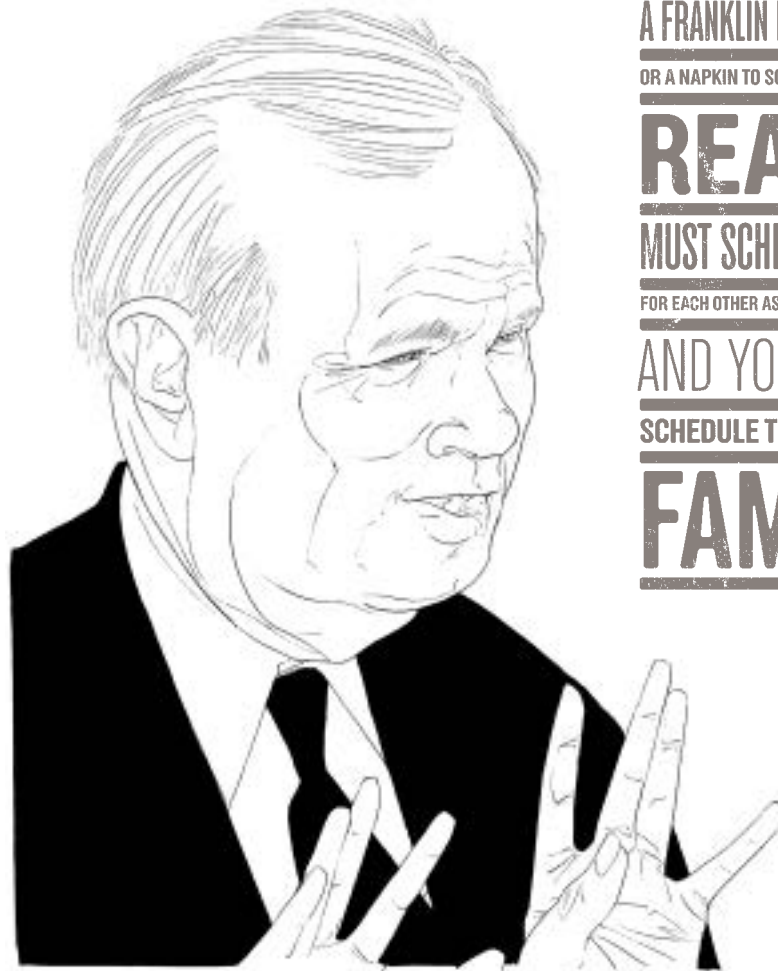
care of this great treasure that's given us in the next generation. This must be our first priority. I think for that to really happen husbands and wives have to have a good strong relationship so they can be good moms and dads to the kids. Everybody works it out a little differently. I think law is a great profession for parents.

**Elder Nash** I just happen to have a copy of "The Family: A Proclamation to the World" in my pocket. Can I read just a couple of lines from that? Then I'll tell just a short story. It says here,  
*The family is central to the Creator's plan for the eternal destiny of His children. . . .*

*Husband and wife have a solemn responsibility to love and care for each other and for their children. . . .*

*. . . Fathers are to preside over the families in love and righteousness and are responsible to provide the necessities of life and protection for their families. Mothers are primarily responsible for the nurture of their children. In these sacred responsibilities, fathers and mothers are obligated to help one another as equal partners. Disability, death, or other circumstances may necessitate individual adaptation.*

I had a paralegal who worked for me whom I felt was heaven-sent. She was not LDS; she was a strong Catholic. She was very bright and capable and was a tremendous asset to my practice. After working for me for about a year, she got married and then had a child. She approached me and said, "Mark, I'm now trying to balance things here, and I'm trying to be a mom. Would you mind if I scaled back some of my time?" I said, "You are such an asset. You just tell me what you want, and you've got it. So, she cut back to about two-thirds/one-third: two-thirds working as a paralegal and one-third at home. Well, she did that for a couple of years, and it was a little inconvenient for me, too, but it worked out just fine. Then she had a second child. Just a few months after that baby was born, she came into my office and said, "I've tried to balance this and I can't. I feel like I need to be at home." I said, "The priority of working for me is in a different universe from the priority of your family and your children. The Lord bless you." She was religious. I could say things like that to her and she knew where I was coming from. So I lost her from my practice but with my blessing. That's the



way she struck the balance. She found the flexibility as long as she could stretch that way, and then she found she needed to be home. She'll probably be back when those childbearing years are over.

**Jarvis** So, do you think, Elder Nash, that the profession has advanced—I guess I would use the term *advanced*—to the point where there are possibilities for women who want or are expected to care for their children at home to have opportunities to work, to balance both family and career?

**Elder Nash** Yes, I think the profession is very open to that. In fact, as those of us who practiced in larger firms understand, my word to her was not sufficient. I told her I'd go to bat for her, but it required the assent of at least

the majority of the partners to make those adjustments. And each time she requested it, it was given to her.

**Elder Snow** I think smart law firms are figuring that out very quickly. I mean, women are too great a resource. A lot of women will practice law for a time, spend time with their children until they are well into their school years, then come back. We've hired women in that season of life who have been just wonderful.

**Jarvis** Do you think, perhaps, that women bring into the profession a reminder to us all about the balance that's needed between families and careers because they often are more focused on that issue? Would you agree with that?

I DON'T CARE IF YOU USE A  
**BLACKBERRY,**  
 A FRANKLIN DAY PLANNER,  
 OR A NAPKIN TO SCHEDULE WITH, YOU  
**REALLY**  
**MUST SCHEDULE TIME**  
 FOR EACH OTHER AS HUSBAND AND WIFE,  
 AND YOU MUST  
**SCHEDULE TIME FOR THE**  
**FAMILY.**

MONS





**Elder Hilbig** Definitely.

**Elder Nash** When I was a young lawyer, one of the partners in my firm was known as the Iron Lady. She was a tremendous trial lawyer; you didn't want to go against her. I was in her office one time and saw the pictures of her children, and I made a comment. She stopped what we were doing and looked at me, and she said, "Mark, you and I both understand, don't we? We will never do anything more significant than raising our children."

**Belnap** You know, it seems there aren't enough people out there who do understand that, but it is changing, as you say, Elder Snow. At Snow Nuffer you were able to hire

women and give them opportunity and allow that flexibility, and you also, Elder Nash. Is there something, do you think, that perhaps women who are Latter-day Saint lawyers could do to help promote a more family-favorable environment?

**Elder Hilbig** Well, they could be good lawyers in the first place so that they are contributing and making an impression upon their peers, be it in the firm or in the community. There is the burden of being competent, but as you display that competence you win the respect, the admiration, and ultimately the support of those with whom you work who will rally to your cause. So I think being a good example and an effective attorney is ultimately going to result in that reaction by the larger society.

I would also like to add something about deciding our employment. As we were finishing our third year of law school and looking for employment opportunities, Susan and I fasted and prayed to determine what we should do. Finally, we thought we had reached a conclusion: to return to Milwaukee and work for the largest firm in Wisconsin, which, by the way, offered automatic membership in the country club and the down payment on your first house. Both of those were elements in our consideration, and so we decided after prayer and fasting that we would go back to Milwaukee. I called the senior partner and told him that I accepted the offer, and after two more minutes the conversation ended and I hung up.

After hanging up, and I do not say this lightly, such a dark feeling came over me that I realized I had made the wrong decision, despite our efforts. I picked up the phone and called the partner back—this was well within a 120-second period—and said, "You'll never understand, but I want to withdraw my acceptance." He said, "You're right. I don't understand." I left the bedroom where the phone was, and Susan greeted me saying, "At last we've decided! Our lives are unfolding in front of us, and we'll get a sailboat on Lake Michigan!" When I said I had retracted the acceptance, she asked, "What are we going to do now?"

We fasted and prayed again, and ultimately the decision, prompted by the Spirit, brought us to Los Angeles. As Robert Frost said, that decision has made "all the difference" in our lives. How we practice law, where we do it, and for what motives are as relevant to religion as is the mere participation in Church leadership responsibilities. I would hope that those who are anticipating what the next year brings in terms of graduation and employment would seek the promptings of the Spirit.

**Elder Snow** Looking back, I wish I hadn't worried quite as much about economic decisions. I wish I'd just had faith and listened to the promptings. They came, but there were a lot of stupors of thought before they seemed apparent. If we keep our lives pointed in the right direction, the Lord really will take care of us. It sounds trite to say it now, but I don't think I would have worried quite as much had I understood that

the Lord's hand really is in many things that occur and that it's not necessary to get too stressed over what happens.

