

**In Memoriam
of the Honorable
Dee Vance Benson**

August 25, 1948 - November 30, 2020

Introduction

On November 30, 2020, U.S. District Judge Dee V. Benson passed away far too soon. His loss has been felt deeply by many, including those of us in Utah's legal community. We will never be the same. We already miss Judge Benson's wit, his wisdom, his friendship, and his mentoring. The Utah Chapter of the Federal Bar Association and the Salt Lake County Bar Association sought and received numerous written memories of Judge Benson. They have been compiled into this special Tribute, which is being published jointly by our two organizations. We hope that this Tribute will preserve for generations the positive differences Judge Benson made in the lives of so many.

Dani Cepernich, for the Salt Lake County Bar Association
Jonathan Hafen, for the Utah Chapter of the Federal Bar Association



Photo by Judge Dustin Pead

Judge Paul Warner

Dee Benson was my best friend for almost fifty years. We first met at B.Y.U. in 1972 through a common friend. We soon learned we were both interested in going to law school, and went through the application process together. Rex Lee, the founding Dean of the J. Reuben Clark Law School at B.Y.U. famously hand picked and personally recruited most of the members of the Charter Class. While we were both members of the Charter Class, neither of us were recruited. Indeed, at a recruiting reception in the spring of 1972, Bruce Hafen, Rex's right hand man and associate dean approached Dee and myself after the reception. He enthusiastically remarked to us, "I sure hope we will be seeing you fellows next year at the law school." When he stepped away, I turned to Dee and said, "He obviously doesn't know who we are!" Dee replied, "Yeah, if he really wants to see us, all he has to do is accept us..." We were among a few oddballs they filled in the class with after they had accepted everyone they really wanted.

Dee and I were best friends and study partners in law school. Our buddy Jim Parkinson rounded out the triumvirate. Together we cooperated and graduated. To be more precise, Dee taught Parky and me enough law to get by, while he excelled. Indeed, Dee was an academic star in law school. Much to everyone's surprise, including his own, he had a truly gifted legal mind. But unlike those who endlessly studied to excel, Dee's gift allowed him to almost effortlessly succeed academically while all the while enjoying sports, friends, and whatever else attracted his attention at any given time. He was not only the brightest guy in our class, but he was also the most popular. Everybody liked Dee. He was easy going, laid back, always friendly, with a great sense of humor. He wrote a column for our law school newspaper entitled, "Sports Shorts, the Other Side of Legal Briefs." Dee was beloved by students and faculty alike.

Upon graduation, to no one's surprise, Dee tried to practice law and play professional soccer at the same time. He was up for it, but his law firm not so much. He quit playing soccer, but also left the firm for another that would be more accommodating to his rather unconventional work habits. Dee was a hard worker, but on his own terms. The concept of regular office hours never really appealed to him. For that matter, billing and collecting did not appeal to him either. He wanted to try cases. His firm allowed him to volunteer to do indigent defense work at the federal court, which he really enjoyed. But Dee soon found a home in public service, where the work was more to his liking, and billing was in the rearview mirror.

During the early years of our careers, while we did not work together, or even in the same cities, we kept in touch regularly, via phone calls and personal visits. Regardless of title, position, or job, our friendship grew and flourished. In 1989, after a very successful stint in Washington D.C. working for Senator Orrin Hatch, and later as the Associate Deputy Attorney General at the Department of Justice, Dee returned to Utah as the United States Attorney. I was already in the U.S. Attorney's Office. When he took over, he made me his First Assistant, to help run the office. He came to my office shortly thereafter, and announced he had worked out a division of labor between the two of us in order to efficiently manage the office. He handed me a list with 33 assignments such as personnel, budget, etc. for me to handle. I asked him what was on his list. He handed it to me. It only had one item on it: Plan Office Parties. That was quintessential Dee Benson. He worked very hard as U.S. Attorney, but he wanted to work on substantive legal matters. He left administrative and management matters to me. And just like in law school, we always had fun doing the work.

It was a hallmark of Dee's throughout his life. The man knew how to have fun, and made sure those around him did so as well.

In 1991, a new federal judgeship was created in Utah. We talked about it. Dee loved being the U.S. Attorney, but I counseled him to take the judgeship because those opportunities were few and far between. He reluctantly agreed, and the rest, as they say, is history. Dee enjoyed a remarkable career for 29 years on the federal bench. Along the way, he served as the Chief Judge for the District of Utah, a seven year term on the Foreign Intelligence Surveillance Act (FISA) Court at the request of then Chief Justice Renquist, and later was appointed to a three year term on the Judicial Conference of the United States by Chief Justice Roberts. The latter is the governing body for all the federal courts in the country. His accomplishments on the bench were incredibly impressive, even for a federal judge. Along the way, he taught law at both the B.Y.U. and U. law schools for over twenty years. His students loved him. Dee could have easily made a lot of money practicing law, but he was never motivated by money. He always cared more about what he did than what he made, and his career reflected it.

He was diagnosed with an aggressive malignant brain tumor last March. It was cruel, aggressive, and unrelenting. It was also unresponsive to treatment. A biopsy of the tumor last May left him virtually paralyzed on the right side. He spent a month in the hospital, and most of the remainder of his life in a wheelchair. It robbed from him the things he loved to do the most, including biking, golf, and walking. Who else but Dee regularly walked into downtown Washington D.C. from Reagan National Airport?! When we traveled to Washington together, he would humor me and share a cab with me. While the tumor debilitated his body, it never touched his mind, or spirit, or even his sense of humor. He quickly returned to work, and worked every day carrying a full case load even though he did not have to do so. He loved the court and his chambers, his staff, and colleagues. He especially loved the law.

I retired from the court shortly after his diagnosis. Prior to that, for the last six years our respective chambers sat next door to each other on the tenth floor of the new federal courthouse. We were able to spend time together virtually every day. Even after I retired, I often drove Dee into or home from work because he could no longer drive. His last day in the office was the day before Thanksgiving. He called and asked for a ride home that evening. I arrived about 7:00 p.m., and we shared a couple of diet cokes and talked and joked just like we had hundreds of times before. We left about 8:30 p.m., neither of us knowing that would be the last time he would ever be in his office. He called me the next day on Thanksgiving to tell me he was deteriorating rapidly. By Friday, he was pretty much sleeping all the time. He passed away peacefully early Monday morning. He literally never missed a day of work.

But to talk about Dee only in the context of his enormous legal talent and incredibly successful legal career does the man a great disservice. As talented as he was in the law, that was by no means the measure of this man. He was so much more than that. He was as good a friend as a person could possibly have. He made everyone he knew feel like they were his best friend. I know, because I always thought I was his best friend! He was kind and gracious to all, regardless of status.

Dee and I started law school together back in 1973, and we finished our careers together in 2020. I retired from the bench and went home, and Dee passed away and returned home as well, to his heavenly home. In between, we spent literally thousands of hours together. We worked together, we

tried cases together, and we taught law school together. We played together, we traveled the world together, and we even lived together for 18 months when he went through a divorce. And we drank more diet coke together and ate more junk food together than the mind of man can comprehend. Indeed, one of the few bright spots during Dee's final illness was when his doctor assured him that his junk food diet had not caused the tumor. He was so happy and proud to tell me about that!

Over those almost fifty years, and all those experiences, we had hundreds if not thousands of hours of conversation together. I think I knew Dee Benson as well as one man can know another. And I liked what I saw. He loved his children dearly, and worked hard for them. He was so proud of each of them. Dee's kindness and generosity were legendary. They knew no bounds. It has been said the human spirit is not measured by the size of the act, but by the size of the heart. In Dee's case, he measured up very well by either standard. He always acted quietly, if not anonymously, to help anyone he could. Likewise, the man was funny. He could, and did, flat out make me laugh virtually every day. What a blessing that was for so many years. I could say so much more about my best friend. But I will simply conclude by saying that I will always be grateful for my almost fifty year friendship with Dee. A friendship like ours is hard to find, and even harder to lose. Our friendship has been a huge blessing and an irreplaceable gift in my life. I miss him every day, and always will.

Jim Gilson

Like many others, Dee Benson was a great friend and mentor to me. He sometimes said that his career was like a tour through the first three Articles of the Constitution. I had the privilege of working with Dee in all three branches of government.

We first met when he was in Washington, D.C. working in the Legislative Branch—for Senator Hatch, while I worked at the Senator’s Salt Lake office. Dee had moved on to the Executive Branch—as the U.S. Attorney for Utah, by the time I graduated from law school and was finishing my clerkship with Judge Greene. He hired me as an AUSA, which was a great job for an aspiring trial lawyer. Dee was a terrific “boss.” He trusted and befriended all his colleagues. Dee worked hard—and maybe played even harder. He took the office on several memorable retreats, including a river trip to Moab and a hike to Angel’s Landing at Zions. He was loyal to us and we were loyal to him. When Dee received his appointment as an Article III district court judge in 1991 he asked me to be his first law clerk. He wrote on my DOJ office memento: “I’m glad you’re leaving—you’re coming with me.”

I think Dee was only half-joking when he said that he may not have taken the federal district court judgeship if had he known that meant he would have to hear bankruptcy court appeals. He also joked when we met with then Chief Judge Jenkins that his new case load seemed to be all the dog cases that the other judges wanted to dish off. Judge Jenkins didn’t laugh (then).

Regular clerk reunion parties provided the chance to stay in contact. In those early days the white elephant gift party took place on the floor of Dee’s family room. The coveted recurring gift the first few years was the picture puzzle “Bridget in the Buff.” (I’m pretty sure Dee’s great friend Paul Warner ended up with it.)

Dee was a people-person. He was not full of himself. He asked to be called “Dee” not “Judge Benson.” He was a gifted public speaker. Everyone loved his conversational style. His introduction of Justice Kennedy at the 2015 Utah Bar Convention was more interesting and memorable than the Justice’s remarks. Dee made everything look easy, and fun. I never heard him complain about how difficult or contentious legal work can be. He enjoyed the law and rarely got angry. He was so good and kind to me. I’ll be forever grateful for my mentor and friend. I still can’t believe he’s gone.

Tim Nichols

Judge Benson was unfailingly generous. From 2009 to 2010, I was fortunate to clerk for Dee with Mica McKinney, and it was awesome. From day one of our clerkship, it was clear that Dee loved life and wanted you to enjoy it with him. He regularly came into my office to talk sports or about life, play darts and smash ball, and tell me not to be so serious, all while effortlessly dissecting a case. Because of his confidence and genuine desire for you to do well, Dee gave and made you better. And, he seemed to do this with everyone around him. I am forever grateful to have Dee as a mentor and friend.

Judge Clemens Landau

Maybe I was naïve. Because until November 30, 2020, I just assumed that Judge Dee Benson would always be around. He was the kind of person who gave so consistently to each of the people in his life that he seemed to me to be part of the bedrock. Someone you could build on. Someone that would always be there, even if you didn't visit as many times as you had planned. Dee never seemed to care how long it had been in between. We could just pick up wherever we had left off and, if time allowed, go for a bike ride.

Judge Benson's chambers were always brimming with the perfect mixture of law and fun. And that was by design. Dee knew the practice of law could only be perfected if the practice part didn't seem like work. Talking things through with Dee first even made revising a tedious opinion about an intricate Ponzi scheme enjoyable. And the prospect of getting pegged—hard!—with whatever ball Dee happened to have on hand only heightened the excitement. It was bruising in every sense of the word, and I loved every minute of it.

