

THOMAS REX LEE

530 JRCB

Brigham Young University

Provo, UT 84602

leet@law.byu.edu

EDUCATION

University of Chicago Law School: J.D. with High Honors, 1991

Order of the Coif

University of Chicago Law Review

Managing Editorial Board, Topics & Comments Editor, 1990-91

John M. Olin Prize to the outstanding graduate in law & economics

Joseph Henry Beale Prize for outstanding work in first-year legal
research and writing program

John M. Olin Fellowship in law & economics

Brigham Young University: B.A., Economics, Summa Cum Laude, 1988

Edwin S. Hinckley Scholar, 1987-88

Trustee's Scholar, 1983-84, 1986-87

EXPERIENCE

- 2023 – :** **Brigham Young University, J. Reuben Clark Law School**
Rex & Maureen Rawlinson Professor of Law
- 2023- :** **Schaerr Jaffe, LLP**
Senior Academic Affiliate
- 2022 – 2023:** **Brigham Young University, J. Reuben Clark Law School**
Visiting Professor
- 2022 – :** **Corpus Juris Advisors LLC**
Shareholder
- 2010 – 2022:** **Utah Supreme Court**
Justice
- 2018-2022:** **Advisory Committee, Federal Rules of Civil Procedure**
- Fall 2018-2022:** **Harvard Law School**
Lecturer
- Spring 2020-2022:** **University of Chicago Law School**
Lecturer
- 1997 – 2022:** **Brigham Young University, J. Reuben Clark Law School**

- 2010 – 2022: Distinguished Lecturer
 2009 - 2010: Rex & Maureen Rawlinson Professor of Law
 2008 – 2009: Associate Dean for Faculty & Curriculum
 2003 – 2008: Professor of Law
 1997 – 2003: Associate Professor of Law
- 2004-2005: Deputy Assistant Attorney General, Civil Division, U.S. Department of Justice**
- As head of Federal Programs Branch, responsible for all civil litigation against federal government involving challenges to constitutionality of federal legislation and legality of executive action
 - Supervised and oversaw brief writing and appellate advocacy by branch of approximately 85 attorneys
 - Presented oral arguments in *Guantanamo Bay Detainee* cases (D. D.C.) and *Waxman v. Thompson* (C.D. Cal.)
- 2001-2002: Lead Counsel for the State of Utah in *Utah v. Evans***
- Presented oral arguments in three-judge district court in cases challenging method of statistical imputation and of overseas population count in 2000 census
 - Presented oral argument in U.S. Supreme Court in statutory and constitutional challenge to statistical imputation
- 1999 - 2010: Of Counsel, Howard, Phillips, & Andersen**
- Trademark, copyright, & trade secret litigation in Fourth Circuit, Sixth Circuit, Tenth Circuit, District of Utah, Eastern District of Virginia, Eastern District of Michigan, Northern District of New York, Southern District of Florida, Southern District of Texas, Northern District of Illinois
 - Lobbied on behalf of Porsche Cars in support of Anticybersquatting Consumer Protection Act (1999)
- 1992-94, 1995-97: Associate ('92-'94), Shareholder ('95-'97), Kimball, Parr, Waddoups, Brown & Gee: Intellectual Property Law, Employment Law, Commercial Litigation**
- 1994-1995: Law Clerk to the Honorable Clarence Thomas, Associate Justice of the United States Supreme Court**
- 1991-1992: Law Clerk to the Honorable J. Harvie Wilkinson, III, United States Court of Appeals for the Fourth Circuit**

PUBLICATIONS

Artificial Meaning? 77 Florida L. Rev. __ (2025) (forthcoming) (co-authored with Jesse Egbert)

Triangulating the Likelihood of Confusion: Linguistics and Consumer Surveys, 50 B.Y.U. L. Rev. 1 (2024) (co-authored with Eric DeRosia and Jesse Egbert)

Prototype-by-component analysis: A corpus-based, intensional approach to ordinary meaning in statutory interpretation, Applied Corpus Linguistics, 4(1) (co-authored with Jesse Egbert (2024)

Corpus Linguistics and the Original Public Meaning of the Sixteenth Amendment, 73 Duke L. J. Online 59 (2024) (co-authored with Lawrence Solum, James Phillips, and Jesse Egbert)

Legal Language (Chapter in The Cambridge Handbook of Corpus Linguistics (Randi Reppen, Larissa Goulart, and Doug Biber eds.) (2024) (co-authored with Jesse Egbert)

Law and Corpus Linguistics (Chapter in the Cambridge Handbook of Experimental Jurisprudence) (2024) (co-authored with Stephen Mouritsen)

Triangulating Ordinary Meaning, 112 Geo. L. J. Online 23 (2023) (co-authored with Kevin Tobia and Jesse Egbert)

The Pragmatics of Institutional Discourse (Chapter in the Encyclopedia of Applied Linguistics) (2023) (co-authored with Jesse Egbert and Margaret Wood)

The Corpus and the Critics, 88 U. Chi. L. Rev. 275 (2021) (co-authored with Stephen Mouritsen)