**Elder Nash** I would just say amen to what they both said. I did not have the kind of grades that Elder Hilbig did; no one offered to pay a mortgage for me. Nonetheless, we had the sense and the feeling about where to go, and as we pursued that sense and feeling prayerfully, doors were opened and opportunities were given us. And as we walked forward, following those feelings, it became evident where the Lord wanted us to be. We are confident we were where he wanted us to be.

**Belnap** Families are said to be our first priority, but then we give them little of our time. As a result, lawyers can and often do experience what I would call a balance crisis. What advice would you give to someone who might be experiencing such a balance crisis and perhaps might not even be aware of it?

**Elder Nash** President Hinckley said something that relates directly to your question. He said it so well: "It is imperative that you not neglect your families. Nothing you have is more precious." He was speaking to priesthood brethren, so he said "your wives and your children," but obviously your husbands and your children are deserving of the same attention. He said, "When all is said and done, it is this family relationship which we will take with us into the life beyond." Then he said—and here's the practical suggestion he makes in answer to your question: "Together with them determine how much time you will spend with them and when, and then stick to it. Try not to let anything interfere. Consider it sacred. Consider it binding. Consider it an earned time of enjoyment. Keep Monday nights sacred for family home evening. Have an evening alone with your wife. Arrange some vacation time with the entire family." That was his practical suggestion. You set the time. The family understands that you're going to have that time. Then you hold to it.

**Elder Snow** I think I'd add to that, I don't care if you use a BlackBerry, a Franklin Day Planner, or a napkin to schedule with, you really must schedule time for each other as hus-



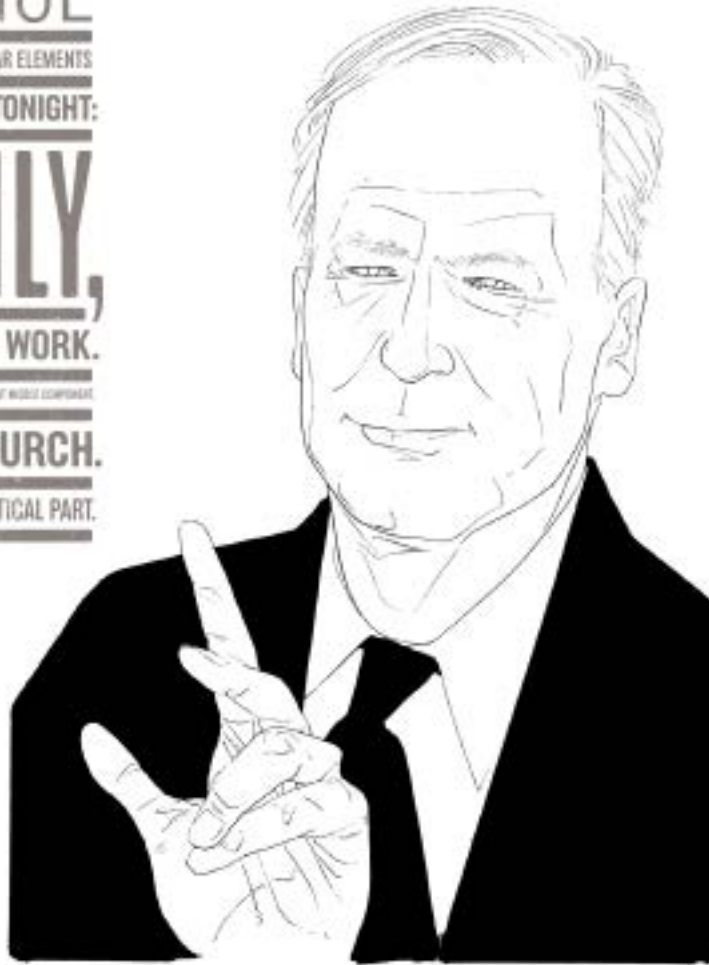
band and wife, and you must schedule time for the family. One of the greatest things I did when my sons were young was to spend time with them one-on-one each Wednesday night. I found when four of them were together, the older ones tended to dominate. When I would get with these younger ones one-on-one, I'd learn a lot about what was happening in their lives. Sometimes it was going to a fast-food drive-in or bowling or to a movie, but just that time, that hour or two on a Wednesday evening, I found very significant. I had to put it on the calendar. It sounds crass, but that's really what you have to do; otherwise, there's just too much that will come up to interfere with quality family time.

**Elder Hilbig** Having served as a stake president with a still very young family, and a

bishop before that, I learned quickly one person couldn't do it. The art of delegation is critical. I told my counselors that each one of us had the same privilege of staying home from a meeting if there was a child's piano recital, and so on. None of us would blame the other for shirking, and none of us who took advantage of it should feel guilty. If you have an opportunity, be it an elders quorum or Relief Society presidency meeting or whatever the case, establish the principle that you can set a limit without disappointing the others or failing to magnify your calling or whatever the negative downside might be. There's nothing wrong with saying, "President, I'm not coming to the PPI tonight. I'll meet you next month." The wise stake president will say, "That's fine. You made the right decision." It may take a while to have the courage

WE'RE TALKING ABOUT  
**BALANCE**  
 AND THE THREE PARTICULAR ELEMENTS  
 WE DISCUSSED TONIGHT:  
**FAMILY,**  
**CHURCH, AND WORK.**  
MOST OF THE WORLD DOESN'T WORRY ABOUT THAT MIDDLE COMPONENT.  
**NAMELY CHURCH.**  
BUT FOR US IT'S A CRITICAL PART.

HILBIG



to say this to a senior partner and even sometimes a bishop or a stake president, but ultimately that principle of family time somehow has to be observed, and no guilt should trail along to diminish the happiness.

**Belnap** Elder Nash, would you tell us about a potential professional setback you were confronted with precisely because of your religion and what lessons you learned from that experience?

**Elder Nash** Our firm had merged with another firm, and the senior partner of the firm that came in was a very powerful man in terms of originating money, which is a big thing in a law firm. He bore sway in our firm. I was up for partner, and the year before he had given us a lecture that the law should be

our life and everything should fall behind it. I disagreed with him, and he understood that and took great umbrage with me. He saw that I just conducted my life the way I had always done and didn't do the things he was telling us we needed to do. He took it upon himself to try to convince the other partners that I didn't deserve to become a partner, because my priorities were out of whack. So they delayed my making partner for six months while the discussion went on. Then, lo and behold, the partners voted to break up the merger, to divorce the two firms as they were, and to send the other group packing—and they made me partner. As I reflected on that experience, I learned that when you try in your imperfect way to follow the Lord's priorities, what He wants to happen will happen. If He had wanted me to be part-

ner there, I wouldn't have been partner and, walking in faith, I would have gone somewhere else. But He wanted me to, and therefore He sent the senior partner packing. He has that kind of a power.

**Jarvis** Elder Hilbig, would you conclude for us?

**Elder Hilbig** I think, as has been said, ultimately we cannot do it alone. I can't remember the last time I played golf or swung a tennis racquet. In this process of balance, I neglected personal things that others might do. I think you have to accept that, but from this sacrifice come great benefits.

How we do it at all, I think, brings us back to what we started with. We're talking about balance and the three particular elements we discussed tonight: family, church, and work. Most of the world doesn't worry about that middle component, namely church. But for us it's a critical part, and I submit that it is the part that makes happiness in the other two things possible. Imagine not knowing the fullness of the restored gospel. Most people live their lives in a box: they're born and they die, and it's only what happens in between that they are aware of. We have the blessing of an eternal perspective, a prism that can look back and look ahead, and with that level of understanding we treat what happens in the box a lot differently.

So, how can we achieve balance? Because we understand the principles of the gospel and know the purpose of being here, we can apportion our time more wisely. It's a blessing to have the responsibility of knowing about the Restoration, of understanding these principles, and as we apply them, I believe, we are empowered to carry out the balance of family, church, and work as effectively as the Lord could expect from us. We know why family is important, and that dictates our decisions. We know why Church service is critical, and that influences our decisions. We know how important it is to provide for our family and to be honest with those who have hired us. It's the best way to live, and it's certainly not a burden. It is a blessing.