Judge Benson's office itself was clad with photographs retracing his spectacular arc. My personal favorite was a photograph of Dee playing soccer against the LA Aztecs (the 1970's equivalent of today's LA Galaxy). Dee didn't hang the photograph just to remind visitors of his stint playing professional soccer. He had bigger fish to fry. He hung the picture—which showed him defending No. 4 on the Aztecs—next to a photograph of Pele defending that same player. And for anyone who missed it, he was quick to point out he and Pele were defending that hapless Angelo the very same way. Even my baby lawyer brain could connect those dots. I was clerking for Pele. And I was the luckiest person on earth.

I am certain that Judge Benson's sixty-four (64!) other clerks felt the same way. He gave his all to each and every one of us and then kicked us out of the nest at just the right moment. We all flew in different directions, but as far as I can tell, we all found places that mimicked—at least in part—Dee's own chambers. Places with both fulfilling work and foosball tables. Places where we could each perform at our highest level precisely because the practicing law part didn't seem like work anymore.

Processing Dee's passing in this disaster of a year has been difficult. But I'll pass along one experience from the beginning of the year that has helped me along. In January, I attended a training in San Anselmo, California, put together by Angelina Tsu, another one of Judge Benson's clerks. During a break, I drove to the nearby Muir Woods for a quick walk. About two-tenths of a mile in on the right side, a group of redwoods—some giant, some still quite small—stand in an almost perfect circle.



They stand that way, according to the plaque, because the trunk that once stood in the middle of the circle (but was lost long ago) left behind a root system vital enough to produce countless new shoots. Those shoots grew from the original root crown in a perfect circle and, decades on, became breathtaking once again.

I cried for no particular reason while taking in those spectacular redwoods on that January day. It seems like a century ago. Because since then, 2020 has made me cry for lots of really particular reasons. And I am crying again right now thinking in particular of Dee, and all the circles he gave his vitality to. Crying, not just because of the absence I feel, but also because I recognize—perhaps more than ever—what a great fortune it was to be connected to him in some small way. And crying in anticipation of the good works still ahead that will be traced back to where his trunk once stood. Seeing the beginnings of that new forest is helping me to somehow start stomaching his loss.

Judge Benson would probably want this to end with a Willie Nelson line, but I am not a big enough fan to pull that off with any credibility. There is, however, a Brandi Carlile song that has been playing alongside Willie in my mind over the past couple of days. In it she sings of the person who taught her “most of all” “To remember what comes back/When you give away your love/Give away your love.” For me, that teacher was Dee. Dee gave all his love away, over and over again. It’s our turn now.

Jacob Strain

Judge Benson is the one who originally inspired me to go into criminal prosecution. I had the privilege of taking his Criminal Trial Practice Seminar at BYU Law School, co-taught with Judge Warner. They made it so fun. I wore a BYU Economics t-shirt on my first day of class, and Judge Benson called me “Mr. Economics” for the rest of the semester. The guest speakers and lecturers they brought in would end up being my colleagues and friends. It was my first real experience with a practical law class and Judge Benson changed the course of my career for the better. I will always be grateful to him for that.

Little did I know I would end up frequently litigating in his courtroom. I remember once in a CLE seminar, he mentioned that his judicial approach to incompetent litigants was to “suffer fools gladly.” I appreciated that about him. In my experience, he never humiliated anyone who appeared before him, regardless of any mistakes; and he always extended the benefit of the doubt and remarkable patience for those in his courtroom. Judge Benson was the embodiment of all the good found in the judiciary.

I will miss him.

Judge Royal Hansen

Judge Benson was the consummate mentor of new lawyers. Every spring he would collect his law clerks and walk to the Matheson Courthouse. He would introduce his clerks to the state court judges. He made sure that his new lawyer law clerks were familiar with the trial courts and their clerical staff.

Judge Benson would also donate a copy of the evidence treatise authored by Judge Benson and Professor Mangrum. It was always well received by the court as the most helpful library resource on Utah Evidence. Judge Benson would personally inscribe the treatise before leaving for the next chamber. My 2015-2016 edition reads, “To Royal, the sweetest judge in America. Dee” I’m pleased that Judge Benson was given to hyperbole and that he mentored lawyers as a law school professor, federal district court judge and friend.

We miss Judge Benson. May he rest in peace.

Heather S. White

Lawyers take themselves too seriously. That was one of the most important things Dee taught me, and a curse to which he never fell prey. He was not infrequently seen riding his bike through the corridors of the old federal courthouse. Chambers was always well stocked with Diet Coke and games, including ping-pong, darts, and foosball. When I had the honor of clerking for him, we worked hard. But boy did we play hard too. There are too many fun outings and adventures to recount here, but suffice it to say, Dee knew the importance of balancing work with fun.

When I was trying a case in Dee’s court years later, he had the opportunity to test his counsel to me. And test it, he did. I had painstakingly walked a witness through foundational questions I needed to get an answer I wanted to arrive at the ever-longed-for Perry Mason moment. When I asked the final question, the one designed to elicit the magic answer, the witness gave the opposite of what I expected. It was a complete flop. After we finished the witness, we took a break, and Dee asked to see me in chambers. I sheepishly made the journey across the courtroom, following him, Ron, Ed, and Alison, as I had so many years before, but this time I had egg on my face and my tail between my legs. When we got into his reception area, Dee, with an impish grin, told me what a great job I had done asking the foundational questions, and then giggled when he said it did not appear to turn out quite the way I thought. I couldn’t do anything but grin ear-to-ear, shaking my head and responding, “No, it did not.” It was one of my favorite moments I ever shared with him. It embodied who he was at his core: kind and sympathetic to everyone, whether they deserved it or not, and always diffusing tension with his great sense of humor. Thank you, Dee, for reminding me to laugh at myself. And trust me, there have been, and will continue to be, many opportunities for me to do so.

A good friend of mine once told me he wanted to end his career leaving people wanting more. Dee, you did just that. Thank you Angie, Natalie, Luke, Katie, Lee, and Eric for sharing Dee with me. He changed my life, and that of my family, to something it never would have been without him. Dee, I will miss you more than you will know and look forward to another laugh with you one day. Hopefully when that happens, you will not have to ask if it turned out differently than I expected. God bless you, my friend.

Abby Dizon-Maughan

Judge Benson was as funny as he was kind. This picture of us was taken the day of my swearing in. I was seated, waiting for the ceremony to begin, when Judge Benson approached me from behind. “Abby,” he said to me, with a mischievous look, “you understand that admission is made by motion, right?”

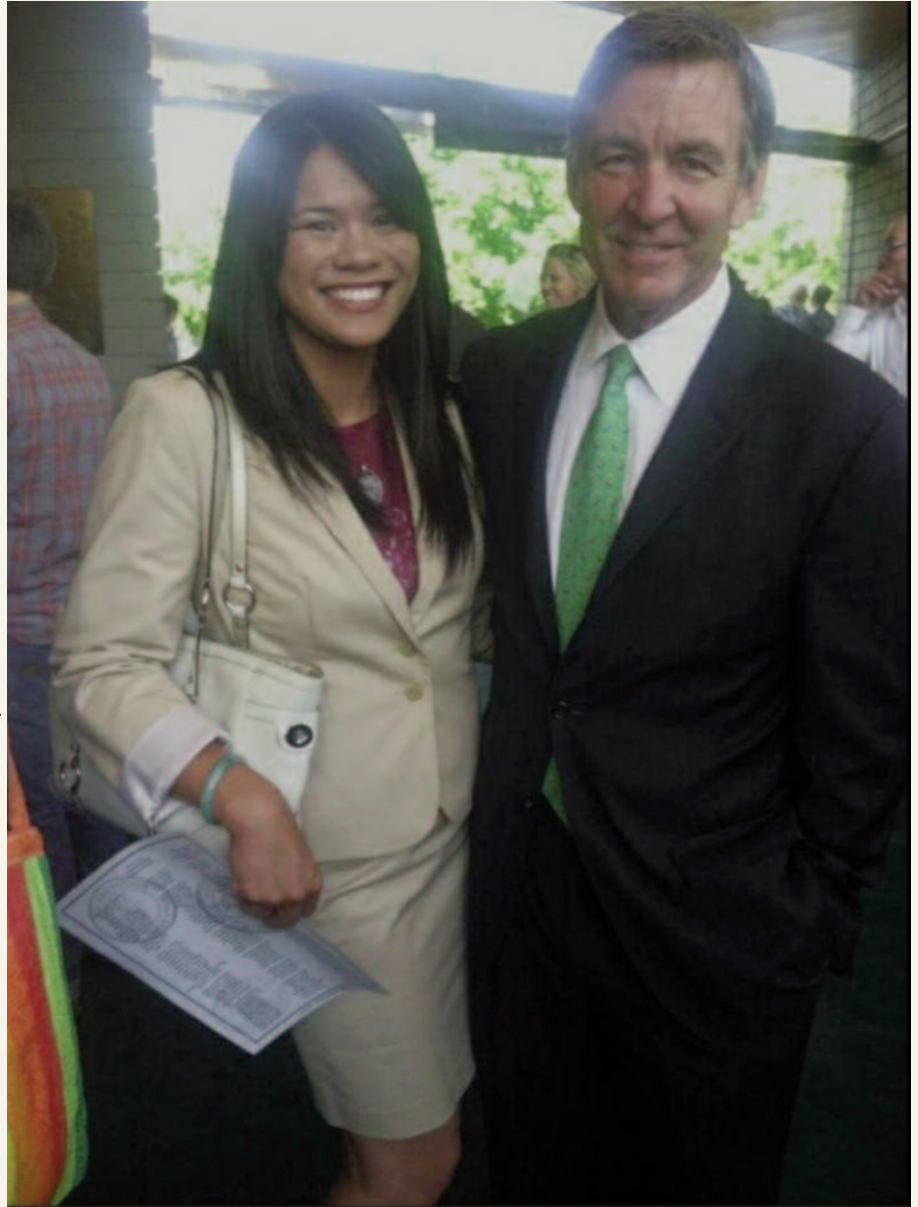
“I do...”

“Motion denied,” he said.

“But, Judge, it’s a motion to admit the class, not just me.”

“That’s a cost I’m willing to accept,” he said to me, before patting me on the shoulder and walking away, chuckling.

Needless to say, he didn’t deny the motion, and found me after the ceremony and graciously posed for this picture with me. It’s a memory I will always treasure.



Dawn David

Judge Benson swore me in. It was the first time I had ever been in a judge’s chambers. I was nervous to say the least. And, it was a surprise that I was going that day. I was wearing hot teal pants. Yep, hot teal. Let’s just say that didn’t help ease my nerves at all. But as soon as I met him, the disquiet melted away... for the most part. He was so kind and didn’t say a word about my less than ideal attire choice for the day. He swore me in and congratulated me, and it was an amazing day. I will be forever grateful that he took time out of his busy day to make a young lawyer feel important and to help me jumpstart my career in our beautiful state of Utah.

Judge Ted Stewart

Before I was nominated by President Clinton to join Dee Benson on the Federal bench, I had followed his career closely. I had come to respect him without ever having met him. Upon my nomination, I took the opportunity to begin meeting with him to garner all that I could learn so that I would be the best judge I could be.

At the time, Dee was the Chief Judge, and although busy, he was very generous with his time. He had quite strong views about the way to run things; for example the times to conduct trials, how best to keep up on criminal hearings, how to interact with one's law clerks and courtroom deputy, etc. He suggested that I meet with all of the judges to learn what I could from them. I did, but in the end, it was clear to me that Dee did it right, and I patterned most of my practices after his.

During that time of my somewhat controversial nomination process, Dee was always supportive. We came to learn that we had much in common, including the fact that we were almost exactly the same age, our birth dates being just days apart. We shared much in our backgrounds before becoming judges. Our views of the world were very similar. Every conversation we shared through the years was a delight.

