

D. GORDON SMITH

Ira A. Fulton Chair
J. Reuben Clark Law School
Brigham Young University
534 JRCB, Provo, Utah 84602
801.422.3233
smithg@law.byu.edu

Academic Appointments

J. Reuben Clark Law School, Brigham Young University, Provo, Utah

- Ira A. Fulton Chair, 2022-Present
- Dean, 2016-2023
- Woodruff J. Deem Professor of Law, 2019-2022
- Glen L. Farr Professor of Law, 2007-2019
- Associate Dean for Faculty and Curriculum, 2009-2014

University of Wisconsin Law School, Madison, Wisconsin

- Professor of Law, 2002-2007
- Associate Director, Initiative for Studies in Technology Entrepreneurship, 2002-2007
- Faculty, Master of Science in Biotechnology, 2004-2007
- Faculty, Global Legal Studies Initiative, 2004-2007
- Institute for Legal Studies Distinguished Scholar, 2009

Lewis & Clark Law School, Portland, Oregon

- Associate Professor of Law, 1997-2002 (tenured 2000)
- Assistant Professor of Law, 1994-1997

Education

The University of Chicago Law School, Chicago, Illinois

- J.D., with honors, 1990
- Law Review Managing Board, Comment Editor, 1989-1990
- Law Review Staff Member, 1988-1989
- Bradley Law and Government Fellow, 1990 (selected by faculty)

Brigham Young University, Provo, Utah

- B.S. (Accounting), *magna cum laude*, 1986

Legal Experience

Skadden, Arps, Slate, Meagher & Flom, Wilmington, Delaware

- Corporate Associate, 1991-1994

Judge W. Eugene Davis, Fifth Circuit Court of Appeals, Lafayette, Louisiana

- Clerk, 1990-1991

Publications

Books

- ADVANCED INTRODUCTION TO FIDUCIARY LAW (under contract Edward Elgar Publishing 2027) (with Evan J. Criddle)
- CONCISE ENCYCLOPEDIA OF FIDUCIARY LAW (under contract Edward Elgar Publishing 2027) (with Yifat Naftali Ben Zion)
- HANDBOOK ON LAW AND ENTREPRENEURSHIP (Cambridge University Press 2022) (with Brian Broughman and Christine Hurt)
- RESEARCH HANDBOOK ON FIDUCIARY LAW (Edward Elgar 2018) (with Andrew Gold)
- BUSINESS ORGANIZATIONS: CASES, PROBLEMS & CASE STUDIES (3rd ed. Wolters Kluwer 2012) (with Cynthia A. Williams)
- BROMBERG & RIBSTEIN ON PARTNERSHIPS (2nd ed. Wolters Kluwer 2014) (with Christine Hurt)
- BROMBERG & RIBSTEIN ON LIMITED LIABILITY PARTNERSHIPS, THE REVISED UNIFORM PARTNERSHIP ACT, AND THE UNIFORM LIMITED PARTNERSHIP ACT (Wolters Kluwer 2015) (with Christine Hurt)

Articles

- *How Fiduciary Law Works*, 2026 COLUM. BUS. L. REV. __ (forthcoming 2026) (with Evan J. Criddle)
- *Unbounded Loyalty*, 76 AM. U. L. REV. __ (forthcoming 2026) (with Marianna Gracheva)
- *Delaware's Frontier*, 24 U. PA. J. BUS. L. 791 (2022) (with Matthew Jennejohn)
- *Insider Trading and Entrepreneurial Action*, 95 N.C. L. Rev. 1507 (2017)
- *Family Law and Entrepreneurial Action*, 77 OHIO ST. L.J. FURTHERMORE 31 (2016) (response to Ben Means, *The Contractual Foundation of Family-Business Law*, 75 OHIO ST. L.J. 675 (2014))
- *Fiduciary Discretion*, 75 OHIO STATE L.J. 609 (2014) (with Jordan C. Lee)
- *Contractually Adopted Fiduciary Duty*, 2014 ILL. L. REV. 1783, for "Larry Ribstein Memorial Symposium," sponsored by the University of Illinois College of Law, October 17-18, 2013
- *Law and Entrepreneurial Opportunities*, 98 CORNELL L. REV. 1533 (2013), for "Symposium on Law and Entrepreneurship," sponsored by Cornell Law School, New York City, NY on November 2, 2012 (with Darian Ibrahim)
- *Private Ordering with Shareholder Bylaws*, 80 FORDHAM L. REV. 125 (2011) (with Matthew Wright and Marcus Kai Hintze), *reprinted in* 54 Corporate Practice Commentator 147 (2012)
- *Contracts as Organizations*, 51 ARIZ. L. REV. 1 (2009) (with Brayden King) (published with commentary by Robert P. Bartlett, III and Anna Gelpern)
- *Unpacking Adaptability*, 2009 BYU L. Rev. 1553 (with Andreas Engert), for "BYU Law Review Symposium on Evaluating Legal Origins Theory," sponsored by J. Reuben Clark Law School, Brigham Young University, Provo, Utah on February 6, 2009