#### ART NOTES

*Photograph on pages 14–15 by Bradley Slade. Illustrations on pages 17–21 by David Johnson.*







BY JUDGE DEE V. BENSON

*The*  
HOUSE  
*That*  
REX  
*Built*

*This speech was given at the J. Reuben Clark Law School  
Founders Day dinner on September 14, 2006.*

ILLUSTRATION BY ROBERTO PARADA

Every story has its beginning, and in my opinion the story of the BYU Law School began when a telephone rang in a law office in Phoenix, Arizona, in 1971. The law office belonged to Rex Lee. He told me this story himself, so I'm sure it's true. He said he had a secretary who was a veteran of the law firm and not easily impressed, and all of a sudden she yelled out from the outer office, "Hey, there is some guy named Harold Lee on the phone from Salt Lake City. Do you want to talk to him?" Rex said it took a minute to digest—"Harold Lee, do I know a Harold Lee?"

When it occurred to him it was Harold B. Lee, the president of the Church, he took the call. That was the conversation in which President Harold B. Lee asked Rex Lee if he would serve on the committee searching for a dean for the new law school that the Church was planning for Brigham Young University.

Coincidentally, my genesis with the legal system began at that same time. I was on a mission in Sweden, dutifully tracting and trying to convert people to the gospel. I was planning to do a split with another pair of missionaries in the southern Swedish town of Malmö. We went to the other elders' apartment, and when we got there my companion and I found them in a heated exchange with their landlord. The landlord claimed they hadn't paid their rent; the missionaries said they had. There was a strong smell of alcohol in the air, and I was pretty sure it wasn't coming from the elders. Their landlord was really drunk and really mad, and so I tried my first-ever attempt at mediation. I intervened, and all it did was cause the landlord to grab a very big butcher knife with a blade of about eight inches. The landlord came around the table after me, saying he was going to slice my

throat. We elders went running down the road with him chasing us and yelling Swedish obscenities all the way.

The next thing I knew, courtesy of the state of Sweden, I was on a train headed back to Malmö to attend the trial against the landlord. I was the state's chief witness; it was a great little diversion from tracting. I took the witness stand, the prosecutor asked me what happened, and I told him. It was quite uneventful. Then the defense lawyer stood up. I still remember what he looked like: He was this very heavyset Swedish man, middle-aged, wearing a three-piece suit. He had a book on the counsel table. He stood up, looked at me, and said, "So, you're a missionary?" I said, "Yes." He picked up the book, and it was the Bible. Then he said, "So, do you believe in the Bible?" I said, "Yes." I didn't think that this was the time to do the "as far as it is translated correctly" thing. So, then he said, "Have you read it?" This is when I was glad that the mission president wasn't there, because I was under oath. I said, "Parts of it." He said, "Have you read the New Testament?" I said, "Yes." Then he opened it up and with great drama said, "Are you familiar with the scripture that

Law clerk Rex Lee enjoys a lighter moment with his boss, Supreme Court Justice Byron R. White, during the 1963 term of the Supreme Court.



says: 'I was an hungred, and ye gave me meat: I was thirsty, and ye gave me drink. . . . Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me?' I said, 'I'm generally familiar with that scripture,' and he said, 'Do you believe it?' I said, 'Yes.' He leaned into me and said, 'Do you live it?' I said, 'I try to.' He stomped away and with dramatic flourish said, 'I think not!' And he sat down. That was the whole thing! We had an intermission shortly after that, and I asked the prosecutor what he thought, and he said, 'Thank you. You did fine. We'll let you know how it turns out.' I then pointed to the defense lawyer, who was huddling up with the landlord, and I said, 'So, what was that all about?' and he said in Swedish, 'Jag har ingen aning,' which means, 'I have no idea.'

I finished my mission without getting killed and returned to my studies at BYU, as a PE major. I didn't think a whole lot of this incident until I heard President Oaks announce at a devotional assembly—which, I want noted, I attended—that a law school would be formed at BYU. Somehow it got my mind working in that direction, and I

took the LSAT. So, there I was in the charter class at the first class that was ever held, with Rex Lee teaching. The search committee had found as its first dean one of the searchers. It was such an interesting experience: all of us brand-new law students and listening to Rex. I remember he emphasized two things: One, he said, 'We're not going to teach you law so much as we're going to teach you to think like a lawyer.' As soon as he'd emphasized that, he started teaching us some law. He told us about the common law of England, emphasizing the difference between questions of fact, which go to juries, and questions of law, which go to the court. Just when I thought I was grasping the distinction, it would leave my brain. I think I was seated next to Bruce Whiting, and when we had an intermission, he turned to me and said, 'What was that all about?' I said, 'I have no idea.'

About a month later, I remember, Professor Bruce Hafen, who was my torts professor, saw me after class and said, 'So, Mr. Benson, are you learning to think like a lawyer yet?' I said, 'Well, if it means going through life in a state of perpetual confusion,

I am getting it down.' He laughed and said, 'It will get there; you'll get there.'

So, here it is 30-plus years later, and I would like to happily announce that I have finally learned to think like a lawyer. I do it all the time. I am no fun anymore, but I have learned how to think like a lawyer, and I thought I'd employ that skill for you here tonight—try to say something really erudite, really profound. Perhaps I could explain how the BYU Law School in its brief 30 years has taken Constitutional law to new heights and shown the world what it really means. But I couldn't come up with anything that sounded sufficiently brilliant. Not even to me. Then it hit me, after 12 to 14 hours of watching non-stop ESPN, what I would do. They have this series of programs about the best this and the best reasons for that, which I have become quite fond of, and I thought, that's it! I'll use that same approach to tonight's talk. I will focus briefly on the many accomplishments our law school has achieved during the past 30 years and sort through all the reasons why. Then, in the end I will tell you the number one reason the Law School has been such a success. I will try to tell you why we have these lofty numbers, like being currently ranked the 34th best law school in the country by *U.S. News & World Report*. Only 14 law schools in the nation have had more Supreme Court law clerks in the last 30 years than BYU—we have had 12. We have seen 65 of our graduates appointed as state court judges. We have had three presidentially appointed federal judges, two district judges—Mike Mosman in Oregon and me here in Utah—and we have one judge in the ninth circuit court of appeals. We've had five U.S. attorneys; we've had three members of Congress. We have had a senior partner or junior partner in most of the major law firms in America. We have what is reputed to be the best law library west of the Mississippi, if you don't count Stanford. We have distinguished faculty members with accomplishments too numerous to mention.

I could go on and on. But the main reason for all of this success comes down to one man. The indisputable number one reason why the BYU Law School has been such a smashing success is because of one man: Rex Edwin Lee. After Rex was named the founding dean, he became to our law school what George Washington was to the original

colonies. They say Yankee Stadium was the house that Ruth built; well, the J. Reuben Clark Law School is the house that Rex Lee built. I wish you could've seen him in those early years. I wish you could have been there when Rex taught classes in the J. Reuben Clark Law School when we sat in that old Catholic elementary school. As gifted as he later proved himself to be as an appellate advocate, there he employed those same tools as a classroom teacher. He did so much for the Law School; his contributions were so vast. I've never seen any man and a job come together better than it did for Rex Lee and that founding deanship. Rex had a manner about him and an enthusiasm and a salesmanship that brought together all of the separate parts that made up the early Law School. He taught classes, he even picked the façade of the new building. He was the one who got them not to put the tan brick that is seen on most of the buildings on campus. He did everything. We thought he was near deity then, because being number one in your class at the University of Chicago Law School and clerking for Justice Byron White on the Supreme Court and being a member of a law firm and actually having passed a bar was a pretty good thing in our eyes. But in fairness, viewing his credentials now with a more experienced eye, he didn't come to the job with unusually high qualifications. When he received that telephone call from President Harold B. Lee, Rex Lee was only 36 years old. Beyond any résumé credentials, what Rex happened to bring to the job was himself. And he had an unbridled enthusiasm for the project. I think the most important thing he did for us in the early years was to imbue the Law School with a sense of importance. He made us feel as if we were in the middle of the best project on earth. He called the room that we took classes in "The Great Hall." It was nothing more than an old auditorium in that elementary school, but as far as we were concerned, it may as well have been in Cambridge or Oxford. He made it feel that important.

Rex was the man who managed to get Carl Hawkins to leave Michigan. Carl was a legend even then in torts professor law circles. Rex knew the Law School needed a nationally known faculty member, someone wise and with a bit of gray hair. Rex asked him three times, and Carl turned him down twice.