There are so many things about Dee that I admired. His sense of humor is near the top of the list. I also admired his loyalty and devotion to friends, colleagues, and his current and former staff members. Most of all, however, I admired his courage. That courage was reflected in a number of his most important rulings as a judge. It was reflected in his willingness to shake up the status quo in our meetings as judges. But most of all, it was reflected in the way that he lived the last months of his life.

Our last conversation was about a bet I lost to him and the lunch that I therefore owed him. I doubt he is going to forget that debt and I look forward to that shared lunch conversation in the next life. I will miss him dearly!

Judge Dustin Pead

After Judge Benson's passing – and knowing his appreciation for Willie Nelson – I found a cover he and his daughter Paula sang of Creedence Clearwater Revival's "Have You Ever Seen The Rain." (Found at <https://www.youtube.com/watch?v=b7MUcj312a0>.) As part of his album, "To All The Girls" released in 2013, it is a wonderful synchronicity of sound and feeling. Revival fans may recall the song as prescient of that band's fracture. Yet, John Fogerty reported in 2012 that its meaning had shifted from sadness to joy as he has reflected back. I have benefitted immensely from my association with Dee Benson and will sorely miss the opportunity to continue to learn from and be around him. Yet, I am grateful for his positive influence on me and countless others. I will always remember Dee as kind, thoughtful, inclusive and generous. The sadness of his absence will be perpetually felt, but so will the joy at our paths cross.

Laura “Marquez” Johnson

My experience at BYU Law would not have been the same without Judge Benson. He was more than just a law school professor; he was a mentor and friend. He truly cared about the success and wellbeing of his students. I will always remember his entertaining stories, Evidence trivia, and the trial team dinners he hosted in his home. He was a special part of the law school and the reason why I chose litigation over other areas of practice. He and Judge Warner worked tirelessly to help my trial advocacy team succeed and represent BYU at the highest level. Judge Benson was the first to congratulate me at my swearing-in ceremony when I became an official member of the Bar. He had a way of making me feel like the most important person in the room when we would run into each other at bar sponsored events and CLE presentations. I am grateful for the legacy he leaves behind and for the many life lessons I learned from him. I will miss him greatly.



Daniel Vincent

I had the privilege of taking a criminal trial practice class from Judge Benson in law school, and it was one of my favorite classes by far. Not only did he impart valuable knowledge, but he had the gift of helping you feel good about your effort and still improve at the same time. I'll always remember how he told me I gave an all-star performance for most of my closing argument right before completely losing my train of thought at the end! Even though I didn't go on to a trial-based law practice, I'll continue to carry his lessons with me.

Ben Aldana

On the morning of January 26, 2005, I sat in the basement of the old federal courthouse in Salt Lake City. I was waiting for the Marshals to walk me up to Judge Benson's courtroom. It was two days before my twenty-fourth birthday, and I had already been in jail for nearly a year as my federal drug case had been working its way through the process. As January 26th progressed, other people waiting their turns to see their respective judges came and went. Eventually, it was my turn. I was taken to the courtroom and a hearing with Judge Benson ensued. Most of that hearing is now nothing more than a blur in my mind. But the thing that still sticks out in my mind is Judge Benson chastising me because my criminal history was "horrible." After letting me know what he thought of the significant criminal record I had accumulated for a person of my age (almost 24 at the time), he told me that a 96-month term of incarceration in federal prison was the appropriate response to what had brought me in front of him that day. And 96 months is what I was given.

At that point, I never could have imagined that nearly sixteen years after the above-described course of events, I'd be writing a tribute to Judge Benson as a man who has had a profoundly positive impact on my life.

After I was released from prison in 2010, I went to school, eventually ending up as a student at BYU Law School in the Fall of 2015. During my first semester of law school, after he had just finished teaching one of his evidence classes, I nervously approached Judge Benson to re-introduce myself. He seemed a bit surprised that I was there—as a law student—but he also appeared to me to be genuinely pleased by that fact.

During the first semester of my second year at BYU, I worked as an intern for Judge Warner, whose office in the courthouse happened to be right next to Judge Benson's. I would regularly see Judge Benson in the hallway, and he would always ask me how I was doing or say something kind and encouraging to me. That same semester I learned the rules of evidence from him, and I also took the trial practice class that he and Judge Warner co-taught. And as anyone who was fortunate enough to have had the opportunity to go through those classes with Judges Benson and Warner would probably say, they are classes I will always remember.

But despite the fantastic education I had the opportunity to obtain, it wasn't ever a sure thing that I'd be afforded the privilege of practicing law. My criminal record was an obstacle to that. As I neared the end of my final year in law school—and was putting together my Bar application—that reality really began to weigh on me. Not that it hadn't weighed on me before. But, there is something about putting together a Bar application—which ended up being well over a thousand pages—disclosing the good, the bad, and the ugly about myself that made me wonder if I was really going to be able to overcome the burden on me of convincing the Utah Bar's Character and Fitness Committee that I was not the same person who had been sent to prison back in 2005.

As I went through the process of putting together the application, I thought to myself, "I wonder if Judge Benson would be willing to write one of my character letters?" Who better to tell the Character and Fitness Committee that they should afford me the opportunity I'd be asking for than the person who truly knows the good, the bad, and the ugly about me? Someone who many years before had characterized my criminal history as "horrible." And someone who had decided that 96 months of imprisonment was an appropriate response to my behavior.

After building up the courage to approach Judge Benson to see if he would be willing to advocate for me with the Utah Bar by writing a character letter on my behalf, I found him and asked the question. He looked at me with a smile and said, “I think that’s something I can help you with.” I responded to him by saying, “I don’t think there is a person on the planet who could be more helpful to me with it.” He again smiled and quietly walked away. Shortly after that I was in possession of a letter from Judge Benson vouching for my character and fitness to practice law. I have no idea what that letter said. But I have no doubt that it played no small part in the Character and Fitness Committee’s decision in June of 2018 to permit me to take the bar exam in July of 2018.

Countless people helped me through the process of becoming a lawyer. But I think it is hard to overstate the role that Judge Benson played in that process. Having the Judge who sentenced me to prison all those years earlier—a person who truly knew the good, the bad, and the ugly about me—willing to vouch for my character, is something that I believe played an outsized role in helping me to become a part of the legal profession today.

Shortly after Judge Benson’s passing, I visited one of my clients at the Utah State Prison. Visiting my incarcerated clients, and especially those at the State Prison in Draper, is usually not an insightful experience. But this time was different. On this particular visit, I noticed a mural on a wall as I walked into one of the buildings. I can’t recall the exact words, but the mural said something to the effect of, “as one person, I cannot change the world, but I can change the world of one person.”

Judge Benson certainly changed my world. And for that I will always be grateful.

Judge Michael Newman, Southern District of Ohio

I met Judge Benson years ago at a Federal Judicial Center function in D.C. He took me under his wing and asked if the two of us could go out to dinner together. We went to a restaurant called Clydes in a neighborhood that I was unfamiliar with. He told me to order the meatloaf, which I did—it was great. I remember him as one of the nicest and kindest people I’ve ever met. Very unpretentious and very smart. He talked to me about playing professional soccer and being called by the Chief Justice to serve on the FISA court. He left his family and close ones in Utah to travel to D.C. regularly—for years as I recall—to serve on that court. I remember thinking how lonely that would be—spending large periods of time in a hotel by yourself while everyone else is back in Utah. I admired his sense of service and his patriotism, and was awestruck by his kindness, which shone through right away.

Lloyd Sadler

I had the privilege of extern-clerking for Judge Benson during my last semester at the U of U law school from January to June of 1996, it was the highlight of my law school experience.

I'll always remember my first day. I arrived early and was the first to arrive at his office. Since no one was there and I didn't know where to go, when the phone started ringing, I sat at Judge Benson's secretary's desk and started answering the phone and taking messages. While sitting at the desk, a somewhat shabby unshaven fellow in old gym clothes shuffled into the office, past the secretary's desk and toward the Judge's office. I jumped up to intercept him, saying the Judge had not yet arrived and would he please wait in the outer office. He smiled and said he was sure it would be okay, stepped past me and into the Judge's office and closed the door. Just then his secretary arrived and asked who just went into the Judge's office. I said I didn't know and I was just thinking about what to do. She opened the door and introduced me to Judge Benson who was now sitting behind his desk and seemed quite amused that I had tried to block him from entering his office. I learned that he had just been to the gym for physical therapy.



Despite my initial misstep, Judge Benson included me in his court family and over the years we had lunch together many times and he took great interest in my career, recommending me several times to present at CLE events, referring clients to me and even performing the marriage of my eldest daughter, where he gave a highly supportive speech at a most difficult time of my life.

I'll never forget how very generous and thoughtful he was to me and my family. Heartfelt condolences to Judge Benson's family.



PS: I should perhaps note that as an extern, my interview and selection was entirely done by letter and over the phone, pre-video call days.

Scott Young - “The Judge and the Beautiful Game”

Soccer, or football as the world outside of these united states calls it, is universally known as “the beautiful game.” It combines world-class athleticism, unending endurance, and razor-like precision, all while taking away the one thing that sets us apart from every other species that inhabits our planet – our hands. At its climactic moments, it more closely resembles a ballet than a sport. This was the sport that spoke to Judge Dee Benson’s soul. More than that, it was the lens through which his skill as a judge is best appreciated.

On the bench, Judge Benson possessed the vision and tactical precision of the most skilled soccer players. He understood the areas of the law – areas as diverse as antitrust, civil rights, criminal, contracts, class actions, securities, and so on – better than the practitioners who appeared before him. That is to say, he knew on a micro-level the briefs, the relevant cases, and the precise issue and precisely fit in that particular case, but he also knew on a macro-level how the issue and ruling would fit in the greater jurisprudence of the subject. His questions were insightful and cut straight to the issue, like a beautiful cross between two defenders to a streaking winger.

Judge Benson’s writings also mirrored the sport he loved. His written decisions possessed a brevity and simplicity that elevated the English language and clarified the issues in the case for counsel and the parties. Truly excellent soccer players don’t waste energy, and Judge Benson did not waste (or mince) words. Ever the field general, Judge Benson honed in on the goal and drove hard to the net.

And he did this all within the context of a team. Soccer is the ultimate team sport. Judging, however, is not. It can be lonely and isolating, unless you are Judge Benson, who was perpetually engaged in discussions about legal issues, historical disagreements, and movies with Judge Boyce, Judge Kimball, Judge Alba, and his clerks. Everyone in the legal community believed they were close friends with Judge Benson, just as many soccer aficionados will tell you that Andrea Pirlo and Zinedine Zidane were the best players of this century because their teammates believed that of them. The adoration of one’s peers is, after all, the highest of compliments on the bench and on the pitch.

For my part, I remember countless trials, hearings and legal discussions with Judge Benson. I remember him coaching my writing, explaining issues I hadn’t fully thought through, and pointing out effective tactics in oral argument. But more than anything, I remember watching the 2006 World Cup Final with him in the old courthouse. My beloved Italy beat Spain on penalty kicks in what would have been a dull game, if I hadn’t been watching it with Dee. His color commentary and explanation of tactics brought the skill and grit of the match to life, and made me think he had missed his true calling as a soccer announcer. It was the exact same skill he used to excel as a judge.

Soccer is certainly “the beautiful game,” and the citizens of Utah, and those of us who knew Judge Benson and loved him, are lucky that he brought that beauty to the bench.