Data-Driven Originalism, 167 Penn. L. Rev. 261 (2019) (co-authored with James Phillips)

Judging Ordinary Meaning, 127 Yale L. J. 788 (2018) (co-authored with Stephen Mouritsen)

Corpus Linguistics & Original Public Meaning: A New Tool To Make Originalism More Empirical, 126 Yale L.J. F. 21 (2016) (co-authored with James Phillips & Daniel Ortner)

An Empirical and Consumer Psychology Analysis of Trademark Distinctiveness, 41 Ariz. St. L. J. 1033-1109 (2009) (co-authored with Glenn Christensen and Eric DeRosia)

Sophistication, Bridging the Gap, and the Likelihood of Confusion: An Empirical and Theoretical Analysis, 98 Trademark Reporter 913 – 949 (2008) (co-authored with Glenn Christensen and Eric DeRosia)

Trademarks, Consumer Psychology, and the Sophisticated Consumer, 57 Emory L. J.

575-650 (2008) (co-authored with Glenn Christensen and Eric DeRosia)

Overrulings, Chapter in Encyclopedia of the Supreme Court (Macmillan USA 2008)
(David S. Tanenhaus, ed.)

Demystifying Dilution, 84 Boston Univ. L. Rev. 859-944 (2004)

Eldred v. Ashcroft and the (Hypothetical) Copyright Term Extension Act of 2020, 12
Tex. Int. Prop. L.J. 1-23 (2003)

Utah's Census Battles: The Inside Story, 16 Chance 21-29 (2003) (co-authored with Lara
J. Wolfson)

The Census and the Overseas Population, 2 Elec. L. J. 343-66 (2003) (co-authored with
Lara J. Wolfson)

“To Promote the Progress of Science”: The Copyright Clause and Congress's Power to
Extend Copyrights, 16 Harv. J. Law & Techn. 1-23 (2002) (co-authored with Senator
Orrin G. Hatch)

The Original Understanding of the Census Clause, 77 Wash. L. Rev. 1-64 (2002)

Tribute to Rex E. Lee, 3 J. App. Pract. & Process 560-563 (2001)

The *Anastasoff* Case and the Judicial Power to “Unpublish” Opinions, 77 Notre Dame L.
Rev. 135-173 (2001) (co-authored with Lance Lehnhof)

Preliminary Injunctions and the Status Quo, 58 Wash. & Lee L. Rev. 109-166 (2001)

In Rem Jurisdiction in Cyberspace, 75 Wash. L. Rev. 97-145 (2000)

Stare Decisis in Economic Perspective: An Economic Analysis of the Supreme Court's
Doctrine of Precedent, 78 N.C. L. Rev. 643-706 (2000)

The Clinton Impeachment and the Constitution, 1999 BYU L. Rev. 1079-97

Stare Decisis in Historical Perspective: From the Founding Era to the Rehnquist Court,
52 Vand. L. Rev. 647-735 (1999)

Pleading and Proof: The Economics of Legal Burdens, 1997 BYU L.Rev. 1-34

Comment, The Standing of Qui Tam Relators Under the False Claims Act, 57 U. Chi. L.
Rev. 543-71 (1990)

APPEARANCES & PRESENTATIONS

Judicial Retreat, Judicial Education Institute, Presentations on Data-Driven Originalism

and Artificial Meaning (Park City UT, October 2-3, 2025)

Conference Co-Chair, 10th Annual Law and Corpus Linguistics Conference (Provo UT, October 24, 2025)

Law and Corpus Linguistics Conference, Presentation on Use of Artificial Intelligence Tools in Discerning Ordinary Meaning (Provo UT, October 24, 2025)

Conference Co-Chair, 9th Annual Law and Corpus Linguistics Conference (Provo UT, October 25, 2024)

Law and Corpus Linguistics Conference, Presentation on Artificial Meaning (Provo UT, October 25, 2024)

American Juris Link, State Judicial Clerk Workshop, Presentation on Legal Research Tools Beyond Westlaw (Phoenix AZ, September 20, 2024)

Utah Courts, Annual Judicial Conference, Presentation on Artificial Intelligence, Corpus Linguistics, and the Future of Interpretation (Midway UT, September 13, 2024)

Judicial Retreat, Judicial Education Institute, Presentations on Data-Driven Originalism and the Canons of Construction (Lewisburg WV, February 2024)

Conference Co-Chair, 8th Annual Law and Corpus Linguistics Conference (Provo UT, October 2023)

Law and Corpus Linguistics Conference, Presentations on Triangulating the Likelihood of Confusion, and Prototype-by-component analysis (Provo UT, October 2023)

Judicial Retreat, Judicial Education Institute, Presentations on Data-Driven Originalism and the Canons of Construction (Orlando FL, July 2023)

AAAL Annual Meeting, American Association for Applied Linguistics, Presentation on Corpus Linguistics and Intensional (Conceptual) Meaning (Portland OR, March 2023)

Legislation Roundtable, Presentation on Linguistic Analysis of Linguistic Canons (Washington DC, March 2023)