Finally he came. Ed Kimball quickly followed. Rex enticed Woody Deem out of California—I don't know how he did that. Woody was the most celebrated district attorney in California. People would stop doing what they were doing on their lunch hours just to go listen to the great Woody Deem give a closing argument. Rex got him to leave that and come to Provo. He talked Keith Rooker into leaving private practice and coming to teach at the Law School. Keith was the first in his class at the University of Chicago and one of the most brilliant men I ever met—I never understood a single thing he

given ABA accreditation yet, rather than accept offers from some of the country's best universities. He sold the Law School so well that he almost caused me not to go there. I was accepted to the University of Colorado in Boulder, and I almost went there because I didn't think I would get into BYU. That's why I'm a good candidate to be here tonight, because I wasn't one of those people, like Lew Cramer, who was highly recruited. I think Rex Lee probably personally recruited at least half of my class, maybe two thirds. He talked Carolyn Stewart into coming down from the University of Utah and being

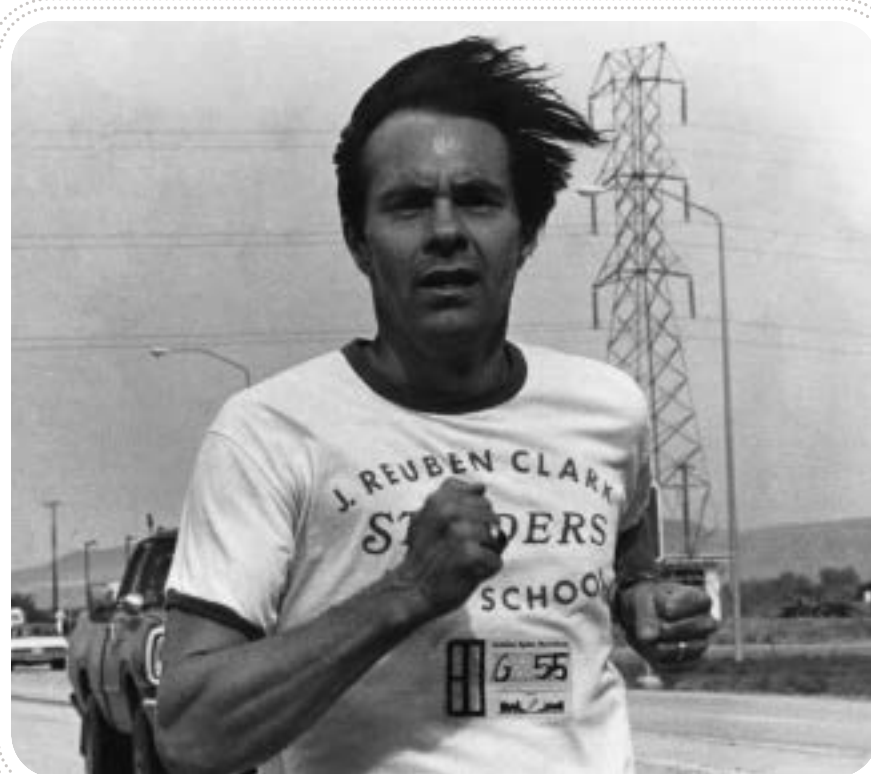


Photo courtesy of Thomas Lee

said, but he was brilliant. That first nine-member faculty was an outstanding faculty, and it was all the work of the new dean.

I have classmates who were accepted to Harvard and Stanford and Virginia and other leading law schools in the country, but they all came to BYU because of one man. Bruce Duffield is an example. He, like so many others, will readily say that the one thing that turned him around was Rex Lee. By the time people left Rex's office, they were willing to come to a new law school in Provo working out of a converted elementary school on Ninth East, a law school that hadn't been

his administrative assistant, and if I were to list the top 10 reasons the Law School has been a success, she would be one of them.

I've never had membership in a group that I've cherished more than that in the charter class of this law school.

It was inevitable, I think, that Rex wouldn't stay in Provo. He was gifted and talented, and everyone that worked with him knew it. He took a leave of absence from the Law School to serve as chief of the civil division in the Department of Justice in the Ford administration and then returned to resume his position as dean. And then when Ronald



Reagan was elected president, he selected Rex Lee to be the nation's highest lawyer: the solicitor general of the United States.

I got to know him during those solicitor general years. The first day I saw Rex in Washington was when a friend of mine, Stan Parrish, who worked with me on the staff of Senator Orrin Hatch, asked if I'd like to go for a run with him during the lunch hour. He said that he was going to join a couple of his running buddies along the way. So there at Ninth and Constitution, right across from the Department of Justice, was my old law school dean, Rex Lee. I was suddenly nerv-

solicitor general of the United States. As he was talking, Rex, who was being very friendly about it, said, "If you're going to give us a citation, will you please make mine for speeding, because that would really impress my wife." So there went my concern about this important job going to his head. I became, I admit, a bit of a Rex Lee groupie after that. I don't know—we must have gone on hundreds of runs together during the next three or four years, and in spite of 13 years' difference in age, we became not only running buddies but also very good friends. It is one of the great friendships of my life. I

not violate the establishment clause of the First Amendment, and the plaintiffs who had brought the case were arguing that it did. He had a deputy attorney general who was arguing almost an identical issue in a case that preceded Rex's on the court's docket that morning. All of the nine justices were there, of course, and they were asking Rex various questions. Just a few days before that Rex had told me that one thing you never do is try to be funny in court. It will always backfire. If you actually happen to say something funny, that's okay, he said, but don't try to be. So, the chief justice asked a question at the very end of this argument. He said, "So, General Lee, what if we rule against your deputy in the previous case? It's a very similar issue; the facts were different slightly. What then should we do with yours?" Rex told me later that he felt like somebody hanging from a cliff with his climbing partner below him on the rope, "Do I cut him off, or do we both fall to our deaths?" As he was trying to think of the answer, there was a silence, and it was a longer pause than usual, and finally he said, "Mr. Chief Justice, in that event, I would only hope that the court would not err twice." The room erupted in laughter much louder than yours, but you had to be there. Fortunately for Rex, it seemed like no one laughed harder than Justice Rehnquist. Later he won the case, and so did his deputy.

One of Rex's most remarkable qualities for such an intellectually gifted man was his wit. Among my best memories of that wit and Rex's sense of humor is one that involves Dale Kimball, who joined the faculty during our second year. Dale is now on the district bench with me, and he is still given to bouts of immaturity. On the day Harold B. Lee passed away and Spencer W. Kimball was installed as the new prophet, Dale, who was a very distant relative of Spencer W. Kimball's, called Rex on the phone and said just one thing, "The Lees are out, the Kimballs are in," and hung up. Eleven years later Rex called me and said, "President Kimball passed away, and Ezra Taft Benson is the new prophet. I want you to call Dale Kimball in Salt Lake. When he answers the telephone, I want you to say just this and nothing more: 'The Kimballs are out, the Bensons are in.'" So I did—delivered it just like he told me—and before I could hang up, Dale said, "Benson, Rex put you up to this." Judge Kimball later told me I wasn't

AS WE ALL STARTED JOGGING ALONG THE NATIONAL MALL,  
WE WERE STOPPED BY A PARK POLICEMAN. . . . REX SAID,

*"If you're going to give us a citation,  
will you please make mine for speeding, because  
that would really impress my wife."*

ous. I thought I'd say something stupid, which came with regularity during law school, and I didn't see why this would be any different, and I remember wondering if the position of solicitor general had gone to my former dean's head. Well, he greeted me so warmly that my nervousness was immediately gone. Then, just as we all started jogging along the National Mall, we were stopped, interestingly enough, by a park policeman. He said we had all run a red light. He gathered the four of us around and was giving us a lecture on running safety, and I'm sure he didn't know he was talking to the

became addicted to Rex's arguments in the U.S. Supreme Court, which were terrific to see. I soaked up all his many comments about law. And he talked about everything, especially BYU football. He was on the short list for the Supreme Court in those days and he knew it, the one job he would have loved as much as being dean.

My favorite memory of Rex in the Supreme Court came when he was arguing a case involving paying private religious school teachers to provide remedial educational instruction to needy children after regular school hours. Rex was arguing that that did



President Ronald Reagan and attorney general William French Smith meet solicitor general Rex E. Lee during Reagan's first term in office.