Mark Miller

I consider myself extremely fortunate to have clerked for Judge Dee Benson, and even more so that Dee was my friend. On my first day as Dee's clerk, after interning with him for about a year, he called me in his office and told me he was happy that I was staying on to clerk. As he said this he stood up and put his hand in the air. I promptly slapped his hand with a high-five and said, "I am really excited about it too." He shot me a very puzzled and annoyed look, then glanced at his hand, then back at me and said, "I was raising my hand to swear you in, you idiot. When have you ever seen me give a high five?"



Although I was embarrassed in the moment, that experience has become a favorite funny memory. Dee would often tell that story to others when we were together at an event, always garnering laughs. His good-spirited humor was always disarming and made everyone, even the person who may be the butt of the joke/story, feel valued and included. Dee was a kind and supportive mentor. He had a way of letting you know that you need to do better, but also that he was on your side. I recall a couple times when he got frustrated and said, "I need better clerks" after I didn't have my stuff together for a hearing as well as I should have. But by the end of the day, after we had resolved the issue, we would finish the day with a game of darts or foosball. Dee respected and followed the law. I witnessed him face situations where the outcome he personally wanted in a case was not the outcome the law compelled—he always followed the law. Dee treated his clerks like family. He hosted an annual summer BBQ and an annual Christmas party with his kids and law clerks. I feel a familial connection to these people because of him and am so thankful for that.

After my clerkship, Dee continued to be a mentor and friend. I will always be thankful for the experiences I had with Dee. For several years, we co-coached a soccer team with his grand-daughter and my daughter (he was the real coach, and let me tag along). On more than one occasion, Dee took the time to tell me that he thought my daughter, Amelia, was one of the most pleasant and happy little girls he had ever met. Amelia loved him as a coach and she now plays soccer at Dee's alma mater, Hillcrest High School. Dee invited me to attend a Willie Nelson concert with him, his kids, and others at Kingsbury Hall, which is still my all-time favorite concert experience. When Dee was invited to sit on the Federal Circuit in D.C. years after my clerkship, he invited me to come along as his clerk again, since I clerked for that Court after clerking for him. I loved that experience, and keep a picture of it on my desk. Dee and I travelled to D.C. a few times together. He loved walking everywhere in D.C. We never took a taxi or the Metro. On one trip, he even made me walk from the airport to the hotel. Long walks with Dee in D.C., from the White House to the Capitol to the Federal Circuit court, are precious memories for me. He would tell stories of his time in the Senate with Orin Hatch and his time serving on the FISA Court.

Dee had a talent for making people feel good. He had a huge heart and wanted everyone to feel included and valued. Although he had a reverence and respect for the law and our country, he never took himself too seriously. He demanded that we call him "Dee," enjoyed practical jokes, took joy in good-natured banter, and loved being surrounded by family and friends. I always felt good about myself after spending time with Dee and his kids, all of whom are amazing people and embody the best of Dee Benson. I will miss him and will never stop admiring him.

Judge Dale Kimball

Judge Benson grew up in Sandy. I grew up in Draper. The southeast corner of the Salt Lake valley was sparsely populated in the '50s, '60s, and early '70s. Hence, we knew many of the same people and many more of the same families. His sister, Karen, was one year behind me in high school. I was acquainted with her. She had the good sense to marry a fine fellow from Draper, Joe Baker. Dee and I both went to Jordan High School, although at different times.

The first person I remember having a conversation with in Dee's family was his father, Gilbert ("Gib"). Among other things, Gib drove a school bus for the Jordan School District. I was riding in a bus Gib was driving when he said to me, "Shut up kid unless you want to walk home." I said, "Okay." It was a long walk from Mt. Jordan Junior High School to my home in Draper.

Dee was in the Charter Class of the BYU law school that graduated in 1976. The first class I taught at the law school was in the fall of 1974, which most of the then second year students (the Charter Class) took. It was a huge class. The subject was Business Associations, a course on corporations, partnerships, and agency. We graded by numbers not names. The person who got the highest grade in that class wrote the best examination answers I have ever seen. I never checked on who it was, but thought it was one of three people not including Dee. About thirty years after the members of that class graduated, Dee told me that he had received the highest grade in that class. I laughed at him and told him to prove it because I didn't believe it. About ten years later (2016-2017) he finally produced the book awarded for his number one performance in the class. It was an exquisitely written set of answers even though Dee apparently wrote them.

He began his career at our law firm in the summer of 1976. As his brother Lee has explained, creeping sanity overtook him, and he left our firm for other opportunities.

He has had a remarkably successful career at Snow Christensen, in Saudi Arabia, in Washington D.C., and as a United States district judge in Utah.

We have been good friends ever since his law school student days. Some of our daughters, then young girls, participated in his and Patti's wedding reception festivities in 1976. We have talked frequently over the years about the law, current events, people we know, politics, sports, BYU, and everything else that one can imagine talking about. The friendship of course deepened during our 23 years together on the Federal District Court here in Utah. We spoke almost daily. I consider him a great friend.

One of the most delightful experiences he ever related to me was on the occasion of his once getting cut off in traffic while driving a meat truck for M&M Meats after he returned from his mission in Sweden. A well-known angry gesture morphed into a friendly wave when he suddenly realized that the offending driver had been his mission president.

For several years at our annual Boyce Seminar here in Salt Lake City we have done a question and answer presentation together pontificating on a variety of legal subjects and insulting each other. In St. George each year at our annual Southern Utah Seminar we have together for several years presented our thoughts on evidence. Dee knew a great deal about evidence – he was an evidence guru. He worked with evidentiary matters every day, he taught courses on evidence, and he co-authored a book on evidence.

As I have explained at the St. George Seminar and in other places, the biggest problem about evidence with Judge Benson is that he knows so much about it that on the rare occasions when he is wrong, he can still convince you that he is right.

I already miss him terribly. We will all miss his presence, his humor, his delightful and pleasant nature, and our association and companionship. Since moving to the new federal courthouse in the spring of 2014, Magistrate Judge Warner and I have had the delightful privilege of our chambers being right next to his.

He has been an excellent judge and has served on various Judicial Conference Committees and on the FISA Court. In my experience, it's rare to meet federal judges anywhere in the country who don't know him or know of him. Again, he will be terribly missed.

Judge David Williams

I was so saddened to hear of the loss of my friend and mentor Judge Benson. I clerked for Dee shortly after graduating law school and even at that early stage, I can say it changed my career path. Dee was a great example of intelligence, preparation, and judicial temperament. His example inspired me to want to become a judge. Off the bench, Dee was a lot of fun. He had a quick wit and inviting smile. And, every now and then, a glint in his eye that signaled some mischievousness.

A favorite memory involved one of my co-clerks. On his way to work that morning, that clerk actually witnessed an attempted bank robbery and hostage situation in the parking lot of a grocery store where a bank was located. After recounting what had happened, our wheels started spinning and we prepared an order placing the clerk into witness protection that Judge Kimball signed. Then, at the end of the day, while we were all sitting around, two U.S. Marshalls made their appearances in Dee's chambers to serve the order and take the clerk into custody. The clerk refused to go until Dee reviewed the order. Dee emerged from his office, took a look at the order and, in a way that only Dee could pull off, said: "Gee whiz, looks pretty good to me, I guess you have to go." When the marshals took their handcuffs out, everybody got a little tense (including the marshals), but Dee stepped in and cut through the tension and we all had a great laugh (at the clerk's expense). That was one of many examples of the fun we had.

While I didn't make it to all of them, Dee's Christmas parties for his former clerks were a highlight of the holiday season and a great opportunity to catch up. I will miss Dee dearly.

Michael R. Carlston

Dee was a member of the J. Reuben Clark Law School Charter Class. The BYU Law Review commenced in the Law School's second year. Young lawyers with law review experience who had attended other law schools served as editors for the Charter Class's second-year Law Review members. I was Dee's editor for his case note, *Constitutional Law—Mootness—De Funis v. Odegaard*, 1975 BYU L. Rev. 181 (1975). From then until his passing I had the benefit of interacting with Dee in a variety of settings.

At the outset of our friendship, I discovered that Dee viewed and experienced life through a lens ground and polished almost exclusively by his own handiwork. No, he did not consider himself superior to others; rather, he regarded no one his inferior. He was neither cowed by or gave undue homage to authority or status. Dee had an unconscious manner of graciousness and respectfulness, particularly toward those who often go unnoticed.

I admired Dee's unconventionality. While working at Snow Christensen & Martineau he sought out trial opportunities and challenged the status quo. My favorite example was when Dee defended a robber who, after holding up a bank, walked next door to a café, called a cab from the café pay phone, and then sat at the counter and drank coffee while waiting for his cab. Dee argued vigorously to the high-profile federal judge assigned the case that his client was not guilty because anyone behaving in this manner could not possibly form the specific intent element of the charge.

We are all diminished by the passing of Judge Dee Vance Benson.

Mark Vincent

I met Dee in March 1986 while I was in law school. He was Chief of Staff for Senator Hatch. I was in D.C. for a National Young Republican Convention. I asked him how to apply for a job with the Senate Judiciary Committee. He said to send him a resume and let him know when I was back in D.C. and he'd interview me. Later in August, I was back in D.C. We set up an interview for early afternoon. Justice Scalia was going to appear before the judiciary Committee for his confirmation hearing as a Supreme Court Justice.

Security at the Senate offices wasn't what it is today. I went early to stand in line to see the judiciary hearings. I watched Justice Scalia walk into the Senate judiciary room. I had waited about 1 1/2 hours and was about to get a seat to watch. Just about the time I was to go in Dee walked by, recognized me and stopped and said, let's go interview right now. So I got out of line and went and interviewed. At the conclusion of the interview, Dee asked if I still wanted to watch the hearing. I said yes. He took me up to the committee room through a side door and I gave me a seat on the second row. I was impressed

Later, when he was appointed US Attorney, I was one of his first hires.

Dee always wanted his employees to have fun. Many retreats and mountain biking trips. I will miss him.

Shannon DeNalty Freedman

I have tried several times to write a tribute to Dee. Once, in a last Christmas card I intended to send to his family, and once on the tribute wall of the funeral home. Words have failed me each time. But I cannot let the opportunity pass to attempt to express my admiration, gratitude and love for one of the greatest men I have known. It is an outsized task and, as with all truly meaningful life events, difficult to put into words.

I was a summer associate for a firm in Los Angeles when I got a call from Judge Benson offering me a clerkship. I can still remember the elation I felt alone in my office, and that was before I knew

working for him would be one of the greatest blessings of my life.

I showed up for my first day of work a year later and he didn't know who I was. My co-clerks kept calling him Dee but I stuck with Judge Benson until he told me it was weird. Just weeks into my clerkship the Ken Starr independent counsel report was released. He was on the bench and asked me to print out the findings. Instead I inadvertently printed the most salacious details. He told me while he enjoyed reading it, next time I should just print out the legal findings.

My co-clerk, Jon Schofield, set me up on a blind date. When I later became engaged, Dee, Jon and my other co-clerk Brett Tolman, gave me opinions on bridesmaids' dresses. Dee was particularly helpful with fit and color, rejecting one dress as "strumpet-like." We were a family then, the clerks, Ed, Ron and Charity. Dee wasn't the father. He was the cool older brother who wore his brilliance so casually you forgot it was there until he pulled some archaic legal holding out of thin air.

He was funny, and kind and tough and smart and so, so likeable. There was some quality of innocence to him, although he would laugh at me for saying that. His clerks wanted to impress him with their legal skills but above all you wanted him to like you. You wanted his approval. You wanted to make him laugh.

