



Hon. Dustin Pead Magistrate Judge, U.S. District Court for the District of Utah

Ask Judge Dustin Pead about his professional successes, and you'll find a quick deflection to the countless friends, colleagues, and mentors who have, as he describes, "sent the elevator back down." In other words, the advice, assistance, and confidence of others has, he argues, providentially placed him in the right place at the right time. Even early on, despite his self-proclaimed disinterest in academic achievement as a teenager, capable and concerned parents, teachers, and friends encouraged him to learn how to study, kindly suggesting he had the capacity to become smart—a point he jokes is still subject to dispute.

His journey in the law began, as Judge Pead recounts it, with the privilege of being assigned as a missionary for the Church of Jesus Christ of Latter-day Saints (LDS) in Haiti from 1991 to 1993. His experiences in that country, particularly the coup d'état of Haiti's first democratically elected president in September 1991, caused him to meaningfully reflect on the law and society. Haiti seemed at first to be a country of near lawlessness. He recalls, for instance, seeing only one operational traffic light in all of his time there, which, even when powered by electricity, appeared to be ignored entirely. Later, however, as he spent more time in the country and came to more fully understand the culture, he understood that the communities in which he lived were friendly, considerate, and patched together, for the most part, by the goodness of others. Sadly, the individuals with whom he associated held little actual power, and the truly powerful rejected and ousted President Jean-Bertrand Aristide just a few months after his election. Just as he had seen the very best of people before the coup, he witnessed episodes



of, or learned of stories comprising, the very worst—all with no discernible recourse under the law. This, along with the friendly encouragement of friends and family, prompted him to consider a career in the law and immigration law (and asylum) particularly.

Judge Pead graduated from the University of Miami (Fla.) School of Law in 1998, after earning his undergraduate degree in political science from the University of Utah in 1995. Drawn to South Florida (a place he also served as a missionary after the Haiti mission was closed due to ongoing concerns over security and an embargo) in part by the school's reputation for expert instruction

Jenifer Tomchak focuses her practice on employment litigation, commercial banking issues, employment-based immigration issues, legal malpractice defense, and complex commercial litigation. She has achieved extraordinary results for clients and is quickly becoming well-recognized and admired by other Utah lawyers for the quality of her work. She is an excellent writer and an accomplished oral advocate, having handled hearings in both federal and state court. Clients appreciate her dedication to their cases and trust her to provide sound advice on how to resolve their legal issues.



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regarding immigration law, Judge Pead volunteered at the local immigration court during the summer after his first year of law school. His time at the immigration court set off a chain of events that he credits with leading him to the point at which he finds himself today. Working on various applications filed in immigration proceedings, coupled with his out-of-country experience and language skills (Haitian Creole), his desire to practice immigration law began to concrete.

With this enlightening experience in hand, he applied for and was selected as a second year summer law clerk at the Denver, Colorado, immigration court under the Attorney General's Honors Program. With the generous help and direction of the immigration judges, full-time law clerks, and others, Judge Pead was able to develop

enough of a skill set to apply for and be selected as the full-time judicial law clerk at the immigration court in Seattle as his first job out of law school. He reports that while there, he was immensely blessed to be guided by three very capable judges who, although very different, enabled him to see things from competing perspectives, a quality he counts as one of his most cherished.

From the immigration court in Seattle, Judge Pead was selected to become an attorney adviser at the Board of Immigration Appeals (the highest administrative body for interpreting and applying immigration laws) in Falls Church, Virginia, again under the Attorney General's Honors Program. While he suggests that some may look at these moves across the country as a challenge, he considers them collectively to be a great blessing, which has provided depth to his perspective.

