

THE **BYU**

ADVOCATE

2018



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The Law School has developed several innovative clinics, including the Community Law Clinic, which aims to serve the immigrant population in Utah Valley.



On Innovation



The past few years at BYU Law have been filled with innovations, and you are reading the latest one: *The BYU Advocate*. This magazine replaces the annual report with a livelier format and more personal features highlighting individuals and programs at BYU Law. In this inaugural volume, you will read about some of our other innovations, which have inspired Bob Ambrogi—a legal technology blogger and member of the BYU Law Board of Advisers—to write, “What impresses me is that BYU Law is putting significant effort into thinking about innovation, not just for innovation’s sake, but to better prepare its students for an increasingly complex and unpredictable world” (read his full article on page 22).

In 1989 the ABA formed the Task Force on Law Schools and the Profession to study and improve legal education. In 1992 the Task Force issued the so-called “MacCrate Report,” which included a long list of skills that an individual should develop to become a competent and responsible member of the legal profession. In an effort to continue bringing appropriate attention to the basic skills involved in lawyering in light of changes in technology and society, the Law School has developed several innovative clinics, including our legal design lab LawX and the Community Law Clinic, which aims to serve the immigrant population in Utah Valley. We are also excited about the new BYU Law Trial Academy, a training program emanating from a partnership with the National Institute of Trial Advocacy. The next frontiers for technology-infused skills training at BYU Law School include the delivery of legal services (such as training in the modern business of law, process improvements, project management, data analytics, and applied technology) and the use of cutting-edge technologies in law (such as courses in artificial intelligence, blockchain, cybersecurity, and software coding).

The intellectual environment of the Law School is also being stimulated and expanded by exciting faculty initiatives. For example, the Transactional Design Project recently hosted the Winter Deals Conference in Park City, Utah, bringing together more than 40 scholars, judges, and practicing lawyers to present state-of-the-art research on the legal institutions supporting contemporary markets. The Corpus Linguistics Project hosted the third annual Law and Corpus Linguistics Conference at Sundance, filed an amicus brief in the United States Supreme Court in the case of *Lucia v. SEC*, created a Law and Corpus Linguistics Boot Camp, and released beta versions of three research corpora with a new search interface developed by the Law School. Through our new storytelling initiative, LawStories, we launched a book-of-the-semester program and a program to teach students the art and science of storytelling. And, of course, our International Center for Law and Religion Studies continues to promote religious liberty for all people. Its Religious Freedom Annual Review expanded its scope this year as it explored religious freedom in the media and how to find common ground with LGBTQ rights.

In 2007 the Carnegie Foundation for the Advancement of Teaching published a study entitled *Educating Lawyers: Preparation for the Profession of Law*. The Carnegie report was not the only call for change in legal education during the late 2000s, but it has come to represent a more general call for reform. While praising law schools for training students to “think like a lawyer”—a rather narrow skill that involves the application of legal doctrine to stylized facts without reference to moral or ethical considerations—the Carnegie report criticized law schools for their lack of attention to practice and inadequate concern with professional development. We need to do more for the professional development of our students, and with that goal in mind, we are excited to welcome a new assistant dean of career services and professional development, Rebecca van Uitert. Our work in this area is related to our efforts in law and leadership, though there are other dimensions to professional development also undergoing enhancement. We devoted part of our recent board of advisers meeting to this topic and look forward to developing more innovative programs at the Law School in the near future.

As I travel around the world to meet with alumni, I realize that many members of the BYU Law community have an image of the Law School that is fixed in time based on their own student experiences. While we pride ourselves on the continued rigor of a BYU Law education, our recent undertakings are aimed at developing students who can confront an increasingly complex and unpredictable world. If you have not been back to the Law School recently, please consider visiting. This volume is only a sampling of what we are now doing to prepare our students, and I invite you to engage with us in creating the law school of the future.

D. GORDON SMITH

Dean, BYU Law School



BYU WOMEN
IN LAW



Karin Hoops Berg



PHOTOGRAPH
BY BRADLEY SLADE





As I was contemplating my remarks for today, I kept referring back to an article that I had read by Elder Dieter F. Uchtdorf in the January 2017 *Ensign* titled “Aiming at the Center.” In his message, Elder Uchtdorf stated:

Recently, I watched a group of people practicing the art of archery. Just by watching, it became clear to me that if you really want to master the bow and arrow, it takes time and practice.

I don’t think you can develop a reputation for being an accomplished archer by shooting at an empty wall and then drawing targets around the arrows. You have to learn the art of finding the target and hitting the bull’s-eye.¹

The Question

What do archery, bull’s-eyes, and the words of an apostle have to do with women in the profession of law? A great deal—specifically, the importance of finding the right target, taking aim, and then hitting the bull’s-eye. I, like others, have had many targets at which to aim in my life, and we will all continue to have targets that are placed in front of us or that we seek out for ourselves. Often, secondary targets will come into view only after we successfully seek out, aim for, and hit the bull’s-eyes of our initial targets. The targets in my life have given me both purpose and, after taking aim and shooting, perspective. The question then becomes, *How do we find the right targets?*

In my life, one of the most important targets that has brought into view many other worthwhile targets (and put them within shooting distance, I might add) was law school. In fact, outside of my decision to marry my husband—the decision that has had the greatest impact on my life, which I will touch on again later—my decision to go to law school has had the greatest impact and positive effect on my life. But I wasn’t always aware that law school was a target at which I would take aim.

When I was younger, I wanted to be a lawyer. Other than my uncle, who was (and still is) a practicing attorney, I did not know any attorneys, so

I’m not quite certain where this original desire stemmed from. However, when I was a child, my mother—an immigrant from Germany and the only member of The Church of Jesus Christ of Latter-day Saints in her family—would tell me stories of her childhood in war-torn East Germany and of her and her family’s escape into West Germany. I heard her speak of her life as a refugee once she and her family reached West Germany, and I heard her speak of her hunger during those years. These stories impressed on my young mind the results of allowing laws to be trodden under the feet of despots and other power-hungry rulers. Their actions affect everyone under their control. Not only did these stories serve as an initial foundation for understanding the importance of the rule of law, they also opened up an understanding of a life beyond the boundaries of the city and state in which I was raised.

As I matured, this initial desire to go to law school dissipated, but my desire to further my education and have a career deepened. After high school I attended BYU and graduated with a degree in international relations and a minor in business. During my undergraduate career, the business classes I took to complete my minor (other than accounting) piqued my interest in pursuing an MBA, but after discussing an MBA with a counselor, I learned that the majority of graduate business schools prefer applicants with a few years of full-time work experience. While I had worked throughout college—at the BYU Laundry and with a landscaping crew during the summer

breaks—this apparently was not what they were looking for. As a result, I decided to join the workforce. At about the same time, I met and married my husband, and my work-experience plans dovetailed nicely into our joint plans of my supporting him as he finished his schooling at the University of Utah.

During this time I had two different jobs in which I interacted with attorneys who exposed me to areas of law different than what I had seen on

TV and in movies. In working with those attorneys, I realized I was more interested

This address was given at the annual BYU Women in Law Luncheon in the Gordon B. Hinckley Alumni and Visitors Center on February 1, 2018.

in the legal side of the discussions we had than the business side. At the same time that I was interacting with those attorneys, my husband, who had also wanted to attend law school, stopped by the law school table during a career fair at the University of Utah. He came home excited—not because he had found his calling but because he thought he might have found mine.

These experiences stirred feelings from my childhood about the desire to be an attorney, and the law school target came back into view, even though I was not quite

certain where this path would lead me. Another stirring that I never quite shook was the desire to live outside of Utah, even if for a short time. Consequently, as I looked for law schools, I was focused on out-of-state law schools. However, because my husband was still in school at the University of Utah, and because of the sticker shock of many out-of-state law schools, I began to look closely at law schools in Utah.

As I began to focus in on the target of law school, I selected and took aim at BYU for many reasons: I had enjoyed my undergraduate experience at BYU. I had friends who had attended BYU Law School who praised the school and its professors and leaders. I wanted to attend a law school where I could not only learn the law but openly discuss, as the BYU Law School's mission states, "the laws of men in the light of the laws of God."²

I had my target, and as I focused on it and applied, I was accepted to BYU Law. Bull's-eye! In looking back, I am continually amazed at how that initial target of law school has shaped my life, including my purpose, perspective, and opportunities to serve.

WHAT DO ARCHERY, BULL'S-EYES, AND THE WORDS OF AN APOSTLE HAVE TO DO WITH WOMEN IN THE PROFESSION OF LAW? A GREAT DEAL—SPECIFICALLY, THE IMPORTANCE OF FINDING THE RIGHT TARGET, TAKING AIM, AND THEN HITTING THE BULL'S-EYE.



Purpose

The targets at which we take aim in our lives will be unique to each of us. However, in my life the law has not only been a key to my purpose, it has also shaped my purposes—my targets, if you will. In law school my purposes became to understand the law and how lawyers think and to excel in my classes. I ultimately wanted to practice law, and doing well in law school by learning how to think critically and how to find the law was key to hitting that next target.

It is interesting, though, how in some circumstances we select targets and begin to work toward them, but the targets are then taken from our view. For example, when I entered law school, I wanted to be a corporate attorney. I located a job during the summer after my second year with a firm practicing corporate law. I enjoyed my summer and the attorneys with whom I worked. Unfortunately, the economy dipped during that time, and the firm froze hiring. I went back to school without an offer and with my target suddenly and unexpectedly removed from my aim. I had to begin looking for another job, and frustration set in.

I had made a connection in law school with a professor for whom I did research, and she made a connection for me with a potential job as a bankruptcy attorney in Chicago. She set a new—and unplanned—target in my view. I had never taken any bankruptcy classes; I wasn't even sure in which section of the U.S. Code the bankruptcy code could be found. But I took aim at this new target and became a bankruptcy attorney in Chicago.

So as we aim for our targets, we need to be open to the possibility of new—and sometimes even more fitting—targets and purposes coming into our view. Law school gave me new targets and deepened my commitment to aim at existing targets, which include being a good lawyer, wife, mother, daughter, church member, connector, and citizen. I would like to touch upon each of these purposes.

Lawyer

Being a bankruptcy attorney involves, in many cases, going to court. When my husband and I were first married, we were assigned to teach a marriage class at church—because, having been married for three years, we naturally were experts. I, however, did not want to teach. In fact, I only agreed to accept the calling on the condition that my husband teach the class and I be there for moral support. When my husband could not make it to church, I just wouldn't go, and they would have to find someone else to teach. I'm not advocating that strategy, but it highlights my initial abhorrence of public speaking.

Through the practice of law, I have been able to get past my fears and find my voice—a voice I did not know existed. I am not saying that would not have happened had I not gone to law school, but it has happened in a way that I had not anticipated. Taking aim at the best target you can see right now can help sharpen your aim and improve your ability to shoot for even more distant targets in the future that you currently don't envision ever coming into reach.

Wife, Mother, Daughter, and Church Member
There are targets that I would have had regardless of law school—such as being a good wife, mother, daughter, and church member. But both law school and the law have shaped or have made those targets more clear to me.

My experiences in law school and as a lawyer have provided me with the skill of listening. As a young associate, I attended deposition training and learned that although you should have an outline of prepared questions, you need to listen closely to the deponent during the deposition or you might miss an important fact or line of questioning. I had to learn to listen in a way that caused me to understand that there

were questions I not only wanted to ask but needed to ask. In fact, in some cases there were questions that the deponent did not want to answer and questions that I had not even originally known to ask. This skill has helped me become a better wife, mother, daughter, and church member because I have learned to listen in a way I did not know how to prior to my legal career and training.

Connector and Citizen

As a female attorney, I have had targets come into view that I had not anticipated. These targets include helping those around me in ways that they could not help themselves. For example, I have had women approach me who were contemplating divorce, who were dealing with criminal issues, or who needed help reading a legal document. In each case, these were problems these women either did not want to talk to others about or did not know who to turn to about. They were able to come to me because they felt comfortable. And while I do not practice family law or criminal law, I have been able to listen to them, provide a shoulder to them, and help them find the right person to guide them through their legal concerns. The law has helped me become a connector and a better citizen by expanding my initial purposes and targets.

Perspective

As I mentioned, not only have law school and life in the law widened my view to encompass targets that I had not originally considered, they have also given me an expanded perspective. This new perspective comes from practicing law for almost 15 years.

Initially, when I was accepted into law school and shared this new life plan with family members, friends, and coworkers, I received varied and, in some cases, surprising reactions. Many coworkers shared their excitement, and some mentioned that they wished they had gone to law school. However, there was one individual who questioned my decision, advising me that law school was not in keeping with a woman's role. That comment took me off guard, but I shook it off. I had another acquaintance who was a practicing attorney who was happy for

me and advised me to focus on employment law because men are heads of corporations and do not like to work with women attorneys, but women attorneys are needed for working with harassment and similar cases. This comment again took me off guard. But I did not let these comments move my target from my sight.

Even after law school, my husband and I had a church leader comment that we were not following Church guidelines because my husband was a stay-at-home dad and I was working. We have also been on the receiving end of comments about my usurpation of the priesthood because of my working. This is where purpose and perspective come into play. My husband and I did not choose our targets lightly. We know our targets, which has made it easier for us to let go of these comments instead of letting them warp our perspectives of our personal missions and goals in our family.

Knowing our targets has also allowed me to take a step back and not take offense. This has proven valuable not only for me but for others who have taken the time to understand the whys to our targets and who have come back and said in so many words, "I understand why you've selected your targets, why you are an attorney, and why your husband is a stay-at-home dad."

I have also gained perspective after having built up a bit of a thicker skin and an understanding that others are simply working from a different mindset than I am. As women in the law, we will inevitably face some comments with which we will not agree. But when we understand that we are taking aim at the right target for us, we can ensure that these challenges do not detract us from our goals.