We laid sod in his yard. We played foosball to let off steam during the day. We rode bikes around his empty courtroom. We discussed new Supreme Court holdings and what we considered wrongly decided past decisions. We took a trip to visit a brine shrimp dryer manufacturer in a patent infringement case. We stopped at a half dozen Maverick gas stations buying junk food as well as a small dancing Christmas tree that he fell in love with. When he was appointed to the FISA court he mentioned a special phone he had that was a secure government line. I was intrigued and impressed and I said I wanted to come see it. Self-deprecating and wry as always he said, "it is amazing. Imagine... a phone."

I simply can't express what he was to me then and remains to me today. His law clerks hold in reserve a thousand Dee Benson stories that we will treasure our entire lives. We all take special pride in being Benson clerks, not because we were special but because he was. My legal career has not been traditional and mostly consisted of raising my four sons, punctuated by brief periods of working. But Dee is one of the most influential people in my life. I am sure he didn't know the extent of his affect on me and I regret that I never told him personally. I still can't believe he is gone. Even now it makes my head swim and my throat tighten to write it. It's said that some people's light burns so bright you can't imagine it could ever be extinguished. That is Dee for me—but I'm not special.

Judge Jared Bennett

Judge Benson was always so good at humbling me in such a kind way. When he was my evidence professor at the U, he did it a few times, but the time that stands out most was when I was arguing a motion to dismiss before him, and I asserted that the Court of Federal Claims was in a better position to deal with the asserted takings claim than the District Court in Utah. Judge Benson took exception to this and asked how that could be given that the CFC wasn't even an Article III court. I said that the CFC was an Article III court like the Court of International Trade and then I foolishly doubled down by saying, "That's what I teach to my students at the U."

Without skipping a beat, Judge Benson grabbed the phone on his bench and placed a call to his friend who had been recently appointed to serve as a judge on the Court of Appeals for the Federal Circuit and who had previously served as a CFC judge. After convincing the judge's secretary to interrupt the judge during a meeting, Judge Benson exchanged greetings with the judge and then asked, "Is the CFC an Article I or an Article III court?" The judge responded with "Article I." Judge Benson then said goodbye to his friend and hung up. Needless to say, after a good laugh, we all knew that the point was made. We laughed about that experience frequently. I wish we still could.

Mark Jones

Judge Benson was always extremely competitive, especially when it involved games or sports. Often in the evenings, I would go up to Judge Benson's chambers for a round of "Dee golf" with the man himself. In Judge Benson's chambers, we would play 10 holes of miniature golf. Judge Benson, soon after his move to the new courthouse, found out pretty fast that floor electrical outlet boxes made excellent makeshift golf holes. We would play the front 6 holes in his conference room, and then start the back 4 in his personal office.

I can probably count on my hand the number of times I actually beat Judge Benson. Benson hated to lose, but when he did, he usually demanded a rematch. I could be up 2 strokes with 3 holes to play and somehow Judge Benson would almost always win. Maybe that speaks more about me than Judge Benson.

With that as a backdrop, after Judge Benson's cancer surgery, he lost much of his left side mobility and hand coordination. After a summer of hard work and physical therapy, he started to get some of his mobility, strength, and balance back. I tried to act as if everything was the same during Judge Benson's illness. During this untimely and tragic illness, Judge Benson wanted neither my pity, nor my sympathy. He maintained a full caseload until the day he died.

So, I challenged Judge Benson one late summer evening to a round of "Dee golf." In the spirit of full disclosure, Judge Benson could still barely stand with a cane and he was continuing to experience some tremors in his right hand. For obvious reasons, he wasn't making too many putts during our competition. However, neither was I. I barely beat him by one stroke. I made 2 putts out of 10 and Judge Benson made 1. After the last putt, He looked at me in his inimitable way, smiled, and said "Well Mark, you must be so proud of your golf prowess by beating me in a putting match. You pulled off the upset by beating a terminal brain cancer patient who could barely stand or hold a putter by one stroke. This has to be a proud day for you! After he finished his sarcastic concession speech, I sheepishly asked: 'How about we go 2 out of 3?' I so miss Dee Benson!

Kent Scott

My best memory of Judge Benson does not involve either our practice of law as young lions of the Utah Bar or my role as an advocate in his courtroom. My best memory involves running with the "Benson Brothers"- Dee and Lee. The three of us were training for the Deseret News Salt Lake Marathon. Our goal was to finish with a time that would allow us to complete our run during the parade and along the parade route. The Benson Brothers always had an appreciation for good theater,

including appearances before the Parade Route Gallery. The three of us would train after work, usually somewhere at high altitude. One of our wives, usually Patty Benson, would take us up in the Benson Cadillac (Jeep) to the top of Little Mountain or George Washington Grove, and meet us at Hogle Zoo, which is at the mouth Emigration Canyon. Three observations:

1. Whenever you did an activity with the Benson Brothers, you did that activity with them both, and you did it with a great sense of purpose.
2. You would never try to run with Judge Dee. He was too competitive for that. If you wanted enough oxygen to finish the course you made certain that you let Judge Dee go out front and “blaze the trail.”
3. Dee and Lee were very competitive with one another. While running, one would challenge the other for the coveted lead. This was the case in running, soccer, and biking. By challenging each other in a constant display of athleticism and energy, Dee made Lee better and Lee made Dee better. One fed off the energy of the other.

I love the Benson Brothers. I liked being with the Benson Brothers, both of whom I referred to as the “Alpha Twins.” When I ran with them, I was a better runner. When I was practicing law with or against Judge Dee, I was a better lawyer. When I served as an advocate in Judge Dee’s courtroom, I was a better lawyer. When I showed up to listen to one of Judge Dee’s numerous talks to members of the Utah Bar, I became a grateful member of this honored profession. Whenever I was in the same room with Judge Dee, I just felt like being the best person that I could be.

In summary, Dee helped mold Lee into the award winning sports reporter that he became year after year. Lee returned the favor by shaping Judge Dee to become one of our brightest lights in the legal profession, both as a member of the Bar and later Federal Bench. Let us all swim in the sea of gratitude having both known and experienced the pleasures of life with both of these inseparable twin brothers. They were twin brothers to each other, united, and they were brothers to us all.

Sam Meziani

I loved attending a Judge Benson hearing and I will miss them deeply. You had the strong impression he knew the facts, law, and the arguments better than the lawyers on both sides, put together. He seemed to be having a lot of fun as he would poke and prod to test whether counsel really understood the respective arguments. The last time I saw him (in person, not Zoom) was in chambers; he called both sides in to provide edits to a well-negotiated plea agreement because he thought it needed improvement. We were glad to make the changes. But it was much more than intellectual jousting or proving he was the smartest person in the room. Judge Benson was aiming for the correct result, whether the right result happened to favor my client or not. In one particular case, he dismissed an indictment (an exceedingly rare event in a criminal case) based on his reading of the statute. His interpretation of the statute was later upheld, in another case, by the Supreme Court. The client avoided prison and her life was changed forever, and thinking of this example, one can only think of the impact Judge Benson had on countless lives during his tenure as a federal judge.

Matt Steward

I had the special privilege of appearing before Judge Benson only a couple weeks before his passing. He was in excellent spirits and clearly happy to be at work. It was an interesting evidentiary issue and he was fully engaged. At the end of the hearing, he said that he always enjoyed it when I tried to change his mind. He said sometimes you do and sometimes you don't but it is always a fun exercise. He then said, unfortunately today is a sometimes you don't day. I can't recall many hearings that I've lost where I left genuinely smiling. While his legal acuity was tremendous, I think what made him a such an excellent Judge and wonderful person was the wit, respect, and compassion he brought to the bench.

Jason McNeill

I was always grateful to learn that Judge Benson was assigned to a case I was handling. No matter what motion I argued before him, I knew he cared about getting it right. He listened intently, was well-prepared, asked the right questions, controlled his court room, and issued well-reasoned decisions. Thank you Judge Benson for your lifelong contribution and service. We will miss you.

Jordan Lee

When I first started working for him, he insisted that I call him "Dee" instead of "Judge Benson." His unassuming, fun-loving attitude contributed to his effectiveness as a judge and made him a truly great mentor. He had a unique ability to cut to the heart of legal issues and dismantle them to their simplest form. He also had a way of simplifying life, and his solutions always involved having fun. He volunteered for various judicial assignments because he enjoyed the law and the trip. In each city, we walked the streets and he always managed to find the best gas stations and put down a surprising amount of gas station food and treats. I watched him generously give to everyone around him—his means, time, talents, and praise—and he would actually get mad if you told anyone about it. His charisma and zeal for life were magnetic to everyone around him. He was the life of the party and the center of every room. He has a large group of devotees, of which I am one. He lived a generous, full life, and made a lasting impact on me and our legal community.



Matthew Lalli

While I have a lot of memories with Judge Benson, I think my favorite occurred last February in what may have been his last civil jury trial before the pandemic shut-down occurred. It was during a break, and Judge Benson walked out to the counsel table and struck up a conversation about how much he liked jury trials and how few of them there seem to be these days. He suggested the reason was because lawyers file too many motions and drive the cost of litigation up so much that trials have become unaffordable. Surprised by that, I countered that the reason for fewer jury trials is that judges don't grant enough dispositive motions so trials have become unaffordable. We both got a good laugh out of each other's perspective, but it illustrated perfectly what I grew to appreciate so much about Judge Benson. He was unabashed about expressing his opinion and making his rulings. He could be very direct in his criticism of counsel and parties (and he illustrated that throughout this same trial). But he always left me smiling about something he said and with the certainty that he wasn't holding anything against me personally. He was intelligent, fun, friendly, and severe. And it was always a pleasure to appear in his courtroom.

Yvette Rodier

When I think of Judge Benson, I think of the value of time. Judge Benson put people ahead of business and gave his time to so many of us during his much too short period of time on this earth.

One personal example is while I was in my third year of law school and trying to grasp the skill of presenting evidence for admission. Judge Benson, several clerks and I were talking in his chambers, and he stood up and told me to go in the courtroom with him. From there he had me stand at the podium and go through the steps of introducing an exhibit. He coached me along, ever patient with my nervous stammering, and then told me to think of it like a movie script and to memorize the questions. He had me repeat the questions over and over along with the movements (walking to and from the witness stand and podium). While listening to questions he had heard 1000s of times, he remained in the courtroom with me until I had the script down solid. Every time I start my script to introduce evidence, I think of Judge Benson.

I also think of the time he took before court hearings to be sure everything went smoothly. As a SAUSA I appeared in front of Judge Benson many times. I recall a specific hearing where he questioned the plea deal that was arranged and wanted to be certain the victim of the crime approved of the resolution. Without saying it, I knew he did not like the resolution we had made. I had to defend the deal outside of the courtroom, which made so much sense once we were in court. The hearing went as planned, without my sloppy recitation, because I'd had the chance to practice first.

Judge Benson's court staff were not treated as staff, but family. Clerks were always respected and valued. The wall of their faces was a daily reminder of the friendships and legal brilliant minds he'd led to distinguished legal, and non-legal, careers. Judge Benson's chambers was a place of laughter and legal contemplation. I loved to be in his chambers and would often find excuses to go there when I was looking for a good chat.

Time with his family was precious, and I loved to hear Judge Benson talking about his family and

how proud he is of his amazing children. And, Ron. The love and appreciation Judge Benson had for Ron was one of the loveliest qualities Judge Benson possessed.

I am a much better attorney for having learned from Judge Benson. I am an even better human for spending time with Judge Benson. I am forever grateful for his influence in my life.