Ninth Circuit Judicial Conference, Presentation on Law and Corpus Linguistics (Scottsdale AZ, January 2023)

Federal Judicial Center, Appellate Judges Symposium, Panel on Statutory Interpretation (with John Manning and Abbe Gluck) (Washington, D.C., Nov. 3, 2022)

Appellate Judges Education Institute, Panel on Law and Linguistics (Scottsdale, AZ, Nov. 10, 2022)

Judicial Education Institute, Presentation on *Data-Driven Originalism* (October 13, 2022)

Advisory Opinions Podcast, Law and Corpus Linguistics (September 7, 2022)

Georgetown Center for the Constitution, *Originalism for Judges Seminar* (June 18, 2021)

University of Chicago Federalist Society, *Linguistic Analysis of Linguistic Canons* (May 7, 2021)

American Academy of Appellate Lawyers, *The Corpus Linguistics Approach to Refining Textual Interpretation* (April 19, 2021)

Heritage Foundation, Judicial Law Clerk Training Academy (March 25, 2021)

Georgetown University Law Center, Originalism Summer Seminar, *Data-Driven Originalism* (May 23, 2019)

University of Chicago Federalist Society, *Impartialism* (May 2019)

Heritage Foundation, Judicial Law Clerk Training Academy (February 21, 2019)

Heritage Foundation, Edwin Meese III Center for Legal and Judicial Studies, 2018 Spring Legal Strategy Forum (June 5-6, 2018)

Georgetown University Law Center, Originalism Summer Seminar, *Data-Driven Originalism* (May 24, 2018)

Ninth Annual Hugh & Hazel Darling Foundation Originalism Works-in-Progress Conference, University of San Diego, *Data-Driven Originalism* (February 17, 2018)

University of Pennsylvania Law School, Public Law Scholarship Workshop, *Judging Ordinary Meaning* (October 4, 2017)

University of Pennsylvania Law School, Federalist Society Presentation, *Data-Driven Originalism* (October 4, 2017)

Georgetown University Law Center, Originalism Boot Camp, *Data-Driven Originalism* (May 25, 2017)

Yale Law School, Federalist Society Presentation, *Judging Ordinary Meaning* (February 20, 2017)

Federalist Society Faculty Conference, San Francisco, CA, *Law and Corpus Linguistics Panel* (January 5, 2017)

Harvard Law School, Federalist Society Annual Dinner, Keynote Speaker (April 15, 2016)

Stanford Law School, CodeX, Presentation on Corpus Linguistics (October 22, 2015)

J. Reuben Clark Society Annual Conference, Dallas, Texas, February 2011, *Civility and Effective Appellate Advocacy*

Intellectual Property Scholars Conference, New York, New York, August 2009, *An Empirical and Consumer Psychology Analysis of Trademark Distinctiveness*

Federalist Society, Annual Faculty Conference, San Diego, California, January 9, 2009, Work-In-Progress Presentation, *Trademark Meaning*

J. Reuben Clark Society, Faculty Chapter, Mini-Conference, San Diego, California, January 6, 2009, Commentator for David Pimentel, *Judicial Misconduct and Reporting Pitfalls*

Stetson University School of Law, November 14, 2008, Work In Progress Presentation, *Just Semantics? Descriptive Trademarks in Commercial Context*

International Trademark Association, Trademark Reporter Committee Annual Meeting, Boca Raton, Florida, November 13, 2008

Utah Public Radio, “Access Utah,” October 6, 2008 (Radio Call-In program on “First Monday” opening of Supreme Court term, with Professors Amy Wildermuth, University of Utah, and RonNell Andersen Jones, BYU Law School)

Utah Defense Lawyers Association Annual Meeting, Salt Lake City, UT (“Physical and Mental Examinations Under Utah Rule of Civil Procedure 35”)

International Trademark Association, Learned Professor Symposium, New York, New York, January 3, 2008 (“Trademarks and the Reasonably Prudent Buyer: A Theoretical and Empirical Analysis of Consumer Sophistication”)

National Public Radio, *All Things Considered*, January 20, 2006 (discussion of subpoena issued to Google in *ACLU v. Gonzalez*, which involves a First Amendment challenge to the Child Online Protection Act)

National Public Radio, *Talk of the Nation*, January 23, 2006 (discussion of subpoena issued to Google in *ACLU v. Gonzalez*, which involves a First Amendment challenge to the Child Online Protection Act)

AWARDS & PROFESSIONAL AFFILIATIONS

2024 Lee Liberman Otis Award for Distinguished Service, Federalist Society

Advisory Committee, Federal Rules of Civil Procedure, 2018-2022

Utah Judicial Council, 2015-2019

Teacher of the Year, BYU Law School, 1999-2000 and 2002-2003

Utah Supreme Court, Advisory Committee on Rules of Civil Procedure, 1999-2009

Utah State Bar, United States Supreme Court Bar, Bars of the United States Courts of Appeals for the Fourth Circuit, Tenth Circuit, and District of Columbia Circuit