Opportunities to Serve

I have deepened my understanding that as members of the Church, we have a unique perspective on our role in the global community to lift those around us. The law has given me tools and an ability to share and serve in ways that I would not otherwise be able to. As I noted, as a woman attorney, I have been a point of contact for other women in legal distress, including in difficult marriages and in other trying times.

Practicing the law gives us an opportunity to lift those around us. I live in a suburb of Chicago and take the train into the city every day for work. One day I was working on something that apparently looked legal, and another passenger asked whether I was an attorney. I said yes, and he conveyed that he was an attorney as well and had a written a book about the successful appeal he and others had made to get a wrongfully accused man out of jail after more than 20 years of wrongful imprisonment. After leaving the train that day, I took a quick stock of my life and wondered what good I had done as an attorney. I help my bank clients recover their loaned funds from insolvent companies. That didn't feel on par with saving a man's life.

But then I took a step back to think about it. He is helping on an amazing case, but as an attorney, I can also help people as well in ways that I otherwise could not. In fact, over

the past two years, the Chicago Chapter of the J. Reuben Clark Law Society has participated in a service event with World Relief of DuPage by holding a naturalization clinic. Not only do we help raise the funds to hold the naturalization clinic, but we also volunteer at the clinic to assist refugees and immigrants who are applying to become U.S. citizens. Each case has been an amazing experience in helping those around me do something they could not do on their own without the help of an attorney.

On a smaller but still important scale is the opportunity to be mentors and examples to those around us—particularly to the youth within our spheres of influence. I have had the opportunity as Young Women president over the past year to answer questions regarding furthering education, careers, and related matters as the young women I work with make plans and set targets for their futures.

Because of my position at work, I have also been able to answer questions regarding my beliefs when coworkers and acquaintances observe my lifestyle choices, such as not drinking alcohol. These situations have provided me opportunities to share my beliefs with those around me. We can be and should be an influence for good to those around us.

Women still face challenges in the workplace, but those challenges do not need to hinder us. I am continually trying to strike a balance between work, home, life, and church. It is difficult. But I am often surprised—so much so that I should no longer be surprised—at the support and service that many, if not most, are willing to give me.

Taking Aim

In conclusion, I want to go back to my discussion of targets and bull's-eyes and share my opinion that law school opens up so many potential targets for you in the world. And while my target and my experience is with a law firm, the law intersects with many other possible targets. A law degree can open many doors—not only for you as an individual but for those who will come into contact with you throughout your life.

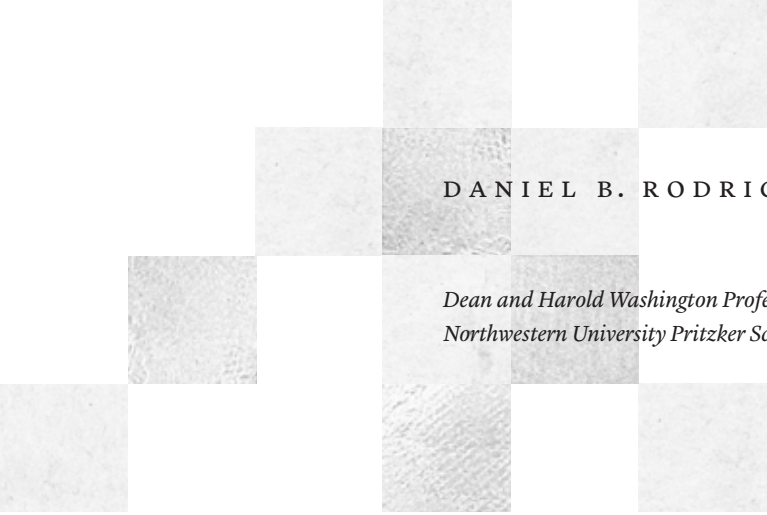
Be open to all of the opportunities that are in front of you. There are so many targets out there. You will know which ones are the right ones—the ones at which you should take aim—and when the time is right to do so. The important thing is to get started. There will be targets that we set up for ourselves because we have goals and we want to accomplish them, targets that others put in front of us, targets that appear because we have aimed at initial targets and have become skilled enough to aim at more distant targets, and targets that others may try to remove from our view.

In going to law school, I have had targets come into view that would not otherwise have been there. I still have targets and aims that I am trying to reach that would not be there but for my experience in law school. Law school and life in the law can be a target for anyone, and it has brought my life purpose, perspective, and incredible opportunities to serve. ^A

NOTES

- 1 Dieter F. Uchtdorf, "First Presidency Message: Aiming at the Center," *Ensign*, January 2017.
- 2 BYU Law School mission statement; see also Marion G. Romney in *Addresses at the Ceremony Opening the J. Reuben Clark Law School*, August 27, 1973, 20; quoting D&C 93:53.





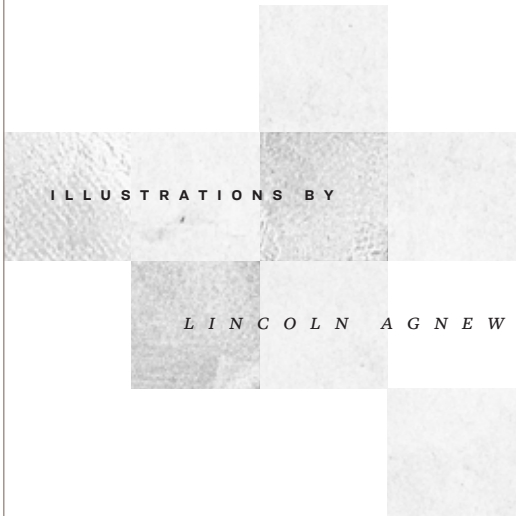
DANIEL B. RODRIGUEZ

*Dean and Harold Washington Professor at
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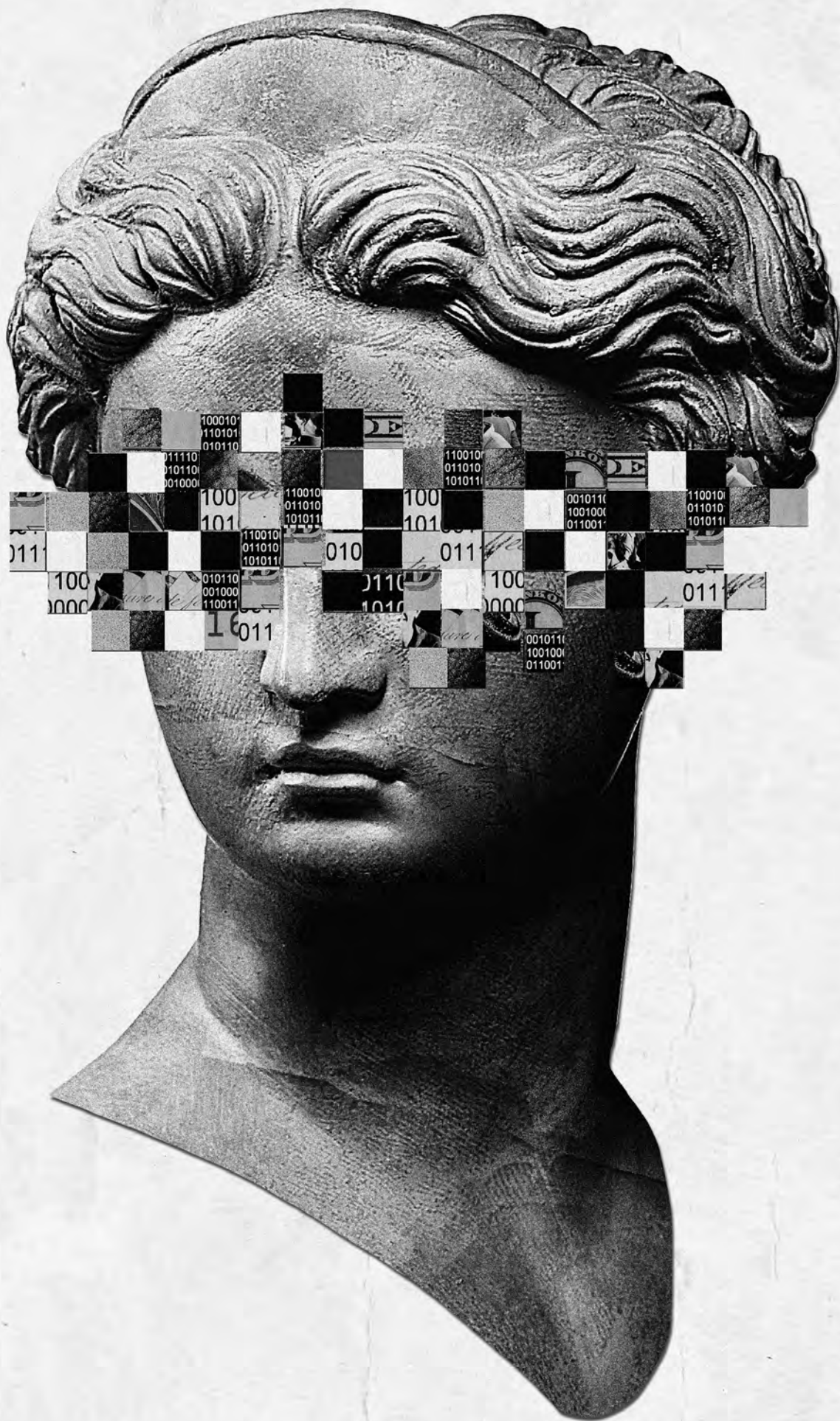
Innovative

LAWYER



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LINCOLN AGNEW





am pleased and so very honored to have been asked to join with you, especially with the graduating class of 2018 at Brigham Young University Law School. This is a special day indeed, and there is no place I would rather be than here with you to celebrate this milestone and to offer a few remarks. I believe the last and only time I had been on this magnificent campus was when I was in college and I came here for a debate tournament. I have good memories of that visit many years ago, along with a wood gavel that the hosts gave me as the top speaker. I am particularly pleased to be at BYU Law because I am a great admirer of what you have been doing here over the course of the past several years.

I have served as a law dean at two outstanding law schools for a total of 14 years. By my rough count, I have shaken the hands of 4,000 law graduates as they have walked across the stage. I have looked each graduate squarely in the eye and congratulated them for accomplishing great things by virtue of hard work, intelligence, and commitment during law school.

As a dean and, more generally, as a law professor, I have been most proud of the students I have taught who have gone on to make a positive impact in the world: distinguished lawyers in various walks of professional life, entrepreneurs, law professors, deans, a university provost, high government officials, and some state and federal judges, including the first Southeast Asian judge appointed to the federal judiciary, who is now on the U.S. Court of Appeals and, if I may brag a little, has also been noted to be on the short list for an upcoming Supreme Court appointment. As legal educators, we live through the achievements of our students, and I take satisfaction in knowing that I have played a small role in their achievement. I know that Dean Gordon Smith and every faculty member on this stage feel the same way.

*This address
was given
at the BYU
J. Reuben
Clark Law
School
Convocation
on April 27,
2018.*

THE SECRET SAUCE OF INNOVATION

In the time graciously given to me, I want to offer a few comments about the topic of innovation and social responsibility, especially in the context of law and the work that we do as lawyers. Law schools in the United States—if I may be so bold, your law school and my law school in particular—take enormous pride in our imaginative, impactful, and often unique programs and innovations. But this pride is measured not only by the advances these innovations enable but also by the extent to which these innovations are yoked to the public good and are informed by our attention and commitment to social responsibility.

The commitment to innovation in the study and practice of law is baked into the curriculum and culture here at BYU Law. I know this to some degree because of the association I have had with graduates of this law school, members of your faculty, your terrific dean, and the three other BYU deans I have known: Jim Rasband, Kevin Worthen, and Reese Hansen—extraordinary educational leaders every one of them. But the legal world more generally was made aware of this commitment at BYU Law in a rather elaborate way last month, when Robert Ambrogi, a thought leader in legal technology and practice, reported on his visit to BYU Law this spring.

The introductory statement to his piece, published on the blog *Above the Law*, reads: “BYU Law is putting significant effort into thinking about innovation to better prepare its students for an increasingly complex and unpredictable world.”¹ Ambrogi then reported on a number of interesting and innovative initiatives underway here, including the teaching of leadership skills, science and technology advancements, new clinical programs, and entrepreneurship

How we structure innovation in our realm—the law realm—is inextricably linked to matters of integrity, social responsibility, and . . . faith and religious traditions.



Innovations happen in many ways and for many reasons. In the case of law and the frameworks of the legal profession, many innovations are the consequence of meaningful changes in the marketplace—changes in how lawyers are hired, in how clients expect their lawyers to function, and in the dynamics of lawyer performance and leadership in organizations. And, to be sure, they are the result of advances in technology. Indeed, it may be that technological change is the single most important driving force in recent decades for the development of innovations in our professional landscape.

The renowned Harvard business professor Clayton Christensen coined the term “disruptive innovation” to refer to innovations that upend an existing market and value network, displacing established market-leading firms, products, and alliances. This idea has particular salience in law because it points to the concern that changes in, say, technology will disrupt basic elements of the legal profession and, with that, create new barriers to professional advancement and burdens to the work of lawyers and law graduates. This is not just a possibility but—for some tech futurists—a prediction. You may remember the noted venture capitalist Marc Andreessen, who memorably boasted, “Software is eating the world.”³ Yet such disruptions create opportunities, and the margin between prospering and standing still is often found in the ability of an institution—for instance, a BYU or Northwestern law school—to adapt to this changing marketplace and prepare students for these changes.

With these innovations come expectations of social responsibility and even burdens that accompany these demands. New creations present new challenges. As the cultural theorist Paul Virilio said, “When you invent the ship, you also invent the shipwreck.”⁴ So we puzzle through these predicaments as we work hard to develop socially responsible strategies along with these innovations. Let me provide some examples, each from the area of technology.

enterprises. This is indeed a rich tapestry of creative innovations, and what you are doing here is a model for how law schools can and should think about developing in their law students cutting-edge skills for a dynamic new world.