James Ahlstrom

Like everyone, I always enjoyed Judge Benson's humor, wit, love of life, and willingness to live life to the fullest. I had the opportunity to extern for Dee after my first year of law school at BYU. He faithfully worked hard and was analytically brilliant. But he also didn't mind debating the finer legal nuances over a conference room table he had turned into a make-shift ping pong table by clamping a net on it. Whenever I would see him later, after not having interacted with him for years, he would treat me with the warmth of a loving brother or long last best friend. He was remarkably skilled and entertaining in every setting I had the chance to observe him. I remember at a Bar convention when someone asked a question about two different styles of mediator, the second of which had resulted in a resolution of the case. Dee quickly responded, "Use that second one then."

Several years into practice, I had the chance to get to know a good friend in my same community, who had been sentenced by Judge Benson for a federal drug crime of some sort. He now is fully reformed from any criminal activity and a strong member of the community and owner of his own business. He told me that Judge Benson used his sentencing discretion in his case to err on the light side of what could have occurred. He never forgot Judge Benson's compassion and exercise of judicial discretion in a way that helped steer him to be the productive member of society he has become. It brought tears to his eyes, and he told me that if I could ever arrange the chance for him to visit with Judge Benson in person he wanted to thank him in person. Sadly, I never had the chance to do that. But that interaction always has impressed me as a shining example of a fantastic person and judge exercising perfectly his goodness and discernment in a way that altered the life of this individual, like so many others impacted by Dee Benson, in a way that strengthened the community and society as a whole. I'll miss his entertaining and impactful way of living life to the fullest.

David Irvine

What will always be unforgettable to me about Dee Benson is that he was the funniest and best stand-up comic I have ever listened to. The event, as I remember, was when he was honored by the U of U law school as Judge of the Year several years ago. His acceptance remarks were riotously funny, warmly self-deprecating. If I tried now to do justice to what he said, I'd fail miserably, but listening to him riff for a half-hour was better than Seinfeld, Garrison Keillor, or Will Rogers. If there's any way to re-capture that evening, it would be a priceless memorial to a guy who was "Aw shucks, I'm the nation's most improbable federal judge, and here are all the reasons why." It was side-splitting.

Donald Dalton

I am not going to name names (to protect the guilty), but there are two episodes that stand out. (There are more.)

I settled an ERISA case, but the insurer was slow to pay. With no appointment, I wandered down to Judge Benson's chambers, and he let me in. (I had phoned opposing counsel in advance.) Judge Benson got the other attorney on the phone, but was dissatisfied with the explanation for the late payment. Therefore, after muting the phone and telling me to "watch this," he advised counsel that he was coming, in person, to his office to resolve the matter. Sure enough, we (the judge, his clerk, and an administrative assistant) loaded into his land barge of a car—after moving McDonald's wrappers and soccer balls in the back. The long and short of it was that the settlement check arrived in my office, by Federal Express, the next day. That's justice!

I was getting ready to start a 3-week jury trial in Judge Greene's court. (In what turned out to be one of the biggest cases of my career.) Judge Benson heard about this, somehow, and he showed up in court, just before opening statements, and told the representatives of my institutional client that I was the "Dr J" of trial lawyers in SLC. Now, I'm sure that wasn't true, and I am not even sure what he meant, but I was feeling pretty alone at the time, and Judge Benson's unprompted courtesy and friendliness gave me needed encouragement. I will never forget that.

My best to all involved. Judge Benson is sorely missed.

Lisa Marcy

I was arguing against a summary judgment motion in front of Judge Benson in 2005 or 2006. Judge Benson didn't look like he was in a very good mood—he kept forcefully tapping his pencil (pencil?!) against his forehead while opposing counsel was arguing his position. That was not, of course, a good sign for opposing counsel. My co-counsel leaned over and whispered to me: "What is your plan now?" I responded: "To make Judge Benson laugh." I figured that the judge needed to smile.

When it was my turn, I said something to the judge like: "I will try very hard to prevent you from getting a concussion from your pencil by making points that you might like."

He laughed! Phew!

Ken Johnsen

I argued a case involving an obscure trade-law case before Judge Benson while I was a general counsel. Judge Benson asked opposing counsel to cite applicable U.S. law on the issues. Opposing counsel responded by saying he had cited a California case. Judge Benson responded by saying, "that is true, but I asked for U.S. cases."

Evan Strassberg

Judge Benson's passing has affected me in two distinct but equally important ways.

First and foremost, my family and I lost the most gracious and wonderful next door neighbor anyone could ever ask for. To me, he was always Judge Benson. To my wife and kids, he was just our neighbor Dee. The friendly and perpetually upbeat guy with whom my son always wanted to play soccer. The quiet and unassuming man who lacked an ounce of pretention and would do anything for you. A man of boundless—and invariably quiet—generosity. We will miss that man immeasurably.

Second, like everyone else, I lost the most exceptional jurist I have ever known. Whenever I appeared before him I knew he would be prepared, thoughtful, courteous, and deliberate in rendering his decision. Even when he ruled against me, I might have disagreed with his conclusion but I understood why he did what he did. One particular instance stands out as being emblematic of Judge Benson's wisdom and temperament. I was appearing before him for a hearing in a trademark infringement action that was of great consequence to my client. When counsel arrived at the appointed time another hearing was in progress; as it turned out, it was a criminal sentencing. With a countenance that made undeniable his appreciation for the gravity of the moment and the humanity of the defendant before him, Judge Benson imposed—as the law required—a sentence of 20-years to life in a federal penitentiary. As the shackled defendant was escorted out of the courtroom and the attorneys made their exit, I and the other attorneys on our civil matter took our seats at counsel's tables. Judge Benson removed his glasses and made eye contact with each of us. He smirked for a moment and then said, "Well, after taking away a man's liberty, let's turn to something really important." All of the anxiety that I had felt about our hearing melted away. It wasn't that the matter for which we were there was not important—it was. It was simply the perfect way to put the importance of the matter into its proper perspective. No matter what happened in our hearing no one was going to prison. No lives were at stake. Yet, as Judge Benson proceeded to hear our argument, he was as engaged and prepared as ever, making it clear he understood the significance of our case to our clients. But the moment changed how I felt that day and how I've felt walking into court every time since then.

That was how impactful he could be—changing two lives forever in the space of a few minutes, albeit in monumentally different ways. His passing leaves a gaping and tangible hole in my personal and professional lives. But in the end I am eternally grateful to have known Judge Benson—and my neighbor Dee—and for all that he gave to me, my family, and to the Bench and Bar.

Lynda Krause

Despite Judge Benson's mixing me up with some of the other newer women in my office when I first started at the USAO, I had the privilege of practicing in front of him for almost 20 years. He was always one of my favorites for a couple of reasons.

Most importantly, he genuinely had an interest in a defendant's well-being and rehabilitation. Usually at a sentencing hearing, Judge Benson would speak candidly, humbly, and encouragingly to a defendant, letting them know that he was truly interested in their future success. He never mechanically went through a sentencing. I often would note that the defendants looked as if they were thankful for Judge Benson's taking the time to talk to them as a "person."

And secondly, his open door policy. I'll never forget when he allowed my mother to join us in his chambers after a hearing as she was visiting me from out of state. Somehow, they got to talking about his career and he mentioned he had worked in Saudi Arabia for a Walter Rowse. Come to find out he was my sister's "Uncle Walter" by marriage. We got a kick out of that. He also never seemed to mind . . . how many times I came to visit my dear friend, Alison, his lead clerk. And, he would even come in to say "hello." I always felt welcome, valued and at ease with him. A rarity in some of the higher spheres of the law.

I had a hearing scheduled for the day after his passing. I was really looking forward to seeing him and asking him how he was doing. I will miss him very much. A mentor of sorts. Teaching me the value of good judgment, thoughtful wisdom, and a kind, humble and humorous heart.

David Backman

My family and I will be forever grateful to Dee for setting my legal career on an undeserved trajectory. Talia and Spencer still refer to him as "soda man." Myriam laughs whenever she thinks of playing the card game nuts with Dee and his daughters, especially when Dee and Scott Bates mistakenly thought they could make up for their slow play by partnering together. And I will never forget the life lessons Dee taught me as a law clerk and friend, including: apologize completely, without any explanation; work hard and play hard; don't take yourself so seriously; the facts carry the day, while lawyers make far less of a difference than they think; and if you and the crazy Swede (Kenneth Stegeby) lather each other up with sunscreen within eyeshot of Dee, you will never hear the end of it.

I will always remember the law clerk trips to Santa Fe, Albuquerque, etc.; football on Wilson Arch; Dee's bewilderment at the Capitals continuing to sub out their best player, Alex Ovechkin, and his gloating when Ovechkin scored the winning goal in overtime; foosball and darts in chambers (and throwing some games to keep Dee engaged—I guess I can confess that now); Super Bowl parties; Dee cheering for the Bengals in the family section at Baltimore stadium; golf in the dark at Willow Creek, and on, and on, and on. I am also indebted to Dee for bringing so many great people into my life, who continue to be my best friends. My family and I miss Dee greatly, and we will forever keep him in our hearts to inspire us to live richer lives and always help others in unnoticeable ways. Our sincere condolences go out to our great friends Angie, Natalie, Luke, Katie, London, Lee, Eric, and others.

Trish Cassell

I clerked for Dee from January 1992 to January 1994. What a fantastic job for someone a year out of law school who had just moved to Utah. I've thought many times about how lucky I was to have clerked for Dee. Prior to moving to Utah in January 1992, my husband and I were on an extended trip out of the country and this was before smart phones and reliable internet and we were not always reachable for extended periods of time. So, my Mom became my employment agent and Dee would tell me that he hired me because he liked my Mom. I am really lucky that he and my Mom got a long so well.

Just like many of my fellow clerks, clerking for Dee was the best job I have ever had. It was fun to go to work. Most of the time the work was interesting and when it wasn't, we took breaks with some sort of competition. Like a whiffle ball game inside Dee's office where you could collect points depending on what you hit inside his office. Or the infamous bike race – starting at our chambers door, down the hall, past Judge Sam's chambers, turn around, and then speed back down the hall to the finish line. Extra points for the longest skid mark. That was the beginning of the end of a door that had to be replaced when Dee moved out of that chambers because it was full of dart holes.

We laughed a lot. But we worked hard – Dee's philosophy was work hard, play hard. The law and legal work didn't have to be a grind, but it could be fun. I learned so much those two years.

Clerking for Dee was bittersweet, really. The sweet, of course, was the job. The bitter was the realization that no other job could be quite as great. In no other job would there be bike races down the hall or whiffle ball games or ping pong tournaments or chambers mountain bike rides while learning from such a great legal mind.

I am heartbroken to lose a mentor and friend and I am so thankful to Dee's family for sharing him with us.

Reid Lambert

As a brand new attorney, I signed up to be on the CJA panel to represent indigent criminal defendants in federal court. I had a handful of cases before Judge Benson, and felt like he was somewhat of a mentor to me as young lawyer. In one such case, I appeared before Judge Benson in the first few days after he returned to the bench from having, in his words, "brain surgery." As the hearing began, I welcomed him back, and he gave a very brief synopsis of the event and his care. He wrapped it up by telling us that the surgery was so risky that any slip of just a millimeter any direction and "they would have had to put me on the Court of Appeals."

I was later involved in a CJA case where a zealous prosecutor was seeking a life sentence under the newly passed "three-strikes" law against a defendant who had never hurt anyone and was charged with stealing a total of less than \$2,000.00 (there may have been some aggravating factors). There were some speedy trial issues in the case involving a particular point of law not clearly resolved in the Tenth Circuit at the time. One day driving home on 20th East in Sandy, I pulled up at a red light right next to Judge Benson in his Jeep with the top off. I rolled down the passenger window of my car and yelled hello to him.