- *The Dystopian Potential of Corporate Law*, 57 EMORY L. J. 985 (2008) (published with a companion piece: Kent Greenfield, *Saving the World With Corporate Law*, 57 EMORY L. J. 948 (2008))
- *Entrepreneurs on Horseback: Reflections on the Organization of Law*, 50 ARIZ. L. REV. 71 (2008) (with Darian Ibrahim)
- *The "Branding Effect" of Contracts*, 12 HARV. NEGOT. L. REV. 189 (2007), for "Conference on Case Studies and Negotiations," sponsored by Harvard Law School, Cambridge, Massachusetts on April 26, 2006
- *Bit by Bit: A Case Study of Bloggership*, 84 WASH. U. L. Q. 1135 (2006) for "Bloggership: How Blogs are Transforming Legal Scholarship," sponsored by Harvard Law School, Cambridge, Massachusetts on April 28, 2006
- *Law & Entrepreneurship: Do Courts Matter?*, 1 ENTREPRENEURIAL BUS. L. J. 353 (2006), for "Location, Luck, or the Law: Why Some Venture Capital Communities Flourish," sponsored by The Ohio State University Michael E. Moritz College of Law, Columbus, Ohio on March 17, 2006
- *The Exit Structure of Venture Capital*, 53 UCLA L. REV. 315 (2005) (selected as one of the Best Corporate & Securities Articles of 2006 in a poll of corporate and securities law professors)
- *The Exit Structure of Strategic Alliances*, 2005 ILL. L. REV. 303 (2005), for "Uncorporation: A New Age?," sponsored by the University of Illinois College of Law, Chicago, Illinois on April 23, 2004
- *Independent Legal Significance, Good Faith, and the Interpretation of Venture Capital Contracts*, 40 WILLAMETTE L. REV. 825 (2004), for "Venture Capital after the Bubble," sponsored by Willamette University College of Law, Portland, Oregon on March 5, 2004
- *Experience, Contractual Covenants and Venture Capitalists' Responses to Unmet Expectations*, 2004 FRONTIERS OF ENTREPRENEURSHIP RESEARCH (with Annaleena Parhankangas and Hans Landström), for 2004 Babson College/ Kauffman Foundation Entrepreneurship Research Conference, University of Strathclyde, Glasgow, Scotland on June 3-5, 2004 (received Taylor & Francis Publishers Award for Excellence in Research on the Topic of Venture Capital)
- *The Critical Resource Theory of Fiduciary Duty*, 55 VAND. L. REV. 1399 (2002)
- *Toward a New Theory of the Shareholder Role: "Sacred Space" in Corporate Transactions*, 80 TEXAS L. REV. 261 (2001) (with Robert B. Thompson), *reprinted in* 44 Corporate Practice Commentator 453 (2002) (selected as one of the Best Corporate & Securities Articles of 2002)
- *Team Production in Venture Capital Investing*, 24 J. CORP. L. 949 (1999), for "Sloan Conference on Team Production in Business Associations," sponsored by Georgetown Law Center, Washington, D.C. on March 4-5, 1999
- *A Proposal to Eliminate Director Standards From the Model Business Corporations Act*, 68 U. CIN. L. REV. 1201 (1999), for "Twelfth Annual Conference on Corporate Law," sponsored by University of Cincinnati School of Law, Cincinnati, Ohio on March 11, 1999
- *How Early Stage Entrepreneurs Select Venture Capitalists*, J. PRIVATE EQUITY (Winter/Spring 2001) (also in 1999 FRONTIERS OF ENTREPRENEURSHIP RESEARCH), for the 1999