I have also been struck as I learned from this report and from other sources how much this commitment to educational innovation is embedded in BYU’s mission of faith. As one of your faculty members, Professor Elizabeth Clark, put it in Ambrogio’s *Above the Law* piece, “Being a good lawyer isn’t just about skill sets. It is also about wisdom, judgment and being able to use legal skills in a broader moral context.”²

This statement resonates with me, as I expect it does with each of you. Earlier in my career I had the opportunity to lead as dean at a faith-based law school, the University of San Diego School of Law, which is part of a Catholic university founded 60 years ago by the Diocese of San Diego. We were resolute about integrating our educational mission into our faith tradition and commitments. As you know, that is not an easy task, particularly given the relentless competition among the law school community—a community made up largely of law schools that do not have this same obligation to the expectations and even demands that come along with a religiously affiliated law school and university. However, I saw my role as dean there as promoting excellence in everything we did (of course, I still see that as my role at Northwestern), but that excellence needed to be connected to the faith mission of our institution.

For me, this was an entirely reasonable project. The secret sauce, as it were, was found in the very idea of innovation. That is, how we structure innovation in our realm—the law realm—is inextricably linked to matters of integrity, social responsibility, and, in the case of a law school like BYU, faith and religious traditions. I don’t want to get terribly philosophical here, given the setting and the fact that I and a few other speakers stand between you and your official graduation and time with loved ones, but permit me to give you a few reasons for why I think innovation and social responsibility do and must go hand in hand.

ARTIFICIAL INTELLIGENCE AND THE MODERN LAWYER

I will start with artificial intelligence (AI)—after all, a modern law school gathering just wouldn't be complete without some mention of lawyers and robots! The rapid development of AI is creating disruptions in our legal world. Some of these disruptions are already here; others are yet to come. AI has made steady advances in the world of legal research. Through applications of machine learning and pattern recognition, now law students and lawyers can have quick, low-cost access to useful information, pertinent analysis, and even help in drafting briefs and other documents. AI is impacting the practice of law as well. In a notable study from just two months ago, a company called LawGeex showed that AI was able to discern risks in nondisclosure agreements at an accuracy rate of 94 percent—nearly 10 percent higher than a group of 20 expert corporate lawyers.⁵ We can expect other impressive results to emerge from AI in the coming months as technology improves and as lawyers find ever greater uses for AI.

However, there are issues with AI that necessitate engagement with our ethical duties and social responsibilities. Consider the issue of economic justice. AI-enabled legal services emerge by and large from private industry, and thus they often come with a heavy price tag. Clients with means will be able to hire lawyers who benefit from this technology; others won't. Therefore, the access-to-justice gap might also increase as AI resources separate, to a greater degree, the haves and the have-nots. However, AI companies are becoming attuned to these issues, thanks to input from lawyers and law schools, and there are a number of initiatives underway to bring together AI companies and legal services organizations to expand access to justice. In full disclosure, my law school has forged a partnership with a leading AI research firm to provide assistance to legal aid organizations in Illinois and to also provide opportunities for our students to learn this important new technology. This is likely just the tip of the iceberg.

Another concern that has come with the use of AI in legal services is that lawyer functions will become automated. This is an issue that often comes with the scare headline “Will Lawyers Be Replaced by Robots?” If you have watched enough science fiction movies, you have seen the apocalypse of robots commanding humans. It's not a pretty picture. But this is not—at least not yet!—the predicament that ought to occupy our precious attention. Instead, the question is how to grapple with AI technology that, through efficiencies and scale, may well reduce the demand by clients for certain kinds of legal work and thus impact the career paths of and opportunities for lawyers.

There is still an important empirical question at the threshold: Will developments in AI seriously impact the legal profession? Legal futurist Richard Susskind's famous prediction is incorporated into the title of his controversial book *The End of Lawyers?*⁶—which comes with a question mark. Is it the end? (I should add that even Mr. Susskind was equivocal on this matter, as he titled his most recent book *Tomorrow's Lawyers: An Introduction to Your Future*, suggesting that lawyers will not all disappear.) In order to know the extent of the disruption to the legal profession portended by AI and machine learning, we need to know more about particular progress in the technology and, further, what kinds of legal work can and cannot truly become automated.

One of my favorite examples here comes from economist David Autor. Using the automobile windshield as an example, he pointed out that you can certainly automate its insertion at the factory, but it has been proven basically impossible to use robots for aftermarket replacement, because “fitting a replacement into [the] frame demand[s] more real-time adaptability than any contemporary robot can . . . approach.”⁶ This analogy has power in the area of legal services, where we can expect there to remain many tasks and projects that will require the special skills of humans, including lawyer humans.

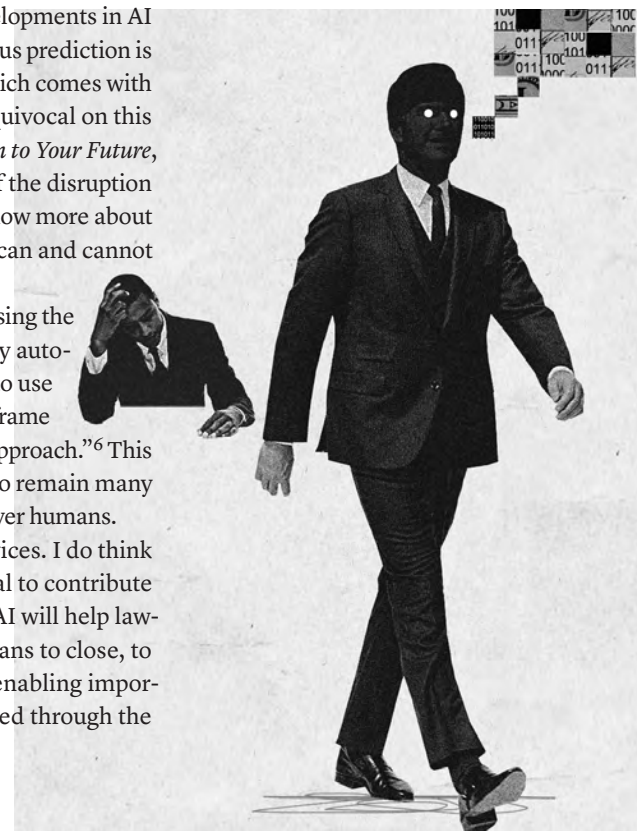
I, for one, am quite optimistic on the matter of automation in legal services. I do think that the best evidence suggests that AI as a general matter has the potential to contribute greatly to economic growth and to expand the pie. Particularly in the law, AI will help lawyers in addressing client needs in a more efficient manner; provide the means to close, to a large degree, the access-to-justice gap; and, finally, democratize law by enabling important tasks that have heretofore required expensive lawyering to be addressed through the

combined efforts of machines and non-lawyer humans. By any measure, AI has made some truly remarkable advances in recent years, and the best evidence suggests that more improvement is on the way.

Yet, even for an optimist like myself, the growth and impact of AI on law raises key questions of social responsibility, and addressing these issues will require careful thought, active leadership, and public-private collaborators. We should think of AI as a mechanism for improving efficiency in legal services and, fundamentally, as a way of assisting humans with work that requires human judgment. Indeed, the more forward-looking AI and law thinkers understand that this is the real potential of the technology: not replacing lawyers but assisting lawyers. The bottom line is that AI is here to stay, and the task of all of us who are working in the law is to use this disruptive innovation in the service of social advance—for example, expanding access to justice—while at the same time giving attention to the potential social costs of this technology.

OUR SOCIAL RESPONSIBILITY

We are struggling with these questions now in the complex area of data privacy, which has been in the news in recent weeks. One of the fallouts of the one-two punch of foreign



computer hacking and election interference, on the one hand, and the dissemination of private data by Facebook to private companies with a clear political agenda, such as Cambridge Analytica, on the other hand, has been a renewed attention by all of us to the fundamental role of legal structures and regulation in the development and use of citizen data. When Mark Zuckerberg appeared before Congress earlier this April—in the lion’s den, as it were—it was striking to me that the lawyers sitting behind him were not lawyers who Facebook had hired from outside the company to provide their best legal advice but were instead his in-house counsel, lawyers working for the company, pure and simple. One wonders to what extent Mr. Zuckerberg and Facebook actively solicited advice from lawyers who could provide appropriate counsel about whether and how to use the data of its customers and, more to the point, how to balance in a sensible way the technology-enabled goals of this large profit-motivated company with the social responsibility it has to its users, notwithstanding the incompleteness of the legal architecture that structures its obligations under the law.

Right now, of course, Congress is racing headlong into regulatory responses and, for those of us who worry about the intersection of legal strategy and political opportunism, these rapid-fire legislative responses might have unintended consequences that create cures as bad as the disease.

These examples represent fragments of a larger discussion about the promise and impact of disruptive technologies and innovation. And, to be sure, there are many, many other examples of this phenomenon. But my main point is this: We must consider innovations in law, as well as elsewhere in life, in the shadow of our social responsibility and our commitment as lawyers and other legally educated professionals to ensure that we are using these innovations not simply in the service of efficiency and social welfare, however best measured, but also in the interest of social justice.

Even technology enthusiasts, like me, should keep the need for balance in mind as we propose and propel innovations. Citizens from a variety of professional backgrounds and with different sorts of educational training can and should be part of the effort to ensure this result. Yet I would make a special plea to those of you here who are becoming lawyers. You are entering into a remarkably impactful profession, and the impacts are the result of the long-held faith that we, the people, have in lawyers and the legal system to protect the rule of law and to ensure that our liberties and freedom are protected while also protecting the safety and well-being of our citizens and our society.

In his seminal book *Democracy in America*, Alexis de Tocqueville wisely emphasized the incredibly important role of lawyers in our American society. While he certainly did not have machine learning and blockchain in his mind as he made his observations, what he said was remarkably prescient in noting the special role of the law and lawyers in establishing the guardrails to ensure that the social good was protected against sudden and dynamic changes—changes he thought were likely given excesses of democracy and which he called passions. He wrote:

*Men who have made the laws their special study have drawn from their work the habits of order, a certain taste for forms, a sort of instinctive love for the regular sequence of ideas, which naturally render them strongly opposed to the revolutionary spirit and unreflective passions of democracy.*⁷

He might have substituted “excess of technology” and “the public exuberance that comes from new, bold innovations” to make a similar point. In the main, de Tocqueville saw this cautionary impulse, these habits of mind, as important constraints. “When the American people . . . become so self-indulgent as to be carried away by their ideas,” he wrote, “the lawyers make them feel an almost invisible brake that moderates and arrests them.”⁸

This would seem in tension with the spirit of innovation—lawyers as buzzkillers, to coin a phrase. But a broader, more nuanced lesson to draw from de Tocqueville is that lawyers facilitate rather than impede innovation. They see the forests as well as the trees. They—or, I should say, we—are the key instruments in preserving the rule of law and in pushing and prodding those who develop these technologies and would use these innovations for important professional purposes to remember that lawyers ensure the

orderly use of private power. Lawyers are the transaction-cost engineers, the balancers, the mediating influences. Again, de Tocqueville said it best:

*[W]ithout this mixture of the spirit of the lawyer with the democratic spirit, however, I doubt that democracy could long govern society, and I cannot believe that in our day a republic could hope to preserve its existence if the influence of lawyers in its affairs did not grow in proportion with the power of the people.*⁹

So let me conjure my best Berkeley roots and say to you, “Power to the people.” And, more appropriate to this occasion, let me say power to *you* people—you graduates of this distinguished and, yes, innovative law school. You will help in fostering innovation and leading change while also ensuring that such critical steps are accomplished with appropriate boundaries and with due attention to social responsibility.

God bless and Godspeed to all of you graduates of the BYU Law School class of 2018. ■

NOTES

- 1 Read a reprint of Robert Ambrogi’s *Above the Law* article on page 22; also Robert Ambrogi, “How Does a Law School Innovate? Mulling That Question at BYU Law,” *Technology, Above the Law* (blog), March 19, 2018, abovethelaw.com/2018/03/how-does-a-law-school-innovate-mulling-that-question-at-byu-law.
- 2 Elizabeth Clark, quoted in *ibid.*
- 3 Marc Andreessen, “Why Software Is Eating the World,” *Wall Street Journal* (online), August 20, 2011.
- 4 Paul Virilio, *Politics of the Very Worst: An Interview with Philippe Petit*, ed. Sylvère Lotringer, trans. Michael Cavaliere (New York: Semiotext(e), 1999), 89.
- 5 See “AI vs. Lawyers,” LawGeex, lawgeex.com/AlvsLawyer; statistics taken from LawGeex, *Comparing the Performance of Artificial Intelligence to Human Lawyers in the Review of Standard Business Contracts* (February 2018).
- 6 David H. Autor, “Why Are There Still So Many Jobs? The History and the Future of Workplace Automation,” *Journal of Economic Perspectives* 29, no. 3 (Summer 2015): 23.
- 7 Alexis de Tocqueville, *Democracy in America*, trans. and ed. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 252.
- 8 *Ibid.*, 256.
- 9 *Ibid.*, 254.

Professor Stancil Going to Bat for Me

BY MIRANDA CHERKAS

The true Socratic method is hard to master. Professor Paul Stancil experienced it for the first time at the University of Virginia when he took an antitrust policy seminar with Professor Kenneth Elzinga. To help his students learn from each other, Elzinga asked guiding questions to stimulate critical thinking but spoke declaratively only three times during the course of the semester. On the first day of class he welcomed his students, and on the last day he thanked them. The third departure from intellectual inquiry came in the early morning after many students had enjoyed a long weekend of partying and arrived to class unprepared. Elzinga quietly declared, “I will come back when are you are ready to learn,” and walked out.