He saw me and said, “oh, I have something you might be interested in.” He grabbed a bag from his back seat, rummaged around a bit, pulled out some papers, and tossed them through the open window of my car. At the next light, I picked up the papers to see that it was an article on the speedy trial act, with a section addressing precisely the issue we were fighting about in the case.

With his youthful appearance, the way his robes sat on his shoulders, and his penchant for one-liners, I always felt like he was the real-world reincarnation of Harry T. Stone from Night Court, but his great sense of humor wouldn't have done him much good if he wasn't ultimately serious about and good at his job. I very much appreciate and am grateful for his dedicated service and his particular kindness to me over many years.

Erik Strindberg

Though I didn't realize it at the time, Judge Benson taught me an important lesson during an age discrimination case I was trying to a jury. I kept using the phrase “that isn't fair” while questioning witnesses. Judge Benson called me to the bench and, in no uncertain terms, said something to the effect of, “ Mr. Strindberg if you refer to what happened as being unfair one more time I'm liable to throw out the case. Whether something is fair or not is not the issue – its whether it violates the law.” While I was more than a bit annoyed at the time, the lesson has stayed with me!

Greg Smith

This is not extraordinary, but after a CLE I asked Judge Benson this: “Is there any rule you are aware of that would prohibit me from taking a deposition of two people at the SAME time, you know like a husband and a wife (to streamline things)?”

He smiled and essentially said: “That's definitely out of the normal box, but I see no reason why you cannot do that.”

I was surprised he answered the question instead of just saying I would have to research that one.

So, I took a deposition of two people at the same time. The court reporter had never seen it done before, and opposing counsel squawked a bit, but he finally agreed with Judge Benson that there appeared to be no prohibition of such.

Ron Kramer

One of my memories of Judge Benson is from when I had only been practicing for a few years. I thought I had the other side on a technicality that would allow the judge to make a certain ruling. Imagine my surprise when Judge Benson described the technicality as a “gotcha” and made it clear he would not be a party to allowing me to get an advantage over my adversary because of it. Motion denied! But I have remembered that lesson and with more experience under my belt, wish other judges felt the same way about the overall goal of furthering justice versus awarding points to one side because of a technical slip up.

David Steffensen

Judge Benson taught Evidence and Criminal Trial Practice at BYU, and I had the pleasure of taking both classes from him. I sat in the front of the class in evidence one day and found myself drafted to operate the DVD player so Judge Benson could show us clips from old black-and-white trial movies and point out how the actors were violating the rules of evidence. This position as informal IT guy continued in future classes (even if I changed seats), and even followed me to the Criminal Trial Practice course the following year. He was super chatty, and as I handed him back his case of DVDs after class he would almost always start a conversation about whatever was on his mind (the Kavanaugh Confirmation proceedings were happening at the time, and he really liked to speculate on whether he would get confirmed or not). He also gave great career advice, and explained how he went from an associate and partner at Snow Christensen & Martineau to working in Washington D.C. with Senator Hatch, recommended Hal Christensen as deputy attorney general and worked with him there, and ultimately made his way back to Utah as USDA and finally became a Federal Judge. I was still in his evidence class when I was hired by Snow Christensen & Martineau, and he excitedly told me that's where he started and that I lucked out.



He co-taught Criminal Trial Practice with Judge Paul Warner, one of his friends from law school, and the two Judges would banter back and forth for the entire class. It was a blast to practice examinations and closing arguments with such knowledgeable and fun mentors. Judge Paul Warner announced his intention to retire from the bench and stop teaching at BYU at the end of the Semester. It's tragic that, unbeknownst to us at the time, Judge Benson would also stop teaching at BYU the following year.

Above is a picture of the prosecution and defense teams of the Criminal Trial Practice mock trial Judge Benson presided over (the final exam was a full mock trial). From left to right, my classmates Grace Johnson, Alli Poulson, Judge Benson, and Gary Nielsen.

Ashby Boyle

Judge Benson's integrity was, I believe, absolute and was delightful, being joined with his caring and careful candor. I knew him in Chambers and as a neighbor in the Ward. I will miss his ironic asides sitting next to him in Sunday School when he thought a lesson "lacked jurisdiction" because the teacher presented what seemed personal opinion as if it were official doctrine. In Chambers he was always open to opposing views, and seemed even to enjoy them. I miss him very much but am grateful I got to know him.

Dan Larsen

Judge Benson was always entertaining with a jury in the box. During a trial in which I was defending several UHP officers in a civil rights case involving a strip search, he introduced the case to the jury as the matter of “Mr. Fitches who lost his britches.” The plaintiff’s name was Mr. Fitches. Laughter ensued.

Heath Waddingham

My enduring appreciation for the movie *My Cousin Vinny* is born of Judge Benson’s Evidence classes at BYU Law. We must have watched portions of that movie, which Judge Benson suggested was the most accurate cinematic representation of the law of evidence, in almost every class session. Judge Benson was such an engaging and interesting teacher of the law, with simple, relatable examples for the principles he taught. Even though I haven’t seen him in years, I will miss him and the influence he had on the legal community here in Utah.

Thom Rossa

Not long after Judge Benson had returned to the Bench following his surgery, my client and I were arriving early for a law and motion hearing set for early afternoon, probably 1:00 p.m. As we got off the southeast elevator in the old courthouse, who was turning the corner to go down the stairs by the elevator but Judge Benson. He was all decked out in his bicycle riding spandex, a logoed racing shirt and racing helmet. He was starting down the southeast stairs by the elevator with a racing bike in hand. We exchanged greetings.

Of course, my client and I were in the court room waiting at 1:00. Judge Benson walked in on time—puffing a little—noting that he had put on a shirt and tie . . . but still had his spandex on under his robe.

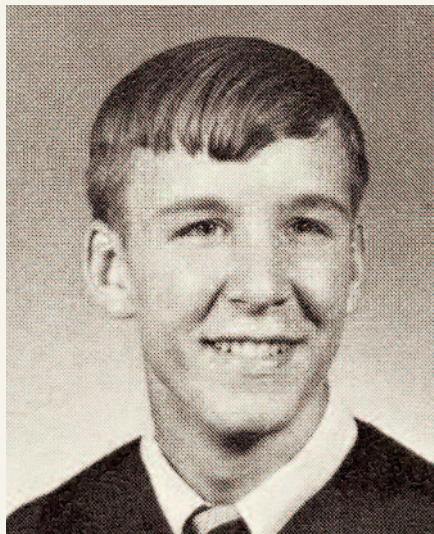
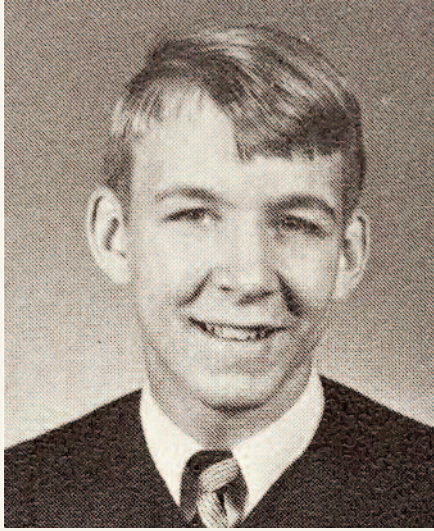
Ron Yengich

I first met Judge Dee Benson and his twin brother Lee, in either 1956 or 1957, on the playgrounds of Sandy Elementary School. Even in my dotage, I have a very good recollection of that meeting. As in all my dealings with Dee, Lee, and my brother Nick, I was not allowed to speak, being the youngest of the group. As time went on my brother, who was two years older than Dee and Lee (the same age difference between the Bensons and me), became in some instances, a mentor to them, and all three of them ultimately mentored me at various points of my life.

At Jordan High School, Dee and Lee Benson were recognized for what has been the hallmark of their personalities. A great deal of kindness, and openness to other people, and who would never be outworked. Of course, as a seven year old, I did not realize at the time, their capacity for greatness, and I never put voice to it until now. If this seems unusual that I would mention Lee in remembrance of Dee, anybody that knew the two of them realized the incredible depth of commitment and love that these twins had for each other. It never stopped as they grew in age and accomplishment. Many could not differentiate between the two of them. Early on, Lee made it clear that the difference was that he was the smartest, and the most handsome. Interestingly, Dee also said the same thing to me years later. In fact, they always expounded on their brothers' accomplishments with profound joy. One thing is for sure that for we Beetdiggers, the Benson Brothers have been regarded as two of Jordan High School's brightest lights to shine in their academic and professional careers, since leaving what was then a fairly sleepy rural town of Sandy, and the high school that celebrated the farming community of Salt Lake County, south of 5300 South in the Utah of the 50's, 60's, and early 70's. In many ways, their success story was and is a success story of their parents and others like them who worked so hard for their children, and whose expectation was that their children would also work hard and succeed in their endeavors. However, honesty requires that I mention that they were not "perfect" in all matters, they did follow their graduation from BYU as Cougar fanatics, which is somewhat understandable, yet their love of the New York Yankees must be considered a moral failing.

My goal in college was to become a writer like Lee and my brother. Like Dee, the law came as the proverbial thief in the night and led us down a different professional path. An interesting factoid about my relationship with Dee was that I was on the committee that sent his name amongst others, to Senator Orrin Hatch to fill the position to which he was ultimately appointed to on the District Bench for the United States District of the State of Utah. I can't help but laugh as I reflect on being in on the interviews of the applicants and sitting next to my law school classmate, Judge Scott Daniels (who shared a similar upbringing as Dee and I, although without the grace of being a Jordan High School Alumni), and as the interviews proceeded we came to realize that the words "fate accompli" is what should have been the designated name for our committee. Although I believe we sent in three names of great candidates, we were fairly certain that Dee would be the new Federal District Judge. The beauty of this circumstance was that all agreed that if that was the case, and he was appointed by the President, that the choice would be an exceptional one for the State of Utah and the Federal Judiciary, as it turned out to be.

As a friend and fellow Beetdigger, the loss of Dee Benson to the Judicial Community, the System of Justice, and the State of Utah cannot be quantified in any realistic way. The beauty in knowing someone like him (and his brother, Lee) is that my admiration is not tarnished by his passing, but on sound reflection of our relationship of over 60 years, glows much brighter as I reflect on his great career.



Row One: James Thompson, Ron Yengich, Randy Steadman, Lee Greenwood. Row Two: Dennis Carroll, Greg Walkenhorst, Melvin Rogers, Freddy Veltrie.



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For numerous reasons, 2020 has been a particularly rough year. In addition to everything else, on November 30, the Utah legal community lost one of its legends – Judge Dee Benson. Since I have known him, I have compared Dee to Don Shula, the winningest coach in NFL history, and the only coach to lead his team to an undefeated season (the 1972 Miami Dolphins). While much ink can, will, and should be spilled on Dee’s many professional accomplishments, here, I wanted to write a few words on behalf of Dee’s second family, his judicial clerks, all of whom he made feel like they were members of the ’72 Dolphins.

I would be remiss if I didn’t start with the games. I vividly remember the first time that Dee proposed a game of darts “baseball,” with the loser having to bring in a 12-pack of soda. I can also feel how timidly I trudged into Dee’s office the first time we interrupted his work to invite him to a game of darts. Who would have known how quickly darts would escalate into dozens of other contests including: no flinch, dropkick, 21, catchball, and dodgeball. It was unique enough to have a federal district court judge ducking and dodging around chambers. However, Dee was the type to laughingly re-enact taking a shot to the face. This playful spirit continued to the very end including just weeks before he passed, when Dee introduced me to electrical outlet mini golf (which he proceeded to crush me at, despite his failing balance).