At the board, Judge Pead was tasked with reviewing countless records of proceedings and arguments made that challenged or supported immigration judges' decisions, and recommending dispositions and drafting orders. This he also credits as a boon to his exposure to immigration issues and challenges across the country. In early 2001, a friend recommended to Judge Pead that he consider working at the U.S. Senate Judiciary Committee as immigration counsel. At first he balked, arguing that he was in no position to meaningfully advise members of the committee regarding the vast and complex immigration issues outside the courtroom, but his friend persisted. Finally, he was selected and approved to work with the committee as a temporary detail from the board. His work began at the Senate just a few months before 9/11, and Judge Pead was in the Senate Office Buildings with many others when the attacks occurred. He recalls streams of people leaving the offices and the U.S. Capitol, having heard rumors of a plane headed

there and seeing the smoke rising from across the river near the Pentagon. Over the next several months, Judge Pead worked with, as he describes, "exceptionally capable people" on various immigration-related bills.

When his detail to the Senate was completed in fall 2002, Judge Pead returned to the board. However, while at the Senate, he became familiar with then-U.S. Attorney for the District of Utah Paul Warner, who, Judge Pead explains, had bucked the national trend by making immigration-related prosecutions a priority in this nonborder state. Explaining that few people could walk away from a meeting with (now) Magistrate Judge Warner without being impressed, he was prompted to apply for a position as an assistant U.S. attorney (AUSA). He recalls telling Judge Warner at the time that while there were doubtless more experienced candidates for the position, none of them had the overall depth of experience with immigration law that he had. Judge Pead describes his gratitude for Judge Warner's willingness, as so many had done in the past, to give him a chance. Whether by fortunate bounce, hard work, or both, Judge Pead distinguished himself and eventually became general crimes section chief at that office.

In the meantime, an immigration court in Utah with a single immigration judge formally opened in 2006. In 2007, a second position was advertised. Reluctant in many ways to leave the U.S. Attorney's Office, Judge Pead applied for and was offered the job. He describes his time there as "wonderfully terrible." It was, he reports, exceptionally challenging intellectually, physically, and emotionally—but with those great challenges came profound and enlightening insights. In the end, he counts the lessons learned there as some of his most valued.

In early 2012, Judge Pead was encouraged by others to apply for the soon-to-be-vacated magistrate judge position held by then Magistrate Judge Samuel Alba at the federal district court. Judge Pead reports that he was excited about returning to federal court, in no small part based on his positive experiences before each of the magistrate and district court judges as an AUSA and because he considers the practice there to be the "most thoughtful and most deliberate." Judge Pead reports that he was thrilled to be selected and states that he has very much enjoyed his new position and welcomes its challenges.

Judge Pead is also a dedicated husband and father. He met the love of his life shortly after returning home from his mission, and they were married a year later. What's more impressive, he remarks, is her willingness to marry despite his utter lack of professional prospects at the time. Now, 20 years and four children later, Judge Pead openly admits that his family is his first priority. Each of his children, ranging in age from 6 to 15, is named for favorite literary characters and mountain ranges near places the couple has lived. Each Halloween, with neighbors and extended family, the Pead family "exorcizes their demons" by planning and putting on a very elaborate "haunted garage" with separate

themes, tricks, and costumes. The line, he reports, grows every year.

When asked for practice pointers for those appearing before him, Judge Pead is quick to pull out a copy of Judge Warner's "Ten Tips on Civility and Professionalism," which have been reprinted with permission on page 42 of this issue. In so doing, he emphasized a few points. Perhaps most significantly, he rejects the philosophy that exceptional advocates should never concede any point. Rather, he believes that the most capable advocates are those who, as Judge Warner puts it, acknowledge weaknesses but argue strengths. In other words, Judge Pead suggests that the best attorneys don't just ask whether they *can* do something but whether they *should*. Putting this in practice earns credibility with the court and narrows the focus of finite resources to the most significant issues. Judge Pead also reports that he enjoys the courtroom setting and, while he works hard to prepare, he is not predisposed to a particular point of view. He is willing, and indeed eager, to hear from the parties and learn from them. In addition, he appreciates punctuality, courtesy, thoughtfulness, and responsiveness to issues raised. ☉