Even though Stancil was not one of the hungover students, it was a pivotal moment for him because he knew his professor had the students’ best interests—academic and otherwise—in mind. That knowledge helped him swallow the Socratic medicine, and he went to the next class with a renewed drive to learn.

OF GOOD REPORT

PROFESSOR SPOTLIGHT PAUL STANCIL

When Stancil later became a professor himself, he made a goal that reflects what he learned from Elzinga, who he declares was his favorite professor that semester: Stancil aims to strike a balance between intellectual rigor and love. He acknowledges that this goal is not always easily accomplished. “It is one thing to challenge students when they feel like their professors are only teaching for tenure,” he says. “It is another to expect a lot from students when they know that they are loved.”

Although he is the first to admit that he does not have a perfect equation figured out, Stancil continually tries to utilize his strengths to benefit students and to create rigorous and genuine learning experiences. For example, he teaches his first-year civil procedure class as a simulation so that students are challenged to learn civil procedure as if they were in a law firm. To mimic those times in law practice

when attorneys are expected to be prepared at the last minute, Stancil has been known to send an email to students an hour before class with nine new cases to read. Students are not allowed to have computers in his classes, because lawyers cannot read cases from their laptops in court. These authentic learning experiences cause more than a fair amount of stress for already-stressed-out 1Ls, but it pays off. In winter semester 2018, four of Stancil’s first-year students argued a case in front of a Utah Federal District Court judge.

As important as academic rigor and experiential learning are to Stancil, teaching and learning are ultimately about the relationship. He says, “A lot of my teaching philosophy is—both in the classroom and outside of it—let me show you all the mistakes that I made and help you not to make them.”

Paul Fife, one of Stancil’s students in the winter 2018 1L civil procedure class, says,

“Professor Stancil is always willing to take time to talk with his students. Whether it’s about principles in his class or legal practice in general, he will take whatever time it takes to make sure his students get what they need.”

In fact, Stancil once told me, “I will do whatever I can—make up a parody song, do a stupid dance—to get a concept across to someone.” That is the kind of commitment Stancil gives to his teaching and to his students.

And students notice that Stancil cares about them. “Professor Stancil is sincerely invested in students’ education, careers, and lives,” says Morgan Hoffman, ’18. “From my first conversation with him, I knew he was genuine in his desire to help me achieve my aspirations.” Stancil and





Lewis quote from “The Weight of Glory” that reflects how I believe Stancil sees me and all of his students:

It is a serious thing to live in a society of possible gods and goddesses, to remember that the dullest, and most uninteresting person you can talk to may one day be a creature which, if you saw it now, you would be strongly tempted to worship. . . . You have never talked to a mere mortal. . . . It is immortals whom we joke with, work with, marry, snub, and exploit.²

The Socratic method demands cooperative argument about many things, but there is no argument here. Stancil has high standards for his students, and he can hold those high standards because his students know that he would go to bat for them. Because, as Stancil would argue, you miss 100 percent of home runs if you never step up to the plate.

NOTES

- 1 Zach Weinersmith, Saturday Morning Breakfast Cereal (SMBC) comics, smbc-comics.com.
- 2 C. S. Lewis, last paragraph of “The Weight of Glory,” in *The Weight of Glory and Other Addresses* (1949).



Miranda Cherkas, '20, is from Atlanta, Georgia. She majored in political science at the University of Chicago and served an LDS mission in Sydney, Australia, speaking Mandarin. She hopes to clerk for a judge after graduation and then work in antitrust litigation.

several other professors later helped Hoffman and her husband and fellow law student, Andy Hoffman, find judicial placements on the Fifth Circuit so that the couple could be in the same place during their post-graduation clerkships.

To balance out the high expectations he has for students, Stancil seeks to connect with them and help them feel comfortable. He often shares parts of his personality, life, and values. For example, on Sundays he teaches the Young Men teachers quorum. In his spare time, he enjoys playing basketball and both kinds of music—both country *and* Western (this is his joke, not mine). And his best friends include his wife, Associate Dean Christine Hurt, whose office is just steps down the hall as the dean

of faculty and curriculum, as well as a three-foot-tall curly-haired dog called Astro, named for Stancil's beloved and—he would add—World Series-winning baseball team.

I experienced Stancil's method of balancing rigor with support earlier this year when he went to bat for me. I was deciding what to do for the summer, and I considered taking an easy path. Stancil said that he didn't like easy and that I could do better. His belief in me changed things; I stayed up all night applying to every large law firm in my desired city, and as a result I made invaluable connections that I am sure will benefit me for my 2L summer and long after. Stancil made phone calls on my behalf and listened to my stress-induced questions, and by doing so he helped me realize my potential.

Many of my conversations with Stancil have happened in his fifth-floor office, where his open-door policy invites students to sit in his traditional, name-plated University of Virginia chairs and strike up a conversation with him that almost certainly lasts longer than anyone expects. And if his chats fail to entice students to come by, the Stars Wars paraphernalia—coasters, mousepad, wall clock—is likely to draw them in. Even the three posters on his door manifest Stancil's love for his students: On the right, there is a badge stating, “My name is Paul, and when someone tells me they were raped or sexually assaulted, I start by believing.” In the middle is a snarky comic: “Economists are no longer welcome in Hell.”¹ And printed on parchment paper is a C. S.

An Unplanned Path That Led to Teaching Students to Plan, Prepare, and Draft

BY MICHAEL WUNDERLI

PROFESSOR SPOTLIGHT

MORRIS LINTON

With impeccable posture, the snowy-white hair of a distinguished retiree, and a signature dark-blue blazer with copper buttons, Morris Linton, '78, divulges one of his better-known legal drafting rules. "Never use 'shall,'" he says as he thoughtfully paces in the front of the room. It's ambiguous and too high-brow, and, according to renowned lexicologist Bryan Garner, it contains at least eight variant definitions. Even as soft-spoken as Linton is, he hammers his point with examples, questions, and pure reiteration—a point that his students likely will never forget.

For nearly 10 years Linton has taught legal drafting at BYU Law to small classes of students eager to hone skills

necessary to the legal craft. When they begin, some rules elude them; punctuation and syntax can feel like the equivalent of long division. Yet Linton takes his time, patiently and encouragingly guiding

students to the correct answer. And when there exist two right answers, Linton delves into stylistic choice, explaining which looks and sounds better when read aloud, which carries more rhetorical power, and which is more formal versus informal.

To students, he is a wealth of information on a subject that at times equates to an upper-level English class. If English were taught this way during high school and throughout the undergraduate experience, perhaps Linton could cap his whiteboard marker. But it isn't just the concepts, rather how those concepts are applied, that makes Linton's approach so valuable. He boils legal drafting down to effective writing and comprehensive communication, not simply putting the words on the page—an idea that is often lost to many new attorneys and that will take years to master.

And Linton has a quick and subtle wit that doesn't go unnoticed by his students. It lightens the mood, and despite

his neatly pleated slacks, oxford loafers, and university-striped ties, the tone of the class is casual. His teaching method—not quite Socratic, but experiential and involved—requires each student to contribute by reading aloud or offering comments and questions. Somehow, whether it is in spite of or because of that method, even the most timid student feels at ease.

Linton's path to where he is today was long and rather unconventional. He is a home-grown Utahn, but he didn't stay in the state for long after high school. He headed to Yale, and after completing his first year of college, he departed for a two-year mission in Peru and Ecuador. Upon his return, he finished his bachelor's degree at BYU in university studies. He then accepted admission into



the University of Utah Medical School after applying through a special program that recruited students without the typical chemistry, biology, or physics degrees.

That first year of medical school was a tumultuous one for Linton. Nothing clicked. The material was interesting, but Linton felt like a fish out of water. So he dropped out. While figuring out what to do, he moved to Washington, DC, for the summer to work in the National Organization of Physician Assistants. It was then that he applied to BYU Law School and became a member of the first class to attend all three years in the '70s-style "law temple" on the eastern edge of campus.

Little by little, things began adding up for Linton. In retrospect, his winding path to a

career in law shaped the type of law he would practice—and the company he would eventually work for. During the first summer of law school, Linton worked in the Supreme Court of the United States in the office of the administrative assistant to Chief Justice Warren Burger. His first job out of law school was with Kirton McConkie, but shortly after that he landed a judicial clerkship with Judge Frank Q. Nebekar in the District of Columbia Court of Appeals. He bounced around a little afterward, working for law firms and clerking in the U.S. Bankruptcy Court in Salt Lake City, until he was hired by Intermountain Healthcare.

Linton worked for Intermountain Healthcare for 34 years in corporate law, business contracts, negotiations, purchases, intellectual

property, computer law, bioethics, compliance, and governmental regulatory work. He attended conferences and seminars and read books on legal drafting to sharpen his own skills. In 2006, BYU Law sponsored a Continuing Legal Education (CLE) at Sea cruise, in which all attendees came prepared with a one-hour CLE. Linton chose to address the subject of legal drafting. His BYU Law class was born from that CLE. Since 2008 he has taught legal drafting, carefully handing down his knowledge to future generations of lawyers. Student by student, he is contributing to a revolution of legal drafting, a new concept of ditching highbrow genteelism in favor of a less formal yet more compelling style of writing.

Linton admits he had insecurities while he was attending law school and that he felt inadequate about the way he expressed himself. He found it difficult to put into words the thoughts that came to mind. His experience directly impacts his devotion and care for his students because he recognizes the real insecurities that many students have while going through law school and seeks to help them overcome them. Despite retiring from Intermountain in September 2016, Linton has yet to step away from teaching and is reluctant to do so. He loves helping students improve their writing in the course of a semester as they develop new writing techniques. He loves witnessing how students react when they recognize their own improvements—the giddiness they feel as lingering insecurities evaporate.

Each class session Linton brings in a stack of papers tucked safely in a manila envelope. Throughout the class he displays the papers—riddled with examples, lists, rules, and the occasional comic highlighting a common and truthful problem in the legal field—on a large screen. There isn't a dull moment. Students are constantly barraged with sample sentences and provisions to revise, organized into groups to tackle tricky punctuation problems, or engaged in games centered on grammatical know-how. Most of all, the subject matter is compelling and useful. Linton is the consummate salesman when it comes to making clear, concise, complete, and correct legal writing appealing.

Linton's students feel it's unfortunate when the semester comes to a close and the class is over. Despite the fact that Linton's class is scheduled during a less desirable time on Friday mornings, the class becomes a staple for many students, an anticipated experience to learn something that is easily translatable into the legal profession, a place to gain skills where improvement is easily observed. Linton teaches with the singular goal of getting students to recognize progress, which in turn allows them to believe a little more in themselves before they graduate and enter the world of law.



Michael Wunderli, '18, from Holladay, Utah, completed his undergraduate work in creative writing at Weber

State University. He plans to work in litigation.



Stephanie Barclay*Associate Professor*

A First Amendment scholar who previously practiced in appellate litigation groups in DC

William Clayton*Associate Professor*

A corporate governance scholar, former executive director of the Yale Corporate Law Center, and corporate lawyer

Rebecca Van Uitert

Assistant Dean for Career Services and Professional Development

A corporate immigration expert and previous senior counsel at Fragomen

J O I N I N G   T H E   L A W   S C H O O L



STEPHANIE BARCLAY



WILLIAM CLAYTON



REBECCA VAN UITERT

BYU Law's Trial Academy: Prepping Students for the Courtroom

BY PAUL STANCIL, PROFESSOR OF LAW, BYU LAW SCHOOL

BYU Law has a proud tradition of developing extraordinary trial lawyers. Our society's commitment to the Constitution and to the rule of law are tested every day in courtrooms across the country, and we need BYU lawyers to bring their religious, ethical, and moral values to the fight. This past spring the Law School built on this tradition when it hosted its inaugural BYU Law Trial Academy. Designed and administered in conjunction with the National

Institute for Trial Advocacy (NITA), the Trial Academy is a high-quality, intensive, weeklong training program offered free of charge to 24 first-year students with an interest in trial practice.

The program—for which participants receive no academic credit—began the day after participants completed the last final exam of their first year and culminated in a mock trial a week later. Students dedicated 12 to 15 hours each day to learning the trial lawyer's craft from some of the best trial attorneys in the country. Using NITA's time-tested approach, the Trial Academy focused on learning by doing. Instructors presented on various trial topics, demonstrated the techniques they taught, and then had students perform exercises designed to reinforce the skills.

The 2018 session featured six incredible instructors, including three small-group mentors who spent all week with groups of eight students.



Much of the most important development came through these small group sessions, during which students performed trial exercises and received real-time feedback. It was particularly exciting to have BYU Law alumnus Steve Smith serve as one of the mentors and share his incredible experience, expertise, and enthusiasm for the craft.

"We were exhausted by the time our capstone mock trials ended," said first-year student Peter Seppi. "I walked away from the academy with an understanding of trial practice that I think can only come from working directly with trial attorneys."

The instructors were similarly blown away by the quality of the students, who took full advantage of the opportunity to stretch themselves beyond their comfort zones.

Dean Gordon Smith and the law faculty are committed to incorporating Trial Academy permanently into the fabric of the Law School and making sure that it continues to reflect the Law School's overarching commitment to excellence.

A Pair of the Most-Downloaded Professors

BY JOE HADFIELD

Two BYU Law professors have rocketed onto the list of the top 20 most-downloaded tax law professors of all time. And one of them did it less than two years into her academic career.

Gladriel Shobe joined BYU Law's faculty in July 2016 and currently ranks no. 18 in her field, with 23,504 downloads of her scholarly articles. Her senior colleague Clifton Fleming checks in at no. 7 in the country, with 74,158 downloads through SSRN, which provides digital access to scholarly work.