It wasn’t all fun and games, or, at least, it wasn’t all games (Dee had a way of even making the work fun). Sometimes the fun was in the personal development.



Whether in preparing a bench memo or drafting an opinion, we would strive to perform at Dee's level, which, as a result of his incredible brilliance and deeply practical and intuitive nature, appeared to come so easily to him (and belied the countless hours Dee dedicated to his craft). Other times, it was more traditional "fun." I can picture Dee on the bench during oral argument, deep in thought, alternately pushing the temples of his glasses into the inner corners of his eyes, and then scribbling a note. Expecting him to need some important legal research, I was surprised to read the joke he had written instead. Dee had quickly seen to the heart of the matter, solved it, and now needed something to entertain himself.

And you can't forget the downtime – whether on a road trip for Dee to hear cases as a visiting judge, on walking field trips for lunch or other errands, or hanging out while Dee held court in chambers between hearings or at the end of the work day. During those times, we would be treated with some of Dee's best stories, as well as his famous thought experiments that started with "If I ruled the world," in which Dee proceeded to solve the world's most intractable problems in a matter of sentences. Despite the informal setting, you couldn't help but be struck by the profundity of his thoughts.

Even if not constrained by a word limit, I would not be able to convey what Dee meant to us all. While so much nuance is lost by simply saying that he gave us the greatest year(s) of our professional lives, it should still be said. We will miss the poignant guidance, the endless stories, the honest friendship.

From all of your '72 Dolphins, until we meet again.



Justice Tongue

From the Chambers of the Honorable J. Learned Tongue:

For obvious reasons this installment will not be a response to letters or pleas from the unwashed. It is, rather, my somber honor to address the passing of our dear colleague and friend Judge Dee Benson. Should this publication allow ten times the modest space to which I am confined, it would be insufficient to commemorate the honor of knowing, befriending and (for a time) serving with Judge Benson. This is personal. As a consequence, words are inadequate to the task and become no better suited by adding more.

A case can be made that Judge Benson, a P.E. major and high school soccer coach, found his way to the bench, not by aspiration, but rather, by a series of happy coincidences. Perhaps for that reason Judge Benson brought a common touch to both the great and the humble matters presented in his courtroom. He was always clear eyed and curious. He extended his talents to afford those who appeared before him the understanding that they would be heard, that they would be understood, and that a fair and impartial ruling would result from the course of the proceedings.

At the core of the foundation of our system of justice are the Rules of Evidence. Judge Benson became both a student and teacher of those singularly important rules and principles. In stark contrast to the inanity which passes for political discourse; in courts of law, the coin of the realm is evidence, provided with faithful adherence to both the letter and spirit of those procedures and rules that allow the solemn business of distributive justice to reveal the truth with dignity and fidelity to the time-honored principles of justice. Judge Benson was, in every ruling, committed to find the “right” outcome based impartially on the Rule of Law. This was not only true of his rulings from the federal bench, but also as he served for seven years on the FISA Court in Washington, D.C.

As I reflect on the critical role of the justice system in our republic, I must say, we could not have witnessed a more singular display of its indispensability as we confronted the recent attack on our presidential election. And in all the tumult, all the screaming, all the hand wringing, all the fraudulent rumors, innuendos and despicable chicanery, the justice system held firm to its commitment to the Rule of Law.

In the quiet calm of courtrooms around the country, federal and state judges and justices, appointed by presidents of both parties, with the same commitment to the Rule of Law Judge Benson displayed for 29 years on the bench, carefully, meticulously and honorably addressed the issues presented. A demand was made for admissible evidence. When it was found wanting, their rulings were clear, articulate and unequivocal.

We should now appreciate, as perhaps we have not in our generation, the importance of the judicial branch. It is, too often, the single line of defense against the deceitful madness of authoritarianism which prevails in most of the nations on the globe. Our faith in the judicial system and its jurists’ faithfulness to its underlying tenets and principles are the singular attribute that separates this country from most. It is under constant siege, and as we have seen recently, it is up to the task.

It is in light of such observations that this Justice especially feels the articulate pains of sorrow at the passing of our esteemed colleague. It is by reason of men and women, like Judge Benson, that we continue to aspire to our national promise and continue to secure our precious liberties.

It is an honor to serve in the judiciary, it is a privilege to associate with the men and women who have dedicated their lives to its elegant and indispensable machinery of distributive justice. No doubt all who served with Judge Benson offer up the same testament: that we are all better for having associated with this most honorable jurist.

Somberly,

J. Learned Tongue

Steve Hill

I met Dee Benson in 1974 during the first week of my first year as a student at BYU Law School. Dee had rented a basement apartment a couple blocks from old St. Francis School—where the law school was housed for its first two years—and he needed a roommate. As a member of the law school's Charter Class, Dee had already established himself as a savant—a former PE major who with apparent ease had soared to the top of his class. A mutual friend introduced us, thinking we would hit it off, and we did. My first recollection of Dee is that he told me he had collected his Wooley student loan, paid rent for the year, and spent the balance of the loan proceeds on a color TV and a set of Continental irons. That's what he did. Take care of the essentials and then have fun.

About a year ago, I completed a draft of a memoir, which needed a lot more work. Dee told me several times that he'd like to read it. I gave in and sent it to him about a month before he died. He called a week later. His first words were, "I finished your book. I assume you want a review." I said that I did. He said, "The first two-thirds were good, and the final third not so much. In fact, you should have paid me to read the last twenty pages. On the other hand, given my life expectancy, maybe I should thank you because those pages were so bad it felt like time slowed down and extended my life." He then offered some advice: "You know how a really good mountain biker or skier finds the best line down the mountain? That's what you need to do with your book. Find the story line and throw out the rest. No one will miss it."

Although he didn't always stay on course, Dee had a preternatural ability to find the best line through life. In his work as a judge and lawyer, he quickly grasped what was important, and didn't waste time on irrelevant facts or legal theories. He had a gift for analogies that simplified the most complex problems. I recall a complicated case where a lawyer was having some difficulty explaining the facts. Dee interrupted him and said, "So you are telling me the defendant is like the fan at a baseball game who pockets the money he's supposed to pass down the row for a hot dog, right?"

After he took senior status, he maintained a full case load, doing so in half the time or less it would have taken most judges. He nearly always took on some extra assignment—from the serving on the FISA court to trying a case in Boise, teaching at both BYU and Utah law schools, speaking on intellectual property and other subjects at conferences around the world, and volunteering to arbitrate the claims of dozens of wildfire victims.

Although he was an introvert, and enjoyed time alone, he was engaging and had a wide range of friends—from the powerful and famous to his neighbors down the street. He made his time with people count. Although he was terrible at returning phone calls, whenever I was in any sort of crisis, he showed up—sometimes just listening, at times offering advice, and on one occasion showing up with McDonald's hamburgers at my hospital room the evening before I had surgery, knowing that my doctor had instructed me not to eat. I had open heart surgery six weeks before he died. Following my surgery, he checked to see how I was doing almost daily, showing more concern about my condition than his own.

His sense of humor was legendary. During his years as chief judge, his annual report on the state of the judiciary was usually the most anticipated and well attended session of the bar convention, more entertaining than a Johnny Carson monologue. One year, he participated in a panel with Justice Clarence Thomas. During the Q&A, someone began a question, saying, "You know, there are three

branches of government. . . “Dee broke in, “Let me stop you right there. You mean to tell me there are three branches of government?” The audience, including Thomas, exploded in laughter. Afterward, Thomas told Dee, “You, funny man.”

In our later years, he and I frequently went on bike rides together, where we discussed every subject imaginable. Once, on ride over a treacherous, unimproved dirt road on our way back from Paradise to Eden, as the sky darkened and the wind started to blow, he said, “There’s one thing that could really spoil a ride like this—concerning ourselves with whether it’s going to rain. If you think about rain, you’ll ride like hell and worry the whole time. If you don’t care, you won’t worry, and you’ll enjoy the rain if it comes.” When we arrived at his truck at the end of our ride, he noted my mud splattered pants, jacket, and bike, and said: “You look the way a mountain biker ought to look.” After a moment he added: “That was the perfect ride.”

In the days immediately following his death, as I read tributes describing his accomplishments, it struck me that most people knew him, or at least knew of him, as a public figure. Even though we had tried cases together and I’d appeared in court before him, in my eyes he was the guy in bike shorts rather than the guy in the robe. He was highly accomplished—undoubtedly one of BYU Law School’s most distinguished graduates—and he knew it. But to me he was, above all, a great friend, and a kind and generous person.

From what I saw, although frustrated with his lack of mobility, Dee remained upbeat to the end. He didn’t worry. He knew how to enjoy the rain.

The United States District Court for the District of Utah issued the following statement on November 30, 2020:

The United States District Court for the District of Utah is deeply saddened to announce that beloved United States District Judge Dee Benson passed away this morning at the age of 72. A brilliant jurist, Judge Benson tirelessly served the District of Utah since his appointment to the bench by President George H. W. Bush in 1991. His warm and disarming demeanor often belied his stunningly keen intellect. Beyond his extraordinary legacy as a judge, it is simply not possible to adequately express the measure of Judge Benson’s personal impact on the lives of our court staff and his colleagues on the bench. He transcended his office and in many ways transformed our court.

We extend our deepest sympathies to his family and loved ones.

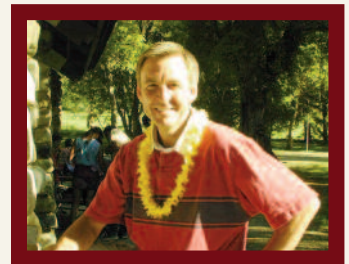
Judge Benson Memorial Scholarship

To honor Judge Benson, a group of judges and practitioners have established the Dee Benson Memorial Scholarship at the SJ Quinney College of Law, where Judge Benson taught for years. The scholarship will be a means of perpetuating his memory for generations of law students and lawyers who never knew him, but will learn about him because of the scholarship.

If you would like to contribute to the Dee Benson Memorial Scholarship, donations can be made using the following link:

<https://ugive.app.utah.edu/designation/81?specialInstructions=Dee%20Benson%20Memorial%20Scholarship%20LW32897-40165>











In Memoriam of the Honorable Dee Vance Benson

August 25, 1948 - November 30, 2020



Contributions by:

Judge Paul Warner

Jim Gilson

Tim Nichols

Judge Clemens

Landau

Jacob Strain

Judge Royal Hansen

Heather S. White

Abby Dizon-

Maughan

Dawn David

Judge Ted Stewart

Judge Dustin Pead

Laura "Marquez"

Johnson

Daniel Vincent

Ben Aldana

Judge Michael

Newman, Southern

District of Ohio

Llyod Sadler

Scott Young

Mark Miller

Judge Dale Kimball

Judge David Williams

Michael R. Carlston

Mark Vincent

Shannon DeNalty

Freedman

Judge Jared Bennett

Mark Jones

Kent Scott

Sam Meziani

Matt Steward

Jason McNeill

Jordan Lee

Matthew Lalli

Yvette Rodier

James Ahlstrom

David Irvine

Donald Dalton

Lisa Marcy

Ken Johnsen

Evan Strassberg

Lynda Krause

David Backman

Trish Cassell

Reid Lambert

Erik Strindberg

Greg Smith

Ron Kramer

David Steffensen

Ashby Boyle

Dan Larsen

Heath Waddingham

Thom Rossa

Ron Yengich

Justice Tongue

Steve Hill