Photo courtesy of Thomas Lee

smart enough to think of this on my own. But he wasn't smart enough to find somebody named Hunter a few years later.

When Rex was leaving the solicitor general's office, we must have devoted 12 runs to nothing but fielding his job offers. It was a vicarious thrill for me. They were some of the best law firms in the country. And a seat on the Tenth Circuit Court of Appeals was offered as well, which he turned down, because, he said, he wanted to make some money for a change. He wanted to buy Thomas Muffins instead of the generic brand at the Giant grocery store in McLean, Virginia. But the one thing he insisted upon most of all, no matter what job he took, was that he be allowed to continue teaching at the Law School and move back to Provo. That arrangement was fine by the law firm of Sidley and Austin, and Rex became, by anyone's measure, the foremost Supreme Court advocate in the United States. And through it all, he taught classes at the Law School.

Then cancer came calling. I watched Rex go through an enormously difficult battle with a rapidly progressing form of cancer in his lymph system. He and Janet came back to Washington, where Rex was treated at the National Institutes of Health, and I watched her nurse him along. I'll never forget the day

we went to the King's Dominion theme park; it was their daughter Kristy's birthday. Janet was being a good mother but, at the same time, constantly thinking of that hospital bed where Rex was lying. I know funeral plans were going through her mind. The chemotherapy was stopped, the radiation was stopped, and it looked hopeless. Then, the cancer went into remission. It was as close as I've ever been to a miracle. The medical doctors started sounding like lawyers. When asked how this happened, all they could say was, "I have no idea." But God did, and he preserved Rex Lee for another decade on this earth. He went back to Provo and continued his work as an appellate advocate. Then the Church came calling, asking him to be the president of Brigham Young University. He and Janet served through that period until another bout of illness caught up with him, and he was gone from us much too young at the age of 61.

Rex did a lot of things through the period between that phone call in 1971 and his death in 1996. Who knows why he was taken so early? I have a theory on that. You know how they have this 10-run rule in Little League baseball, and after the fourth inning, if you're 10 runs ahead they call the game? Well, I think if you accomplish the things that 10 really suc-

cessful people could do in a lifetime, then God needs you on the other side and He takes you over. That is the only way I can explain why Rex Lee left us so early. From the age of 36 through 61, he did so many remarkable things, and nothing was more remarkable than assisting our law school and making it the nationally known school that it is today. Before Thomas Jefferson died, someone asked him what he wanted to be remembered for. Remember, this was a man who had been president of the United States and ambassador to France, and he built Monticello and had a very long list of other remarkable accomplishments. But Jefferson said he would like to be remembered for just two things: "I'd like to be remembered for writing the Declaration of Independence and for founding the University of Virginia," he said. I think I know Rex Lee well enough to say that I think he'd like to be known for being the foremost appellate advocate of his generation and the founding dean of the BYU Law School. Next to family and church, he always said that the BYU Law School was his great love.

I know tonight I've used a lot of hyperbole and a lot of superlatives in trying to describe just a little bit about why Rex Lee was the number one reason the Law School has been so successful. For those of us who were involved with the J. Reuben Clark Law School, Rex Lee's memory should never be forgotten, not because he deserves it, but because he lends us so much. Winston Churchill said at the end of World War II that the future is unknowable but the past should give us hope. Rex Lee was our past, and he should give us hope. I would think that for this law school—from Dean Kevin Worthen, who is a product of Rex Lee; to Reese Hanson, who is certainly a product of Rex Lee; to the entire current faculty—there is a thread running back to him. It would be good to stop and ask ourselves, "I wonder if Rex would've done it this way?"

*Dee V. Benson, '76, currently serves as the chief judge, U.S. District Court, District of Utah, and teaches criminal trial practice at the J. Reuben Clark Law School.*



## Professor Cheryl Preston in the Fight Against Internet Pornography

Internet pornography is pervasive. According to the Web site *Internet Filter Review*, the Internet pornography industry generates more than \$2.5 billion annually. That number is not indicative, however, of the prominence of this type of pornography. Currently, 4.2 million pornographic Web sites exist, containing 372 million pornographic Web pages. That comprises 12 percent of the Internet's total Web sites! Over 2.5 billion pornographic e-mails are sent daily (comprising 8 percent of total e-mails sent), and search engines process 68 million requests for Internet pornography every day (an astounding 25 percent of total search engine requests).

The Internet is soaked with pornography. Internet pornography grows daily, and each day it becomes more and more available to any who seek it (regardless of their age). Sadly, children today have almost unrestricted access to some of the darkest, most perverse and most violent forms of pornography available.

Over the last year BYU law professor Cheryl Preston and a team of law students have joined with Internet technology experts and cyberspace strategists in an Orem-

based nonprofit organization, CP80, to create a solution that combines the strength of congressional regulation with the appeal of consumer choice. Professor Preston's team has carefully crafted legislative language—the Internet Community Ports Act (ICPA)—to create a federal regulatory scheme that addresses the constitutional issues and leverages existing technology. Preston and CP80 are working with various members of the United States Senate and House of Representatives from both sides of the political spectrum. They are trying to build enough momentum to persuade key congressional figures to take on the fight again, notwithstanding the money and the political and legal power of pornographers and the ACLU.

Professor Preston's team conducted significant research and analysis to determine how to write a statute within the narrow range of regulation that the Supreme Court has permitted in the area of free speech. Because of the technological approach of the ICPA, it serves the obvious compelling government interests (such as protecting minors from exposure to pornography) and also serves several additional interests, includ-

ing the right of private property owners to decide what enters their domains. In addition, the ICPA is much less restrictive on Internet speech than either the CDA or COPA. The statute allows (much like Internet filters) Internet users to restrict the Web traffic they wish to receive without making any change in the content Web traffic others receive. Professor Preston explains, "Because of the change in focus—from a blanket attempt to prohibit all Internet speech that is harmful to minors, to consumer choice of Internet content—the ICPA can avoid the constitutional pitfalls of the CDA and COPA."

The initiative is picking up steam. Professor Preston has provided the statutory language and the legal work to back up the project's reform efforts, including a mountain of written briefs on various issues. She has met with senators, members of Congress, local legislators, administrators in various federal agencies, community interest groups, and other scholars to explain the legal workings of the proposal and to encourage action on the increasing plague of Internet violence. She is a frequent presenter at academic conferences around the country on issues as varied as the role of the Internet Corporation for Assigned Names and Numbers (ICANN) (the entity responsible for the global coordination of the Internet) in helping countries combat Internet porn; emerging issues in gender and intellectual property law; and intellectual property and cyberlaw theory.

And she is bringing cyberlaw scholars to BYU. Professor Preston and the BYU Law Review sponsored an academic conference on free speech, pornography, and technology, titled "Warning! Kids Online," on February 1, 2007. This event brought together legal scholars and members of the tech-

nology and Internet industries to talk about solving the problem of children's access to Internet pornography. She also has provided legal ideas in plain English for nonlawyers in a variety of formats that are easily accessible on the Web. She supplies the legal content in a joint effort between the CP80 group and another team of BYU students. This class of business students in BYU's eCommerce program are using technology to develop media-based training sessions to teach public interest groups and others about the problem of Internet pornography, the status of the law and demands of the First Amendment in this area, and ways to protect kids and be part of the solution.

Professor Preston's motivation? "If we don't do something now to protect America's children from the bombardment of Internet pornography, we will lose an entire generation of precious children to the sordid world of smut. I can't let that happen, and the ICPA is the best step anyone has taken to truly protect them from those who would drown them in the dark, sleazy world of pornography."

## Mentor of the Year

Third-year law student Laura Cantera was honored as a "Mentor of the Year" by the Safety Net Mentor Program on January 23, 2007. The program was designed to provide mentors for children aged five to 18 who would benefit from positive role models.

Cantera has mentored a 13-year-old girl for three and a half years. "Mentoring is great," she said, "because it gives mentors the chance to be influential in a child's life and provide a person for him or her to talk to. Hopefully, I've been someone consistent whom she feels she can trust."

# Class Notes

E-MAIL YOUR PROFESSIONAL NEWS TO  
copel@lawgate.byu.edu

Because of the high number of responses, the Clark Memorandum is unable to print all of the submissions for Class Notes in this issue. We look forward to submissions for the spring 2008 edition.

## CLASS OF 1976

**Low Cramer** has returned from the East as president of Utah's new World Trade Center.

**Brian Farr** is listed in the January edition of *Utah Business Magazine* as one of Utah's "Legal Elite." He is chair of a national public attorneys' group that is looking at the possible effect of international treaties on state powers.