"The most important part to me isn't necessarily making it on the list," Shobe said. "It's the fact that so many scholars and tax attorneys are reading the articles, because you spend a lot of time thinking through these issues and trying to make sure that what you write is helpful."

Both Shobe and Fleming surged in the rankings in the last 12 months because of their separate analyses of the recent federal tax legislation. One of Shobe's articles critiqued a proposed piece of tax legislation that would initially have repealed a deduction for state taxes but not local property taxes. She

demonstrated how that would subsidize wealthy neighborhoods, and Congress ultimately revised the final tax reform bill to allow a limited deduction for both state and local taxes.

writings identified tax loopholes and tax avoidance opportunities in the legislation while it was still being formulated.

"Congress really needed to slow down and think more care-

really sound, powerful critiques to explain where the problems are and why we need to go another way."

Shobe has also published articles about new tax



"The final version found a middle ground that is a reasonable compromise on that isolated part of the bill," Shobe said.

Fleming also sounded a warning about the recent tax legislation before it passed. One paper suggested a minimum tax on foreign income, and a version of that suggestion was included in the new tax legislation. Two of his other

fully about what they were doing and craft a piece of legislation that was substantially less open to manipulation," Fleming said.

Those loopholes remained in the bill that became law in December, but Fleming said, "We are going to stay in the fight. There is work to do. What happened in December 2017 doesn't end the debate by any means. We need to provide

structures that companies use in IPOs. Those articles have provided her with unique, collaborative research opportunities. She has also distinguished herself in the classroom, with first-year law students voting her Professor of the Year for 2016–17.

This article was originally published in BYU News on March 1, 2018.

How Does a Law School Innovate?

MULLING THAT QUESTION AT BYU LAW / BY ROBERT AMBROGI

I want BYU to be known as, if not the most innovative law school in the country, then one of the most innovative law schools in the country.” With that bold statement, D. Gordon Smith, the dean of BYU Law School, kicked off a day of presentations and conversations about where the school is in its journey toward that goal and what more lies ahead.

Smith convened a professionally diverse advisory board to help the school think through answers to one overarching question: How will BYU prepare students for an increasingly complex and unpredictable world?

Among those attending were Margaret Hagan, director of the Legal Design Lab at Stanford University; Daniel W. Linna Jr., director of the Center for Legal Services Innovation at Michigan State University and creator of the Law School Innovation Index; a judge on the Tenth U.S. Circuit Court of Appeals; two Utah Supreme Court justices; Utah attorney general Sean D. Reyes; law firm partners; corporate CEOs; the president of an international human rights foundation; a TV news anchor; and several BYU Law faculty and students.

In law, the word *innovation* is often shorthand for leading-edge technologies and next-generation practice models. But during this meeting the term encompassed a



broader meaning: how to equip law students with the skills and experience—beyond legal knowledge—that will enable them to succeed in their careers.

Through a series of presentations, faculty and students described initiatives already underway at the Law School. Smith said he was inspired to create the LawX Lab—a practicum in which students identify an access-to-justice problem and then create a solution—after he attended a presentation by Margaret Hagan, who is often recognized as the guru of design thinking in law.

Teaching Leadership

Other initiatives underway intend to teach skills not

traditionally covered in law school curricula, such as leadership. BYU Law should be a school, Smith said, that “inspires leadership in ideas and action.” To that end, last year the school created a course, Foundations in Law and Leadership, cotaught by Smith and James L. Ferrell, a lawyer and the founder of the Arbinger Institute, which has published three books on leadership.

The traditional, highly competitive law school environment is anathema to the core of leadership, Ferrell told the members of the advisory board. “What great leaders do is help other people succeed. We wanted to create a course that incentivized that,” he said. The

leadership course has proven so popular that the school is considering making it part of the first-year core curriculum. Meanwhile, the school is currently teaching and is planning to teach other unique skills.

Teaching Other Skills

Believing that storytelling is a core skill of effective lawyering, BYU Law has launched two initiatives, both under the guidance of K. Marie Kulbeth, assistant dean of communications, and Rebecca Clarke, publications director. The first, LawStories, is a speaker series featuring lawyers and professional storytellers who present on various aspects of the craft of storytelling. The initiative

includes a competition in which students write brief stories that must be both true and related to the law. Finalists present their stories orally in a judged story slam. For next year the school will expand the speaker series and may hire a storytelling coach. The second initiative, LawReads, engages students in reading and discussing stories related to law.

Because many of its students go on to careers working for or within corporations, BYU Law has two initiatives to teach business ethics—as distinct from legal ethics. One is a class in compliance and ethics taught by professor Craig D. Galli. The other is a joint initiative of the Law School and BYU's Marriott School of Business to develop a master's degree in ethics and compliance, spearheaded by professor Bradley R. Agle, author of *The Business Ethics Field Guide*. "Ethics is a skill set," Agle said. "If you want to be a great and ethical leader, time and effort are required to learn the skills."

Under development to launch within the next two years is a class in science and technology. Stephanie Bair, the law professor and former neuroscientist who is developing the course, said the goal is to prepare students to tackle technological and scientific innovation as they encounter it in their future careers. The course will address how advances in technology and science may change the letter of the law, as well as how they might impact the practice of law.

Clinical Experience

BYU Law has three clinical programs that each, in their

own way, put an innovative spin on clinical training. First is the Negotiation and Conflict Resolution Clinic. BYU was the second law school to offer a negotiation clinic, after Harvard, and is still among only a few that have followed suit. The goal, said director Benjamin J. Cook, is to teach students to help organizational clients not simply address disputes but step back and examine the sources of disputes and how best to address them through dispute system design. "The clinic is a path to advancing peace," Cook said, adding that in the future, clients will be turning to lawyers for larger solutions to issues that give rise to conflict. Students in the course have worked with organizations as diverse as the Urban Indian Center of Salt Lake, the government of Costa Rica, and the Utah Refugee Services Office.

The Community Law Clinic, run by professor Carl Hernandez III, sounds more like a traditional law school clinic. Run out of Deseret Industries, a thrift store that offers employment training, it handles a range of legal problems. But when the school was preparing to launch the clinic, it discovered that Utah had one of the most restrictive student-practice rules in the country. So students drafted a more liberal rule and successfully lobbied for its adoption. As a result, students in the clinic can now represent clients from the start to finish of a matter, supervised by Hernandez but operating with significant discretion.

The Law and Entrepreneurship Clinic, as explained by third-year student Ryan Lewis, provides legal services to entrepreneurs seeking

to launch their companies. Students take full responsibility for the clients assigned to them, he said, not only counseling them on the law but also helping them think through other aspects of their business.

Technology Innovation

In addition to the LawX Lab mentioned above, BYU Law recently served as a host site for the Global Legal Hackathon, where several BYU student teams developed projects. The Law School also hosted a conference on blockchain in law.

In addition, BYU Law has developed a one-of-a-kind product devoted to law and corpus linguistics. The product analyzes collections of textual materials to help scholars and researchers get at the meaning of words as they naturally occur in speech and text. The goal is to help lawyers and judges ascertain the ordinary meaning of words through their usage.

One of the participants in Friday's meeting, Thomas R. Lee, associate chief justice of the Utah Supreme Court, has used BYU's corpus linguistics in published opinions and recently published an article in the *Yale Law Journal*, "Judging Ordinary Meaning," in which he and coauthor Stephen Mouritsen argue for using corpus-based analysis to interpret the original meaning of legal words and phrases. Next year he will teach a class at Harvard Law School on corpus linguistics.

Professionalism, Integrity, and Faith

As the day neared its end, the conversation turned to weightier philosophical discussions of how to teach

law students about professionalism, integrity, and faith. "Being a good lawyer isn't just about skill sets," said professor Elizabeth Clark. "It is also about wisdom, judgment, and being able to use legal skills in a broader moral context." She continued, "For people of faith, integrity isn't integrity if you have to check your religious beliefs at the door."

The participants at Friday's meeting agreed that these concepts of professionalism and faith can be embodied in one word—*integrity*—and that teaching that to students is paramount. But how does a law school teach integrity? By example, all seemed to agree. "The commitment to integrity has to be pervasive throughout the curriculum," Clark said. "We can provide personal and professional models of what this kind of integrated life can look like. Integrity at the institutional level involves faculty and staff who provide a model."

Pursuing Innovation

What does it mean for a law school to innovate? BYU is just one example of how a law school can conceptualize and implement innovative teaching methods. What impresses me is that BYU Law is putting significant effort into thinking about innovation, not just for innovation's sake but to better prepare its students for, as Smith said, an increasingly complex and unpredictable world.

Will he achieve his goal of making BYU the most innovative law school in the country? After just two years as dean, he is off to a good start.

This article was originally published on the blog Above the Law on March 19, 2018.

Scholarly P

Clark D. Asay ●●●
 “Patenting Elasticities”
 91 S. Cal. L. Rev. 1, 2017

“Patent Pacifism” ●●●
 85 Geo. Wash. L. Rev. 645, 2017

“Software’s Copyright Anticommons” ●●●
 66 Emory L.J. 265, 2017

“The Informational Value of Patents” ●●
 31 Berkeley Tech. L.J. 259, 2016

“Intellectual Property Law Hybridization” ●●
 87 U. Colo. L. Rev. 65, 2016

Kif Augustine-Adams ●●●
 “Religious Exemptions to Title IX”
 65 U. Kan. L. Rev. 327, 2016

Stephanie Bair ●●●●
 “Innovation Inc.”
 32 Berkely Tech. L.J. 713, 2017

“Rational Faith: The Utility of Fairness in Copyright” ●●
 97 B.U. L. Rev. 1487, 2017

Justin Collings ●●●
 “What Should Comparative
 Constitutional History Compare?”
 2017 U. Ill. L. Rev. 475, 2017

“Appealing to Congress” ●●●
 50 U.C. Davis L. Rev. 463, 2016

Brigham Daniels / Lisa Grow Sun ●●●
 “Externality Entrepreneurism”
 50 U.C. Davis L. Rev. 321, 2016

J. Clifton Fleming / Robert J. Peroni / Stephen E. Shay ●●
 “R&D Tax Incentives: Growth
 Panacea or Budget Trojan Horse”
 69 Tax L. Rev. 419, 2016

“Defending Worldwide Taxation with a Shareholder-
 Based Definition of Corporate Residence”
 2016 BYU L. Rev. 1681, 2016

“Two Cheers for the Foreign Tax Credit,
 Even in the BEPS Era”
 91 Tul. L. Rev. 1, 2016

Frederick M. Gedicks ●●
 “‘Substantial’ Burdens: How Courts May (and Why
 They Must) Judge Burdens on Religion Under RFRA”
 85 Geo. Wash. L. Rev. 94, 2017

A. Christine Hurt ●●
 “The Hostile Poison Pill”
 50 U.C. Davis L. Rev. 137, 2016

Matthew Jennejohn ●●●
 “The Private Order of Innovation Networks”
 68 Stan. L. Rev. 281, 2016

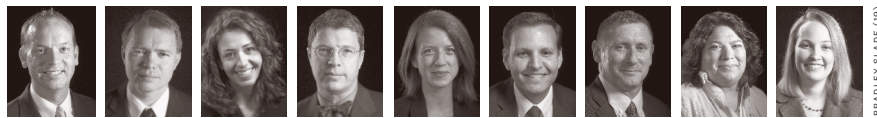


Clark D. Asay   Kif Augustine-Adams   Stephanie Bair   Justin Collings   Brigham Daniels   J. Clifton Fleming   Frederick M. Gedicks   A. Christine Hurt   Matthew Jennejohn   Eric Talbot Jensen

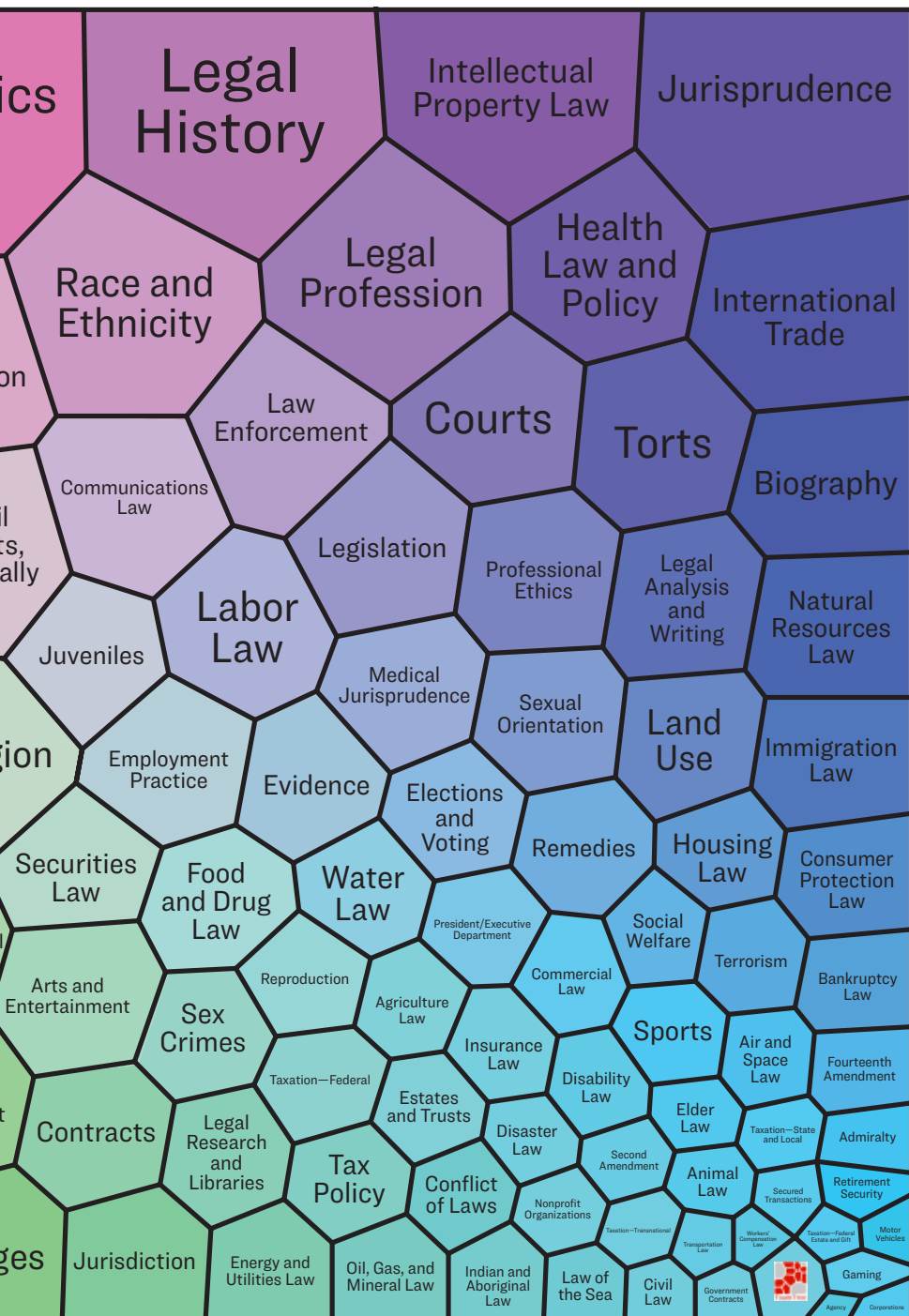


The Current Index to Legal Periodicals (CILP), produced by the University of Washington’s Gallagher Law Library, indexes legal scholarship published in law reviews and journals. Each tile of this scholarship map represents a different CILP subject area. The size of each tile represents the total number of articles indexed in a particular subject area in the 2016–17 issues of CILP. BYU Law faculty publications listed are those indexed in CILP during 2016–17. BYU Law Library deputy director Shawn Nevers and law library student employees contributed to the map’s creation.