Babson College/ Kauffman Foundation Entrepreneurship Research Conference,
University of South Carolina, Columbia, South Carolina on May 12-15, 1999

- *The Shareholder Primacy Norm*, 23 J. CORP. L. 277 (1998)
- *Venture Capital Contracting in the Information Age*, 2 J. SMALL & EMERGING BUS. L. 133 (1998), for “Financing Innovation” sponsored by Lewis & Clark School, Portland, Oregon on September 26, 1997
- *Chancellor Allen and the Fundamental Question*, 21 SEATTLE U. L. REV. 577 (1998)
- *Corporate Governance and Managerial Incompetence: Lessons From Kmart*, 74 N.C. L. REV. 1037 (1996)
- *Beyond “Public Concern”: New Free Speech Standards for Public Employees*, 57 U. CHI. L. REV. 249 (1990) (student comment)

Book Chapters

- *Fiduciary Law and the Preservation of Trust in Business Relationships*, in FIDUCIARIES AND TRUST: ETHICS, POLITICS, ECONOMICS, AND LAW (Matthew Harding and Paul Miller, eds. 2020)
- *Firms and Fiduciaries*, in CONTRACT, STATUS, AND FIDUCIARY LAW (Andrew Gold and Paul Miller eds. 2016)
- *The Modern Business Judgment Rule*, in RESEARCH HANDBOOK ON MERGERS AND ACQUISITIONS (Steven Davidoff Solomon and Claire Hill eds. 2016)
- *Duties of Nominee Directors*, in COMPARATIVE COMPANY LAW: A CASE-BASED APPROACH (Mathias Siems and David Cabrelli eds. 2013)
- *Doctrines of Last Resort*, in REVISITING THE CONTRACTS SCHOLARSHIP OF STEWART MACAULAY: ON THE EMPIRICAL AND THE LYRICAL (Jean Braucher, John Kidwell & William Whitford, eds. 2013)
- *The Role of Shareholders in the Modern American Corporation*, in THE RESEARCH HANDBOOK ON ECONOMICS OF CORPORATION LAW (Brett McDonnell & Claire Hill eds., 2012)
- *Commons, Hurst, Macaulay, and the Wisconsin Legal Tradition*, in THE ELGAR COMPANION TO TRANSACTION COST ECONOMICS (Peter Klein, ed., 2010)

Teaching

Principal Courses Taught

- Business Organizations
- Contracts
- Fiduciary Law
- Law & Entrepreneurship

Teaching Honors

- BYU Law School Alumni Association, Teacher of the Year, J. Reuben Clark Law School, Brigham Young University (voted by students in three most recent graduating classes), August 25, 2011
- Student Bar Association First Year Professor of the Year Award, J. Reuben Clark Law School, Brigham Young University (voted by students), March 14, 2008
- Faculty Graduation Speaker, University of Wisconsin Law School, May 12, 2006 (elected by graduating class)

Selected Service

- Chair, Fiduciary Law Workshop Organizing Committee (2024-Present)
- Founded the Law & Entrepreneurship Association (with Brian Broughman) (2013)
- Member of the Corporate Laws Committee of the Section of Business Law, American Bar Association (2013-2017)
- Association of American Law Schools
 - Co-Chair, Planning Committee, Deans' Workshop (2021)
 - Chair, Planning Committee, New Law Teachers Workshop (2017)
 - Chair & Chair-elect, Section on Transactional Law and Skills (2015-2017)
 - Secretary, Section on Transactional Law and Skills (2012-2015)
 - Executive Committee, Section on Transactional Law and Skills (2011-2012)
 - Planning Committee, Workshop on Transactional Law (2008-2009)
 - Chair & Chair-elect, Section on Business Associations (2006-2008) (organized 2008 Section Meeting on "Corporate Law in Global Markets")