**Conrad Houser** is working with an energy, mining, and environment consulting company, mainly in Salt Lake City, Calgary, and Denver. He does mostly expert witness work, both u.s. and international.

**Jeff Young's** book *How to Receive Discernible Answers to Your Prayers* has sold out of its first printing and is now available in paperback.

## CLASS OF 1977

**Thomas Y. K. Fong** was appointed as the assistant chief judge of the u.s. Immigration Courts for the Central District of California, presiding over all district courts having federal jurisdiction in nine central California counties. He has been an adjunct professor at the National Judicial College, University of Nevada at Reno, since 1997.

**Nathan Kirk**, who returned to computer programming after 15 years in law practice, works for an East Indian IT outsourcing firm at Weyerhaeuser. He does community theatre, recently playing seven male and four female roles in *Tuna Christmas*.

## CLASS OF 1978

**Dennis Astill** assisted a client in acquiring the former Geneva Steel site for redevelopment and is now project manager. The 1,750-acre parcel of land, the largest private Brownfield redevelopment site in the u.s., will include housing, commercial office and retail, industrial, and community-use development—along with a major urban commuter-rail center. Since taking on the project, Dennis has joined a small firm, Hutchings Baird Curtis & Astill PLLC, and continues to practice in land and real estate matters. **David P. Hirschi** is an owner/manager of Hirschi Christensen PLLC, a Salt Lake City law firm. He is vice chair of the Real Property Section of the Utah State Bar and also sits on the Centerville City Planning and Zoning Committee.

**Bernard Morgan** has retired at 57 because of illness and "an unquenchable desire to count the number of leaves of grass on the front and back lawns."

**Ken Stewart** was elected vice president and chief ethics and compliance officer of Edison International and its subsidiary, Southern California Edison Company, located in Rosemead, California.

## CLASS OF 1980

**Denver Snuffer** recently authored two books, *The Second Comforter: Conversing with the Lord Through the Veil* and *Nephi's Isaiah*, and is working

on a third, due out next year. He continues to practice law as a senior partner in Nelson, Snuffer, Dahle & Poulsen and to live in Sandy, Utah.

## CLASS OF 1981

**David Risley** recently returned from an assignment as an attorney-advisor with the Regime Crimes Liaison Office at the u.s. Embassy in Baghdad, Iraq, where he assisted judges and investigators of the Iraqi High Tribunal in the investigations and trials of Saddam Hussein and high-ranking members of his former regime. His principal duty was assisting in the investigation of crimes against the Marsh Arabs of southern Iraq. He is an assistant u.s. Attorney in the Central District of Illinois, assigned as the district's antiterrorist coordinator.

## CLASS OF 1982

**D. Gary Beck**, captain, USCG (Ret), retired in 2002 after more than 30 years of service in the u.s. Coast Guard and then served as president of the Philippines Manila Mission from 2002 to 2005.

**Jamie Dester** recently became the general counsel for Flying J Inc., based in Ogden, Utah. The oil company is the 17th largest privately held company in the u.s. and the largest retail distributor of diesel fuel in America.

**Eileen Johnson** joined the Washington, D.C., office of the law firm Whiteford, Taylor & Preston after being in-house for almost 20 years with the National Wildlife Federation, where she was general counsel. In addition to Washington, D.C., she has been admitted to the state bars of California, Maryland, and Virginia.

## CLASS OF 1983

**Steven Dahl** recently was reelected to a third term as a justice court judge in North Las Vegas, Nevada. He also serves as president of the Clark County (Southern Nevada) Bar Association and the Nevada Judges Association.

**Mark Davis** practices international trade law in Washington, D.C., and has pursued a side career with his family Celtic folk band, FiddleSticks, which just finished its eighth commercially released CD, *Farewell to Nauvoo*.

**Michael Larsen** was recognized in *Best Lawyers in America* in the commercial litigation section. He is a shareholder at Parsons Behle & Latimer, Salt Lake City.

**Jeff Mangum** was reelected to a fourth term on the Board of Education of the Poway Unified School District. He left Gray, Cary, Ware & Friedenrich (now part of DLJ/Piper) and started his own firm, now known as Mangum & Britt, in 1995.

**Kevin V. Olsen** was appointed director of the Division of Consumer Protection for the state of Utah. He has served as an assistant attorney general and as legal counsel to the Division of Consumer Protection.

**Brad Wiggins** recently joined Stephan, Oringer, Richman, Theodora & Miller PC, a regional southern California firm known for representing the Los Angeles Angels. He practices corporate and securities law, with emphasis on cross-border financings and transactions.

## CLASS OF 1984

**Brent Bartholomew** has worked as an attorney for the Utah Office of the Guardian ad Litem since 1997, representing the best interests of neglected and abused children. He previously worked at Utah Legal Services in Provo.

**Charles E. Maxwell** is a principal with Maxwell & Morgan PC, an AV-rated law firm that limits its practice to homeowner association law and litigation in Arizona.

**Ken Shirley** recently accepted a promotion and transfer within the Verizon Wireless Legal Department and relocated to Alpharetta, Georgia.

## CLASS OF 1985

**Kevin R. Anderson** was elected a member of the executive committee for the National Association of Chapter 13 Trustees (NACT) in 2005 and will serve as its president in 2009. He was appointed by the Department of Justice to serve as a standing Chapter 13 trustee for the District of Utah in 1998.

## CLASS OF 1986

**Cornell Evans** works at Hill Air Force Base, Utah, as a civilian attorney and the chief of labor law. He is also a u.s. Air Force judge advocate, having served six years of active duty as a JAG during the 1990s and since then as a reservist. This past year he was deployed to Ft. Belvoir, Virginia, and then to Guantanamo Bay, Cuba, serving as the staff judge advocate for a diverse team of criminal investigators, analysts, translators, and administrative personnel.

**Laurie S. Hart** recently cochaired the revision committee for the fourth edition of *Utah Women and the Law: A Resource Handbook* (2006), a publication of the Utah Commissioners for Women and Families. She also raised funds to translate the publication into Spanish. Laurie practices at Callister Nebeker & McCullough in Salt Lake City, specializing in corporate securities, estate planning, and probate.

## CLASS OF 1987

**Mark Brinton** was hired earlier this year as the general counsel for the Utah Medical Association. He advises the association and the doctors of the state on a variety of issues, as well as helps to represent the doctors before the state legislature.

## CLASS OF 1988

**Wayne Baldwin** is managing partner of Healthcare ADR, an alternative dispute resolution firm focusing solely on health care-related disputes.

**Daniel Curriden** is practicing with Lewis, Brisbois, Bisgaard and Smith in Las Vegas, Nevada. He does medical malpractice defense and alternative dispute resolution and hopes to eventually become a recovery litigator and full-time mediator.

**Dan Lindsey** has been in private practice for 15 years after a stint at the district attorney's office in Clovis, New Mexico, home of Cannon Air Force Base. His practice is limited to civil rights litigation, criminal, personal injury, and military law. **Doug Whitehead** recently accepted a position as associate general counsel at Xango LLC, a direct selling company with operations in over 15 countries. He was general counsel at Unicity International, another direct selling company.

## CLASS OF 1989

**Clark Allan** is still a deputy prosecutor in Jackson, Wyoming; however, for the last two years, he also has been serving on the Wyoming Game and Fish Commission. Recently he has been heavily involved in the process of delisting wolves and grizzly bears from federal protection under the Endangered Species Act. **Karen Hawbecker** was promoted to the position of assistant solicitor for the Branch of Onshore Mining and Reclamation in the Division of Mineral Resources, Office of the Solicitor, at the u.s. Department of the Interior in Washington, D.C.

**Mark C. Hendricks** joined Marriott International as vice president of development, initially based in Zurich Switzerland, about five years ago. He has since returned to the u.s. and is currently the managing director of Bulgari Hotels and Resorts, a joint venture between Marriott International, Ritz-Carlton, and Bulgari, SpA.

**Russ Jensen** is the chief counsel over labor and employment matters at Cingular Wireless, headquartered in Atlanta, Georgia. Russ started in-house with Pacific Bell and has been part of several mergers and acquisitions with formerly sbc and now AT&T. His team handles traditional labor and employment legal matters throughout all 50 states, Puerto Rico, and the Virgin Islands.