Publications



David H. Moore Aaron L. Nielson D. Carolina Núñez Brett G. Scharffs Gladriel Shobe Jarrod Shobe Paul Stancil Michalyn Steele Lisa Grow Sun



●● **Matthew Jennejohn**
 “Innovation and the Institutional Design of Merger Control”
 41 *J. Corp. L.* 167, 2016

●●●●● **Eric Talbot Jensen / Sean Watts**
 “A Cyber Duty of Due Diligence:
 Gentle Civilizer or Crude Destabilizer?”
 95 *Tex. L. Rev.* 1555, 2017

●●●● **David H. Moore**
 “Constitutional Commitment to
 International Law Compliance?”
 102 *Va. L. Rev.* 367, 2016

●● **Aaron L. Nielson / Christopher J. Walker**
 “Strategic Immunity”
 66 *Emory L.J.* 55, 2016
 administrative law

●● **Aaron L. Nielson / Daniel Hemel**
 “Chevron Step One-and-a-Half”
 84 *U. Chi. L. Rev.* 757, 2017

●● **Aaron L. Nielson / RonNell Andersen Jones**
 “Clarence Thomas the Questioner”
 111 *Nw. U. L. Rev.* 1185, 2017

●●● **Aaron L. Nielson**
 “Beyond Seminole Rock”
 105 *Geo. L.J.* 943, 2017

●●● **D. Carolina Núñez**
 “Mapping Citizenship Status, Membership,
 and the Path in Between”
 2016 *Utah L. Rev.* 477, 2016

●●● **Brett G. Scharffs**
 “Religious Majorities and Restrictions on Religion”
 91 *Notre Dame L. Rev.* 1419, 2016

●●● **Gladriel Shobe**
 “Supercharged IPOs and the Up-C”
 88 *U. Colo. L. Rev.* 913, 2017

●●●● **“Disaggregating the State and Local Tax Deduction”**
 35 *Va. Tax Rev.* 327, 2016

●●●● **Jarrod Shobe**
 “Agencies as Legislators: An Empirical Study of
 the Role of Agencies in the Legislative Process”
 85 *Geo. Wash. L. Rev.* 451, 2017

●●●● **“Misaligned Interests in Private Equity”**
 2016 *BYU L. Rev.* 1437, 2016

●●●●● **Paul Stancil**
 “Substantive Equality and Procedural Justice”
 102 *Iowa L. Rev.* 1633, 2017

●●●●● **Michalyn Steele**
 “Plenary Power, Political Questions,
 and Sovereignty in Indian Affairs”
 63 *UCLA L. Rev.* 666, 2016

●●●●● **Lisa Grow Sun / Brigham Daniels**
 “Externality Entrepreneurism”
 50 *U.C. Davis L. Rev.* 321, 2016

Building Bridges for Religious Freedom

BY SAM CLEMENCE, ICLRS COMMUNICATIONS SPECIALIST

The desert landscape drifted by unnoticed as Erin Cranor, '20, made the long drive from Utah Valley to her home in Las Vegas. Her mind was occupied with thoughts of the conference she had just attended—the 2016 BYU Religious Freedom Annual Review.

She had gone to the conference believing she could glean information that would help her as a member of the school board to implement new, sensitive laws in Las Vegas. “Right about the time I was elected is right about the time when new, protected class legislation around sexual orientation and gender identity started to take effect,” Cranor says. But the conference did more than simply give her the information she needed; it left her wanting to participate in the national conversation around religious liberty. Unsure of how to go about doing that, she spent the drive home thinking.

“I would sort of go down a thought process, and I’d get to a point where I’d go, ‘Oh yeah, but I don’t have a law degree, so not that.’ And I went down another road, and they

all kept ending with a law degree,” she says. After a few hours, Cranor’s thoughts ultimately coalesced into an idea. She called up her husband and

said, “I think I should get a law degree.”

Less than a year later, BYU Law School accepted Cranor as a student and as a research fellow in Salt Lake City for the International Center for Law and Religion Studies, an academic center located within the Law School. With her husband’s job still located in Las Vegas, the 48-year-old grandmother and first-year law student started making weekly commutes to attend her classes in Provo, almost 400 miles away.

Hosted by the International Center for Law and Religion Studies, the conference that inspired Cranor first started in 2014 and reconvenes every summer. Attendees gather to discuss the state of religious freedom in the country, hear experts in the fields of religion and law, find common ground on controversial issues, and

teach and learn about ways they can support religious freedom in their homes and communities.

The Religious Freedom Annual Review maintains a nonpartisan stance to attract people of all political backgrounds and to build bridges between those who believe religious freedom has become a partisan issue. Guest speakers come from a variety of religions and careers, with notable past presenters including Gary Herbert, governor of Utah; Jeff Flake, senator for Arizona; Melissa Rogers, non-resident senior fellow in governance studies at the Brookings Institution; Terry Mattingly, journalist and author of the Scripps Howard News Service column *On Religion*; and Asma Uddin, director of strategy at the Center for Islam and Religious Freedom.

Cranor hopes more people will attend this conference because she believes it teaches important skills and concepts that anyone can understand and utilize, regardless of political ideology. “Moms of young children, grandmas, everyone in between—we’re all able to take really life-changing things away from this conference,” Cranor says.

While she expects most attendees won’t make the dramatic decision she did to become a lawyer, she hopes the conference will inspire them to do great things in their communities. “You don’t know when religious freedom is going to be an issue,” she says. “It’s great to be ready. It’s great to understand what works the best.”

The 2018 Religious Freedom Annual Review featured a variety of guest speakers, including Linda K. Wertheimer, author of *Faith Ed: Teaching About Religion in an Age of Intolerance*; Michael Gerson, columnist for the *Washington Post*; and Elder L. Whitney Clayton, general authority seventy for The Church of Jesus Christ of Latter-day Saints. Presenters addressed such diverse topics as how to find common ground on LGBTQ rights, how religion can contribute to the common good, and how to become politically engaged with religious freedom.



On Stories, Law, and the Human Experience



Motivated by the power of stories, BYU Law School launched two new literary initiatives during the fall 2017 semester: LawReads and LawStories. Dean Gordon Smith explains, “Our primary goal is to motivate deeper reflection on the role of law in human affairs.” Turning to stories provides an avenue to better achieve that goal.

LawReads was instituted as a book-of-the-semester program. For its inaugural book, the BYU Law community read Gilbert King’s Pulitzer Prize-winning historical work *Devil in the Grove: Thurgood Marshall, the Groveland Boys, and the Dawn of a New America*. On November 17, King joined the Law School via videoconference to present his work and join the LawReads panel discussion, where he argued that lawyers can help shape a society.

The winter 2018 semester book was Graham Moore’s novel *The Last Days of Night*, and the faculty panel featured Dean Gordon Smith and Professors Clark Asay, Stephanie Bair, and Paul Stancil. Although law plays a vital role in the novel’s conflict, the ultimate tool

for resolution is storytelling. The ability of the protagonist, Paul Cravath, to craft narratives is what enables him to persuade others and brings about his eventual success. The panel members emphasized that storytelling is an inescapably useful skill for lawyers.



LawStories works hand in hand with LawReads to help BYU Law students learn how to shape and tell powerful, true stories. For instruction on storytelling, the Law School hosted a winter speakers series that included Michael Wunderli, the president of the BYU Storytelling and the Law Club; Stephen Wunderli, author and creator of the I’m a Mormon campaign; Eli McCann, host of Strangerville Live and the blog *It Just Gets Stranger*; and Sam Payne, host of the national radio show *The Apple Seed: Tellers and Stories*.

Students were invited to write and submit their own stories to the first annual LawStories competition. The top four winners read their stories at the Wall in the Wilkinson Student Center on April 5, 2018. Please enjoy the first- and second-place submissions, reprinted on the following pages.

READ WITH US In fall 2018 the LawReads book of the semester will be *Black Edge* by Sheelah Kolhatkar. In winter 2019 we’ll be reading *The Color of Law* by Richard Rothstein, who will visit the Law School in January. We invite you to read along with us and share your insights via Twitter using @BYULaw and #LawReads.



The Anxious Extern

BY TREVOR SMITH

I was asked to show up at the law firm at 9:00 a.m. I showed up at 7:30 a.m. because I was afraid I might be late. I showed up at 7:30 a.m. despite doing extensive research and a run-through the day before to see how long the commute would be. A 90-minute commute filled with anxiety-coping methods, such as the typical extended breath holding and finger pinching.

THE DOCKET

I remember standing around outside the tall, window-covered building in my light-gray suit trying to find a way to kill the time.

Questions and thoughts flooded my brain about how early is too early or whether I looked presentable enough. *Gum. I need gum*, I thought to myself. I used my phone to google “convenience stores” and found one around the corner on the other side of the block.

Upon arriving at the gum section, my inner voice hurled

advice at me: *Gum is a terrible idea! You’re going to look like a fool. Get breath mints.*

While walking back to the building where I would spend the next two months, I looked around and saw people going about their daily lives and just trying to get to work. The average person would think, *They are thinking about their own lives.* My brain convinced me they were judging every single aspect of my being and wondering why a weird guy

in a suit was walking around their city. *You’re in a city with 700,000 people, yet here you are by yourself. What made you think you could spend two months without your wife and child? What made you think you could make it through the summer without Harvey?* Harvey is my service dog who helps with my anxiety and other issues.

The inner voice suggested, *Walk around the block and memorize absolutely everything you can, but, while you do that, look up the law firm’s website and memorize all of the attorneys’ faces and names.*

To the northeast, there was a little triangular park. *Dennis specializes in trademark and has long brown hair.* To the north, a restaurant next to what I later learned was a gentlemen’s club. *Mary went to school in Colorado and has glasses and red hair.* To the west, more tall buildings with restaurants on the ground level. *Robert is from Ireland, and he has the same last name as my supervising partner.* To the south, the metro station. *Colin used to work at the FCC and has a last name I’ve never heard before.* The building is U shaped, and I would be in the north portion.

It was time—time to walk in. I opened the door and felt that rush of air one experiences when entering a large building. *Did it mess up my hair?* I walked up to the security desk to check in.

My inner voice provided encouragement as only it can: *The security guard is going to think you don’t belong here, and he’s going to send you away. You’re not going to be able to go upstairs, and the law firm isn’t going to let you stay.*

I got to the desk and introduced myself.

The security guard looked at me and said to take the elevator up to the eighth floor.

I entered the elevator and pressed the button, and the doors closed. My anxiety began to rise along with the elevator, and, in those few moments in the elevator, I began to question my life up to that point. *You're just a poor guy from California. What are you playing at? Your family isn't educated. You don't belong here. They're going to find out you have no clue what you're doing. They're going to kick you out of their office, and they're going to find a way to get you kicked out of school.*

The elevator stopped moving and made a melodious “ding” that indicated I was about to step into the



desk, which I learned was a giant whiteboard an hour later when the managing partner came and made my heart pound by drawing pictures on it in bright red marker.

The first day was already flying by in a whirl of habitual finger pinching, frequent breath holding, consistent heart racing, and, as always,

feels like they can't trust you to handle the work, they won't ask you to work for them.”

This was it. This was the moment. My heart hit the emergency eject button right as my inner voice started questioning me: *Is this death? Are you watching this occur or experiencing this happen? What do you say right now?*

The elevator stopped moving and made a melodious “ding” that indicated I was about to step into the impending doom that would be my summer.

impending doom that would be my summer.

The next few hours were a blur of “Here's your office—it's a conference room”; shake hands; “Here's your pass”; shake hands; “There's a gym downstairs”; shake hands; “Here's the kitchen”; shake hands; “Here's the IT group”; shake hands; “Here's your office again”; and “Your supervisor will see you soon.”

My office was more than just a conference room; it looked like a castle with one oddly shiny wall opposite my

the usual eye-contact avoiding. The inner voice suggested not speaking as much as possible, because, *If they don't hear you say something stupid, they might think you're not dumb.*

Everything was going according to plan until a partner called me into her office for an assignment. While standing there hastily taking notes and shakily answering questions, my nightmare became a reality.

She looked at me and said, “Why are you nervous? Stop being nervous. If an attorney

Why are you looking around? How long have you been standing here? I think you should say something.

After what felt like an eternity of badgering questions from my inner voice, I did the only thing that seemed plausible. I needed to let her know everything. When I say “everything,” I'm talking about the fact that I was essentially about to unload the deluge of self-doubt and anxiety-inducing thoughts that had been plaguing my mind since being accepted into law school.

With tears beginning to stream down my face, I let her know about all of my emotional complications, self-doubts, and anxiety. I told her all about how Melinda, Hudson, and Harvey were back in California while I was going to be all alone for two months. I held my breath and pinched as hard as I could, as I had hit my lowest point. *Time to pack your bags. There's no way they're going to let you stay after that. Maybe you should just start running now.*

“I am so sorry,” began the partner, and what was once originally a giant made of stone was now a normal human of flesh and blood. *What the heck is going on here?! Look at the photo on her desk! She's a mom!* screamed my inner voice.

Her countenance had changed, and the hawk-like eyes peering through my soul moments earlier were now soft. She let me know, “First-day jitters are normal, and you wouldn't be here if you couldn't handle it.” She finished giving me my assignment and even invited me to her home to visit her dog before sending me on my way.

As I walked back to my office, a wave of relief washed over me as I realized, *They're not just attorneys, they're real people. People with kids and dogs and coworkers. And I'm a person with a kid, a dog, and coworkers.*

I got to my desk and started the computer. As I looked over my assignment, I started breathing again.

Trevor Smith, '18, is from California. He completed his undergraduate studies at BYU–Hawaii in finance with a minor in accounting. He plans to work in international tax law.



Sonata for Solo Protagonist

BY LAUREN HEPER I

INTRODUCTION

"Hello, is this Lauren? This is Dean Sorenson. I'm thrilled to tell you that you've been accepted to the J. Reuben Clark Law School for the fall 2017 semester."

I choke back a sob. "Are you serious?"

Dean Sorenson laughs. "Yes, I'm serious!"

"Wow," I say, clutching the phone to my ear. Black spots pop up in my vision and the room spins. "Oh my gosh. Wow."

And then I burst into tears.

EXPOSITION

Primary Theme

I'm 14. I started high school three weeks ago. I recently

went to my first high school football game. (We lost.) I just heard about this new artist named Taylor Swift. I'm not sure if I like her music—she's a little too country for my taste.

Oh, and I'm arguing with my mom.

Again.

"It's not fair," I say. "All my friends get to stay out until midnight!"

My mother is not swayed by this persuasive authority. She leans against the counter, her arms folded tight and her foot tapping.

"Those are the rules in their family," she says. "A 10 o'clock curfew is our family rule."

"Our family rule sucks," I snap. "I'm not a child!"

My mom raises her eyebrows. Her foot stops tapping. I'm on thin ice; I can hear it creaking ominously beneath my feet.

Mom shakes her head.

"Maybe next year," she says. "You're only 14."

I don't need the reminder. It makes me grumpy. "10:30?" I wheedle. I bat my eyelashes and smile innocently.

My mother's heart may as well be carved from stone.

"Lauren," she warns me.

"Okay," I say, backing off.

"How about a 10:15 curfew with the promise that we'll revisit the issue at the end of the term?"

Mom shakes her head and then laughs. She pulls me into

a hug. "You should go to law school," she says, her voice muffled by my hair. Her smell is familiar, floral with a hint of flour and baked bread.

"Is that a deal?" I ask, my words pressed into the ruffles of her apron.

Mom laughs and squeezes me tighter. "Deal."

Secondary Theme

I'm 17. In four weeks I'll be graduating from high school. Prom is this Saturday. (I didn't get asked.) Taylor Swift is the most-listened-to artist on my iPod. Oh, and I've been avoiding Allison. And she knows it. Allison is a determined force of nature who is intent on blowing me through the doors of higher

education. Every time I see her, it's the same question: "Have you thought about law school?"

I run into her at church on Sunday. Her hair is shorter, cut in an edgy bob with bleached ends. She looks very different from the woman who led camp songs while wearing a bandana and ripped jeans.

"Lauren!" she says, and smiles.

"Allison," I answer, but my tone is exasperated. We've had this conversation before.

"How are things?" Allison chimes back, undeterred.

Allison has just graduated from law school. She has five kids and a husband at home. She is direct, honest, and meticulous. She and I bonded while at Young Women camp when I was 12; she was one of my leaders. Ever since then, she's believed that I can take on the world.

Which, according to her, starts with law school.

"Things are fine," I say. And then, before she can ask, I tell her, "I'm not going to law school." My tone is snotty and waspish.

Allison raises an eyebrow, unimpressed with my snark. "I wasn't going to say anything, but since you brought it up . . ."

I frown. I am not amused.

She grins and pulls me into a hug. "Look," she says. "I know things are hard right now, and everything is so big and important. But if you ever need to talk about anything, I'm here." Allison's grin turns mischievous. "Especially if you want to talk about law school."

She gives me an extra-tight squeeze. Gone is the scent of bug spray and smoke; instead, clinging to her is a soft, musky scent. I look at her perfect French tips, her bleached hair,



her immaculate makeup. Is this what law school does to you—takes you from ripped jeans and bandanas to pantsuits and lipstick?

I repeat, "I'm not interested in law school."

"Okay," Allison says. She sounds so innocent, as if she hasn't been trying to convince me to go for the last two years.

"Okay," I say, startled. I didn't expect her to give in so quickly. "Well. Okay. Glad we got that figured out."

DEVELOPMENT

The real world is unfolding before me. It's like that scene in *The Lion King* where Mufasa takes Simba to watch the sunrise.

"Look, Simba," Mufasa rumbles. "Everything the light touches is our kingdom."

"What about that shadowy place?" Simba asks, referencing the gloomy shadows of the elephant graveyard in the distance.

"That's beyond our borders," Mufasa chides his son. "You must never go there, Simba."

But you and I both know that Simba ends up going to the elephant graveyard. He can't help it. He's curious. He's young. He wants to know more, wants to push the borders of his world. Those shadowy places are too enticing to ignore. They

press on the peripheries of your world until you give in or crack. (Who knew law school and an elephant graveyard had so much in common?)

RECAPITULATION

Primary Theme

I'm 23. I sit in a cubicle and google things whenever my boss asks me something I don't know. (I do a lot of googling.) It's been a while since Taylor Swift has released a new album. I hear her old songs on the radio and feel nostalgic.

I get up in the morning, I brush my teeth, I go to work, and I repeat. Hours take years, and days disappear in seconds. I am both awake and asleep but only ever halfway present. I'm not happy. I want more. I don't mean to—it's almost an accident, it's not like I'm surrendering or giving up—but I text Allison.

"Hey, so I have some questions about law school."

Secondary Theme

I'm 24. I'm terrified. I sit in my car and clench my hands on the steering wheel. *Breathe, Lauren, just breathe.* There's some drama going down with Taylor Swift in the news, but I've been too tied up in knots to follow along.

There are 14 unread text messages on my phone. Two are coupons for 50 percent off a regular, nonclearance item at JoAnn's.

The rest are from family and friends, wishing me luck, supplying pep talks in 350 characters or less.

"Good luck, Sis!"

"You got this, girl. :)"

"Knock 'em dead!"

My hands are shaking. My heart is pounding so hard that I almost can't hear anything else

over the sound of it pounding in my ears.

Knock 'em, dead, I think to myself. Yeah, if law school doesn't knock me dead first.

CODA

"Have you listened to it yet?"

Emily's voice is pitched low. We're sitting in our contracts class. Around us, a rousing discussion on promissory estoppel takes place.

"Listened to what?" I ask.

My voice is a bit too loud, and the student sitting in front of me whips around to look at me over his shoulder, frowning. I ignore him.

Emily whispers, "The new Taylor Swift single."

My stomach swoops, and I gasp. Two rows ahead of me, a student looks back, curious. The grumpy student right in front of me glares pointedly. But his gesture misses its mark—who cares about promissory estoppel anymore? *Taylor Swift is back!*

"Ahem." Grumpy clears his throat. Loudly.

I make eye contact with him and give him my best glare. *I will fight you,* I tell him with my eyes. He looks away first.

Breathless, I tell Emily, "I didn't know she was even coming out with a new album."

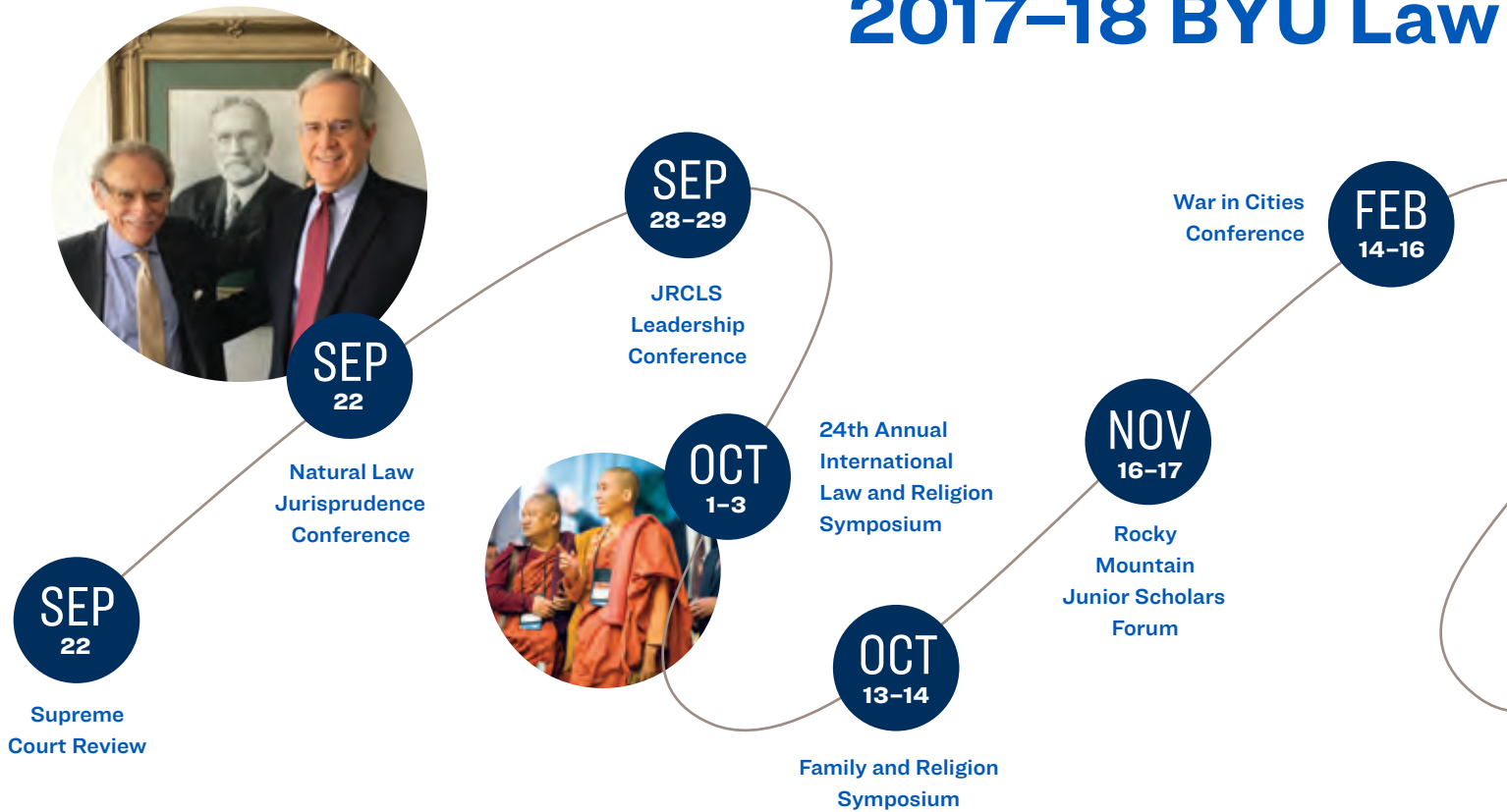
"Yeah, sometime in November, I think," Emily says, shrugging. "You should listen to the single and tell me what you think. It's . . . different from anything she's done before."

I ask, "Good different?"

Emily shrugs. "Just different."

Lauren Heperi, '20, from Provo, Utah, is a lifelong BYU Cougar who completed her undergrad in English literature and editing. She hopes to work in intellectual property, specifically copyright and trademark.