**James McLaren** recently assumed his new position with the Defense Department as chief of international law for the BENELUX countries. He lives in Mons, Belgium.

**Christopher A. Newton** was just elected chief judge of the Fourth Judicial District, Vigo County, Terre Haute, Indiana. Besides his caseload he oversees the court—as it goes paperless—and its personnel and is the court's spokesperson with the news media.

## CLASS OF 1990

**David M. Bennion** has been elected to the board of directors of Parson Behle & Latimer in Salt Lake City, where he is a member of the litigation department.

**Aaron Hallstead** is a partner in the Milwaukee/Madison labor and employment law firm of Hawks Quindel Ehke & Perry SC. He devotes half of his practice to the representation of Spanish-speaking employees who have suffered work injuries.

## CLASS OF 1991

**Roger Baker** has been city attorney for Tooele City, Utah, for 12 years. He became certified by the American Institute of Certified Planners (AICP) this year.

**Kelly Hansen** was recently promoted to chief deputy district attorney over the Special Prosecutions Division, which prosecutes cases involving public corruption, environmental crimes, consumer fraud, real estate fraud, securities fraud, and computer crimes.

**Richard J. Harris** has left his practice in Arizona to join the law firm Bothwell & Simpson PC in Georgia. He is currently serving as of counsel while he wraps up his Arizona practice.

**Mike Krieger** serves as a board member and marketing director of Kirtan & McConkie in Salt Lake City, practicing patent and trademark law. He qualified for and was recently inducted into the Salt Flats 130 MPH Club for his efforts during Speed Week. **Kristine Meridith** works for the catastrophic personal injury law firm O'Reilly & Danko specializing in aviation and product liability. Her part-time research and writing position changed gears considerably last spring when the firm needed her to prepare and to second chair a three-week bicycle accident trial in Hawaii.

## CLASS OF 1992

**R. Chet Loftis** has rejoined Kirtan & McConkie, where he is continuing his practice in legislation, regulation and public policy, health care, business law, and ADR, while adding risk management with fellow classmate Randy Austin.

## CLASS OF 1993

**Malcolm Burt** joined the financial services firm of Wedbush Morgan Securities in Provo. He currently provides investment services to individuals, professional corporations, and businesses.



**Troy K. Fitzgerald** has been appointed as Springville City administrator (Utah), after serving as city attorney for the past eight years. **Lorena Riffo-Jenson** has established her own company with a friend, Vanessa Di Palma. Started in 2003, the company focuses on Latino marketing and communications. Lorena is a member of the University of Utah Board of Trustees, the Utah Hispanic Chamber of Commerce, and the Utah Hispanic Business Leadership Foundation.

#### CLASS OF 1994

**Kenneth H. Meyer** is the newly elected state attorney for Lake County, South Dakota. **Heather Morrison** became the new director of Utah's Antidiscrimination and Labor Division, after 12 years in private practice as an employment lawyer. Her division investigates all claims of employment and housing discrimination and claims for the nonpayment of wages in Utah. **Patrick Shen** was nominated by President George W. Bush to be special counsel for immigration-related unfair employment practices at the Department of Justice for a four-year term. Patrick currently serves as director of Government Relations at Fragomen, Del Rey, Bernsen & Loewy LLP.

#### CLASS OF 1995

**Cynthia Brown** has joined the law library at Littler Mendelson in San Francisco. **Rod Cortez** was appointed by Governor Arnold Schwarzenegger in November to be a superior court judge of the State of California. He has been a deputy district attorney for San Bernardino County for the past 10 years. **Anupam Rajvanshi** is serving as a turnaround consultant for a manufacturing company. **Otis Sterling** is a senior deputy district attorney in charge of the vertical prosecution unit in Indio, California, assigned to child sex abuse. He came home to Riverside County as a deputy district attorney in 2002, after working for the Salt Lake Legal Defender's Office as a public defender.

#### CLASS OF 1996

**Darin Christensen** was elected as a shareholder at Bullivant Houser Bailey PC, and continues to practice tax, estate planning, and business law. He was selected as a 2006 Oregon Super Lawyer by *Law and Politics*. **Joe Covey** recently joined the Salt Lake City law firm of Parr Waddoups Brown Gee & Loveless, where he continues to advise clients on real estate lending and bankruptcy matters. He previously worked for the New York-based firm of LeBoeuf, Lamb, Greene & MacRae. **William Potter** was elected to the family court bench in Las Vegas, Nevada, beginning his first term on January 1, 2007.

#### CLASS OF 1997

**Matthew Gardner** recently became the director of taxes at ups Freight in Richmond, Virginia. He and his family relocated from Sandy, Utah, this past summer. **Thomas M. Isaacson** is a patent attorney and has had his own practice for three years. Most of his work is for AT&T Corporation, for which he has traveled to South Korea (four times), Taiwan, Paris, Munich, and Finland. **Glen Openshaw** was recently elected partner at Bingham McCutchen LLP, an international law firm among the top 20 firms on the American Lawyer A-List. He practices general corporate

and securities law and has significant experience in both public and private offerings, mergers, and acquisitions.

#### CLASS OF 1998

**Pattie S. Christensen** has accepted the position of general counsel with HealthEquity, Inc., a leading administrator of consumer-driven health care products and services. **Adam N. Gonzalez** has become a partner in the firm of Danielson & Gonzalez in Portland, Maine. He practices real estate, corporate and business law, and estate planning. **Shane D. Hillman** is a shareholder and member of the Litigation Department at Parsons Behle & Latimer, practicing general commercial litigation.

#### CLASS OF 1999

**John Higgenbotham** just became a partner at Best Best & Krieger LLP. **Christopher Miner** was just elected a corporate partner in the Phoenix office of the international law firm Squire, Sanders & Dempsey. **Marcus Mumford** recently received the Outstanding Lawyer of the Year Award from the J. Reuben Clark Law Society, Los Angeles Chapter. He works at Skadden Arps in Los Angeles, where he is preparing for two trials early next year. **Baoqin Wang** opened his own law firm in 2006, specializing in immigration law.

#### CLASS OF 2000

**Brook Hammond** recently opened her own firm, Hammond & Hammond LLP, with her younger brother, Tyler Hammond, practicing personal injury law, in Henderson, Nevada. Brook is a part of the Million Dollar Advocates forum. **Dena C. James** works for the Nevada Department of Taxation as an administrative law judge. She hears disputes regarding state taxes, including sales tax and property tax. **Marc Porter** is business and finance associate at Snell & Wilmer LLP in Salt Lake City after working for two years at Perkins Coie LLP in Seattle.

#### CLASS OF 2001

**Michael D. Fielding** recently coauthored the cover feature article of the December/January 2007 issue of *American Bankruptcy Institute Journal*. He practices in the Kansas City office of Blackwell Sanders Peper Martin LLP. **Matthew Fleming** was recently voted a shareholder at Parr Waddoups Brown Gee & Loveless, where he was an associate. He is a member of the firm's corporate transactions group, specializing in federal income taxation of corporations and partnerships, securities, and mergers and acquisitions. Matthew was formerly an associate with Stoel Rives in Salt Lake City. **Patrick Thurston** left his previous employment in Arizona to join the international section of Kirton & McConkie in September 2006.

#### CLASS OF 2002

**Steven L. Brown** left his partners at Craddick, Candland & Conti and moved to the patients/plaintiffs side of medical malpractice litigation. He and his partner, Douglas Gessell—also a JRCIS alum—opened Brown & Gessell a little over a year ago, focusing on wrongful death, catastrophic injury, products, and medical malpractice. **Brock C. Cima**, a member of the u.s. Air Force JAG Corps, was deployed to Baghdad, Iraq, for four months as a liaison to the Central Criminal Court of Iraq. In that role he worked closely

with Iraqi judges at the courthouse in Baghdad, aiding with the prosecution of insurgents that had committed crimes against Iraqi and American forces. **Jon Eskelsen** was deployed by the u.s. Army in 2006 to Naval Station Guantanamo Bay in Guantanamo, Cuba, as a member of the Staff Judge Advocate's Office. He was the deputy for habeas litigation and was responsible for interacting with opposing habeas counsel for detainees. He plans to return to his civilian practice as legislative assistant for legal policy to Senator Richard G. Lugar in Washington, D.C., this spring. **Michael Hannagan** is teaching at Tacoma Community College and has his own solo practice in Puyallup, Washington, focusing on general civil matters and criminal defense. **Ryan L. Marshall** recently joined Brinks Hofer Gilson & Lione, one of the largest intellectual property law firms in the u.s., in the firm's new Salt Lake City office. His practice focuses on the preparation and prosecution of patent applications in the chemical, pharmaceutical, and biochemical arts in the u.s. and abroad; counseling and preparing opinions in patent matters; and performing intellectual property evaluations, audits, and due diligence reviews. **Jaime Macanas Neel** was sworn into the Foreign Service by u.s. secretary of state Condoleezza Rice earlier this year. Jaime joins her husband, James, as a tandem diplomat couple. They are studying Mandarin in Washington, D.C., and are assigned to the u.s. Consulate in Shanghai, China, in 2007. **Dylan Waits** is an enforcement attorney in the Securities Division of the Washington State Department of Financial Institutions. He clerked for Judge Anderson in the Idaho State Seventh District Court.

#### CLASS OF 2003

**Chad Balfanz** is an army JAG officer, presently assigned to the 3rd Battalion, 1st Special Forces Group (Airborne). He recently returned from an eight-month deployment to Iraq, where he advised three echelons of command and the elite Green Berets. Upon his return he received the Bronze Star Medal for his service. His wife, Cathy, was also recognized for her contributions to Operation Iraqi Freedom, receiving a Commander's Award for Public Service. **Aaron Brogdon** has relocated with his family to Columbus, Ohio, where he joined the Columbus office of Squire, Sanders & Dempsey LLP. He had worked at the Salt Lake City office of Stoel Rives LLP since graduation. **Mark R. Hales** currently is an assistant attorney general of American Samoa. He enjoys working until 4:00 p.m. (on a late day), scuba diving, and going to court in a lava lava, sandals, and Hawaiian shirt. He will be featured in a forthcoming issue of *JD Journal* in an article on the fashion of lawyers. **Peter Johnson** left Boston Scientific Corporation in southern California in early 2006, after three years as in-house IP counsel, to help Snell & Wilmer build its intellectual property practice in Salt Lake City. **Tony Merrill** was recently named one of the top 50 pro bono attorneys in Arizona for his work with Maricopa County's Volunteer Lawyers Program Children's Law Center. He currently works as an associate at Bryan Cave's Phoenix office. **Spencer Phillips** has been at Nixon Peabody, Rochester, New York, for over a year now. He was joined by Trent Sutton in January. **Michelle Reed** is at Akin Gump and, aside from her many hours doing securities litigation, had a great pro bono victory this year. **Jay Robinson** moved from Riverside DA to San Bernardino DA this past October.

## Law School Team National Champions

Third-year law students Kristen Byrd, Michael Howell, and Caleb Frischknecht received a standing ovation as they were announced national champions at the awards ceremony at the National Appellate Advocacy Competition held in Chicago from March 31 to April 1, 2007. The competition was hosted by the American Bar Association's Law Student Division. The initial competitors comprised 178 teams from 103 different law schools representing five different regions. Twenty teams competed in the national finals. The J. Reuben Law School team won the final round held in chambers of the Supreme Court of Illinois.

#### CLASS OF 2004

**Pam Capello** is a member of the business department of Cooley Godward Kronish LLP in San Diego, representing life science and technology companies in general corporate matters. Before July 2006 she was a member of the business department of Luce, Forward, Hamilton and Scripps LLP in San Diego, representing sponsors of tenancy in common syndications.

#### CLASS OF 2005

**Rob Avery** is thoroughly enjoying his work as a lawyer. He won his first two motions in federal court, got the two federal causes of action (including RICO) dismissed, and got the case remanded back to the Fourth District. **Eric Carlson** presented testimony before the Congressional-Executive Commission on China this past November on the topic of "China's National and Local Regulations on Religion: Recent Developments in Legislation and Implementation." He was invited to testify based on research and writing he did with the International Center for Law and Religious Studies. **Breanne D. Fors** is a new associate of Parr Waddoups Brown Gee & Loveless in the commercial litigation group. **Todd Sparks** currently is a captain in the u.s. Air Force and the chief of civil law at McGuire Air Force Base in New Jersey. **Matthew B. Tenney** is a new associate of Parr Waddoups Brown Gee & Loveless in the business transactions group, with an emphasis on business organization, M&A, and securities. **Eric Widmar** has been reassigned from the 18th Airborne Corps to the 1st Brigade Combat Team, 82nd Airborne Division. He serves as a trial counsel, the army's equivalent to a prosecutor. He leaves for Iraq later this year for what is projected to be a 12-month deployment.

#### CLASS OF 2006

**Greg Dyer** switched firms, leaving Dechert LLP in Washington, D.C., and joining the Orange County office of Latham & Watkins LLP in January 2005. **Tatiana S. Feilbach** is a new associate of Parr Waddoups Brown Gee & Loveless with an emphasis on probate, estate planning and administration, elder law, estate taxation, guardianships, and conservatorships.

## BYU Law Students Involved in Community Service Through Classes

PROFESSOR JAMES BACKMAN HAS STUDENTS WHO HAVE PRODUCED SEVERAL community-based research projects through his courses. An Hispanic materials project has created several information brochures on immigration, taxes, protective orders for victims of domestic violence, and employment matters. Students have created the Community Law Help for Immigrants Program. They are producing a public service announcement as a project sponsored by the gang prevention task force at the Salt Lake Sheriff's Office and the Sentry Project from the United States Attorney's Office aimed at preventing gun violence. Individual students have assisted the Utah Lake Restoration Project by preparing incorporation and tax-exempt status documents and a Web site. They have developed a law student pro bono assistants' proposal to present to the BYU Law School deans in cooperation with the Utah State Bar pro bono office. A team of students has assisted A Child's Hope Foundation in its work as an international adoption agency working with orphanages in developing countries.

Professor Lynn Wardle has offered a course entitled Children and the Law. Students researched and published the *Utah Juvenile Court Guidebook* in 1998, followed by a thorough supplement updating the materials in 2000 and a second edition of the guidebook in 2004. Each student researched cases, legislation, Law Review articles, and other published materials and talked with professionals in the field, then wrote one or more chapters for the guidebook. As Utah had no current monograph or resource book describing the various proceedings, procedures, standards, and principles of practice in the juvenile courts in the state, the publication of the *Utah Juvenile Court Guidebook* was very welcome.

Professor Larry Farmer has assigned students to complete projects in creating computer-aided practice systems.

Professor Cheryl Preston offers a seminar called Internet Regulation and Decency; and in an earlier seminar, Feminist Theory and Race Relations, she had students involved in community-based projects.

Professor David Dominguez teaches a course entitled Community Lawyering, in which students learn to practice "collaborative justice." His students worked with the Boulders Apartments, a low-income housing complex, to establish a community center there. In the process of working on the project, the students and residents sponsored the Boulders Community Festival, involving many of the residents in the planning and accomplishment of a very successful fair for the surrounding neighborhood.

Community lawyering students are assisting juveniles from ethnic minority groups in juvenile detention hearings.

A few years ago Dean Kevin Worthen mentored a few students who used directed research to help the Provo City attorney's office address broad issues that were on the horizon for that office. The idea was to help the city be more proactive and prepared for future decisions.

Several courses at the BYU Law School have service-learning assignments. Students in the Basic Mediation course serve as mediators in local small claims courts and with BYU's Dispute Resolution Center. Students in the Youth and Mediation course serve as victim-offender mediators through the juvenile court, and they partner with the Provo School District in providing parent-teen mediations for students involved in truancy proceedings.

Professor Susan Griffith, a former director of the Utah Legal Services office in Provo, assigns students to work with community organizations through several Law Help seminars she offers each year. In her Domestic Violence Intervention seminar, students work with Utah Legal Services attorneys and with the local Center for Women and Children in Crisis. In the Elder Law seminar, students visit local senior centers weekly during lunches to interview seniors with legal problems that could be handled by law students participating in the seminar. In Street Law, students partner with Community Action and with the Food and Care Coalition in providing assistance to community members with legal problems. In Domestic Relations, students assist Utah Legal Services in helping self-represented parties use the forms created through the Utah Courts Online Court Assistance Program (OCAP).

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](mailto:wisej@lawgate.byu.edu).

## Clark Memorandum

J. Reuben Clark Law Society

J. Reuben Clark Law School

Brigham Young University