2017-18 BYU Law



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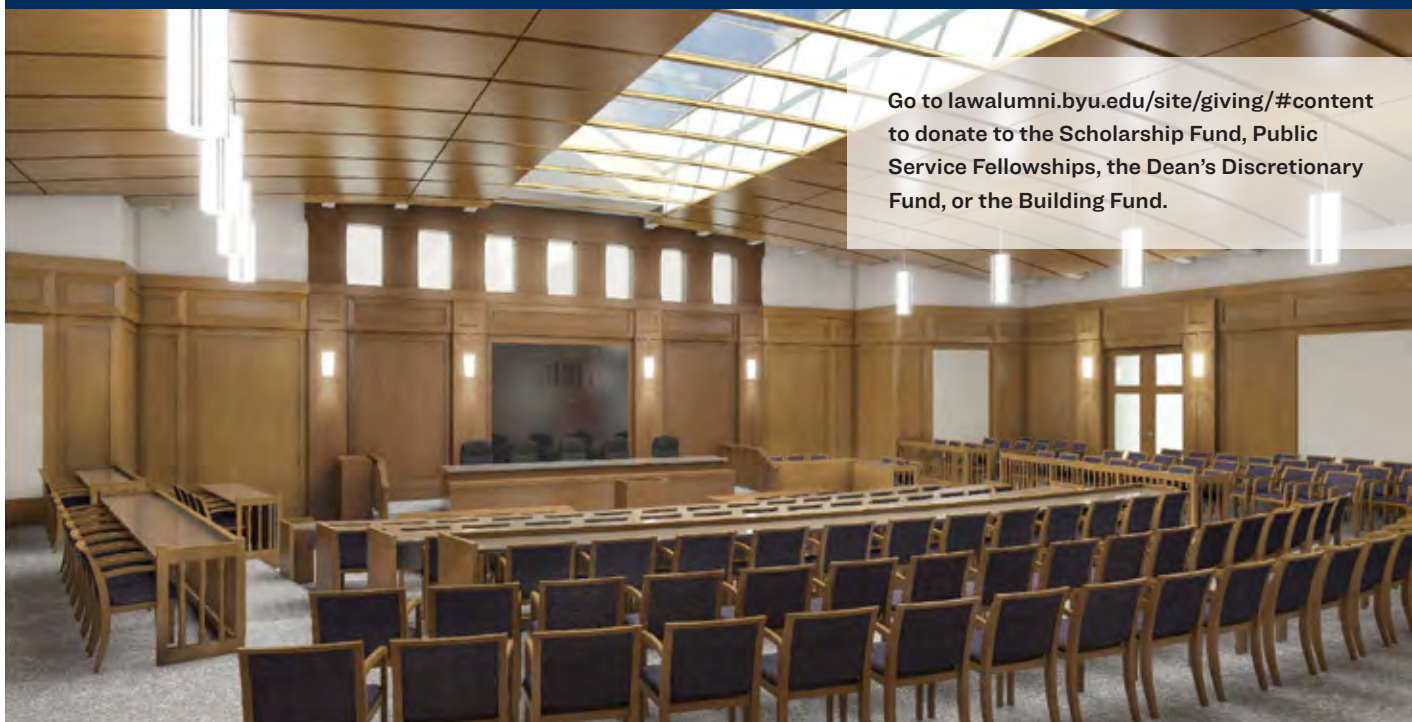
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Serving at the Family Justice Center

BY RACHEL WHIPPLE

FROM THE FIELD

Susan Griffith, '87, is a founding member and the executive director of the Timpanogos Legal Center (TLC), a pro bono legal center that serves the needs of lower-income individuals and families in Utah Valley. She is also an adjunct professor at the BYU Law School, where she has taught service-learning courses in family law, domestic violence intervention, and child advocacy since 1995. Her passion for “lifting lives through the

law” is something that she has shared with her students.

During the first weeks of my 1L year, Professor Griffith spoke about the center to an assembly of mostly 1L students at BYU. Even though we were not ready to take cases, she encouraged us to help at the Family Justice Center (FJC). This invitation was extended again when BYU Law hosted a pro bono celebration two months later in October and urged lawyers and students alike to volunteer.

Run by the TLC and staffed by volunteer attorneys, the

FJC is a free walk-in legal services clinic for people dealing with divorce, custody, and other family law issues as well as landlord-tenant concerns. There are also regular nights scheduled for immigration cases. Additionally, the FJC is a comprehensive clinic where clients can access free services and information from Community Action, the Division of Child and Family Services, Victim Advocates, the Department of Workforce Services, Centro Hispano, Provo City Housing Authority, Timpanogos Legal

Center, and other agencies. Comprehensive clinics like the FJC are incredibly valuable to the community but are not very common.

As a result of Professor Griffith's encouragement, I have been volunteering at the FJC for almost six months now, and I love it. The clients I have served have made me want to weep with compassion, have filled me with indignation on their behalf, and have challenged me to think through complicated situations with calm objectivity. Through them and my attorney mentors, I am learning how to

ask questions, how to counsel others, and how to guide someone through the process of a divorce. FJC clients are all *pro se*—meaning they represent themselves—and are in different phases of the legal process. Volunteers walk them through each step so that something emotionally and logistically overwhelming becomes a series of manageable tasks.

When clients walk into the FJC, they are greeted by either Maria Blanchard or Amberly Bateman—both licensed clinical social workers who keep the FJC running and organize grants and volunteers. A grant from the Victims of Crime Act funds the FJC, and even though the target demographic is women who are victims of

domestic abuse, the services are not limited to that particular population or problem.

Blanchard, who is efficient and approachable, is animated when she talks about the FJC. “The clinic offers more than just legal help, although that is the feature that draws people in,” she explains. “Once our clients come in, they are able to see what help is available for them through the various partner agencies. For example, when a woman comes in seeking legal help for a possible divorce, she is able to find that she will get help not just with the divorce petition but also with protective orders, housing, and employment opportunities. [The clinic] dispels the lies . . . that she and her kids wouldn’t be able to

through an automated phone system that required a social security number, which she does not have. At the FJC, she was able to talk directly to people who told her how to get the answer to her question—in addition to the question she was afraid to ask, which was whether or not she could legally return to California with her children once the restraining order against her daughter’s father was in place.

In addition to the service I give, I love being at the FJC because of the opportunity to work with the volunteer attorneys there. Michael Harrison, ’79, is one of the regulars. When asked why he keeps coming to the FJC, he talks first about other things he has done to serve in his church and community. Then he says, “The FJC is a forum for service that calls on my expertise, so I can serve in a way others couldn’t. It’s rewarding.”

While Harrison finds it gratifying to use specialized skills that he has developed in the service of clients, he also enjoys training law students who “ride along” as he meets with FJC clients. Many of the law students at the clinic are second- and third-year law students enrolled in a clinical alliance class at BYU Law, but even first-year law students like me are welcome to assist with client interviews and translation. Students in the clinical alliance begin by taking notes for the attorney, and as they learn the law and how the interview process works, they graduate to interviewing clients on their own and consulting with the volunteers attorneys about appropriate advice.

I have worked with women relieved to finally be breaking

free from emotionally manipulative relationships, with men working to assert their visitation rights, and with parents seeking the best for their children. Unfortunately, I have also seen vindictive people who are abusive and exploitative, and I am deeply grateful that the law puts limits on their vendettas. I have been saddened to witness heart-wrenching situations with shocked and grieving clients: spouses who have been served unexpected divorce papers and want nothing more than to stay married or couples who never wanted to divorce but cannot manage to live together after their children have left home.

We help clients understand their legal options. Even the clients who do not know what they want or who want the impossible are served at the FJC. As we listen compassionately and talk through what is possible, we help them find what healing is available.

The Family Justice Center meets Tuesdays from 5 to 8 p.m. at the Utah County Health and Justice Building. If you are in Utah County, we would love to add your skills to ours. As for the alumni scattered across the country, I hope you will find a service opportunity that helps you grow in your love for the law profession and for the members of your community—the way serving at the FJC has helped me.



Rachel Whipple, '20, is from Texas. She completed undergraduate work in geology and graduate work in

humanities, both at BYU. She hopes to work in environmental policy.

survive without [the abuser].”

The FJC empowers clients through personalized information as they meet in person with lawyers and caseworkers in the evenings, a time that allows more volunteers to participate and gives more options to people who cannot make it to other free services offered during working hours. For example, one client could not follow up with the Utah Office of Recovery Services on the status of her child support claim because she was put

An Outlet for Students, a Refuge for Immigrants

BY CAMILA QUIÑONES

I will see you soon. I promise. When we get our papers, we'll come visit," my best friend assured me when we were 11 years old. I watched her family's dusty old Land Rover drive away from their Utah home that scorching summer day. They moved to Canada after realizing their quest for American citizenship was merely a dream. I didn't see my friend again until I was 20 years old.

A year earlier, my mother and I had immigrated to the United States, leaving my father, my brother, and countless relatives behind in Argentina. After a few months we no longer had papers, or legal status, to continue residing in the country, so I constantly worried about us getting pulled over by the police.

On the day after my 19th birthday, my mom and I received news that our applications for permanent residency had been approved, which meant I could safely travel to Argentina and still

return to the United States. It was one of the happiest days of my life, rivaled only by the day I was finally reunited with my family in Argentina.

Immigration law became dear to



my heart from a young age because of my own experiences and those of people I loved. As a missionary in Northern Virginia, I made friends with people whose stories were similar to mine. I also saw a side of immigration that I had never experienced myself. Lack of legal status often stunted or halted people's temporal, financial, and even spiritual progress. Hoping

to eventually aid those in need, I decided to go to law school.

Fast-forward two years. I had just returned from working at a corporate immigration law firm and was starting my second year of law school when I received an email from Professor Carl Hernandez, '92, about the new Community Legal Clinic. It was designed to serve members of the community who otherwise could not

afford legal services. Almost before I could finish reading the description, I had started my application to work there. At the time I didn't realize how much the clinic would influence my legal career.

The clinic is the first full-service legal clinic in which BYU Law students can represent real clients throughout their entire case. It is open from 5 to 7 p.m. every



Thursday at the Employment Resource Center in the Provo Deseret Industries (DI). DI is already helping community members with limited means to access resources, so by working out of this space, we are able to reach more people and share community education resources with a broader audience.

The clinic first opened its doors on September 21, 2017,



BRADLEY SLADE (2)

to help Deferred Action for Childhood Arrivals (DACA) recipients refile their paperwork before the new October 5 deadline. We created videos and flyers to spread the word about the DACA initiative on social media, on the Law School's website, and in local stores, translating everything into Spanish to help reach those most likely in need of the service. To our surprise and disappointment, turnout was low. However, that first week was the slowest week the center has had. By the end of the 2018 winter semester, we had helped more than 200 individuals with not only immigration cases but also with employment, family, domestic violence, nonprofit, criminal, personal injury, landlord/tenant, medical malpractice, and other cases.

Toward the end of the semester, I arrived one day at the clinic to find more clients

than usual. That's when I met Maria. A single mother who visited the clinic accompanied by her high-school-aged daughter, Maria carried a big plastic-knitted grocery bag into the office and humbly told me that she had walked from the grocery store, where she had bought a lot of corn. I pictured Maria walking from the store, burdened by the heavy bag, and then after our meeting walking home in the cold.

Maria told me that her green card would be expiring within the next year and that she lacked funds for a renewal or a citizenship application. I knew fee waivers were available only in extreme circumstances, but I hastily searched the qualifications for a waiver and asked about her monthly earnings. Tears welled in my eyes as she disclosed an amount I knew was well below the poverty line. Suddenly my own worries seemed insignificant. I'll never forget the way her smile brightened that small room when I informed her that her financial situation qualified for the waiver.

Morgan Luedke, 3L, who also volunteers at the clinic, explains, "Law school can be all-consuming. Most of my energy ends up being expended in law school-related things, but then when I come to the clinic and actually do things for other people, . . . it changes my outlook. It makes all the studying and countless hours spent actually mean something."

Most of my peers and I came to law school to make a difference in the world. The clinic has given us an opportunity to do that while still in law school. It's hard work and it's stressful, but it's incredibly worth it.

Another of my classmates, Nick Hafen, 2L, who has donated many hours to the clinic, says, "Working at the clinic reminds me that, if nothing else, I want to make room for pro bono work. Every time I come here, I feel an injection of energy."

The real challenges our community members face can be met by lawyers from all areas of practice—something that BYU Law students are learning through our experiences at the clinic.

Students enrolled in the clinic course can get credit for working there, but most of us end up volunteering more hours than are required. In addition to providing us with an opportunity to serve our community, it's a great way to keep our perspective.

The clinic recently started offering civics lessons to help people prepare for and pass their citizenship interviews. Maria has been taking the class. As for me, my quest for citizenship was finally fulfilled when I naturalized as an American citizen over the last Fourth of July weekend after having lived in the United States for 16 years.

This clinic offers individuals the same sense of security that I now cherish as an American citizen. Just this last week Maria gave me a big hug and said, "Thank you for being here, for helping me, and for encouraging me." You can't put a grade on that.



Camila Quiñones, '19, from Buenos Aires, Argentina, completed her undergraduate degree in communi-

cations at BYU. She hopes to become involved in immigration policy.

Shifting Perspective

KURT LONDON AND THE ROCKY MOUNTAIN INNOCENCE PROJECT

Kurt London, '16, long felt inspired to follow in the footsteps of his father, Brett London, '79—a Superior Court judge in Orange County, California, and a former deputy district attorney—by becoming a prosecutor. However, London's plans took a turn when he signed up as a second-year BYU Law student to work with the Rocky Mountain Innocence Center (RMIC), which works to appeal and ultimately overturn wrongful convictions in Nevada, Wyoming, and Utah.

"Even though you are technically on the side of defense when you do innocence work, I felt like I would be getting invaluable experience to do prosecution—innocence centers go through the investigative process and make sure that justice is being served," he says. While working at the RMIC, London began to think from a new perspective: "I realized the system isn't set up for the innocent."

Following his 2L experience, London continued working for the RMIC without payment or even class credit. Then, as the recipient of the Law School's Nelson Galbraith Fellowship, he stayed on at the RMIC following graduation. The fellowship,

funded by the Galbraith family, gives new graduates the opportunity to undertake innocence work—a noble pursuit that often lacks funding.

When describing his caseload, London explains that people are often surprised to learn that many of his cases do not involve DNA. "DNA cases are the easy ones," he says. "With many older cases, DNA and other physical evidence has been lost or destroyed. That is what makes the work so challenging."

When he gets a case, London starts at square one, going through the investigation step-by-step to determine what went wrong, what was found, what was not found, and what might have been improperly hidden. It is a search for every person who was questioned as well as those who may have been missed, for every piece of paper that was examined as well as every paper that was not originally turned over. It is not unusual, he says, for more than 300 people to have been involved in a case, and he goes through the list and interviews them one by one.

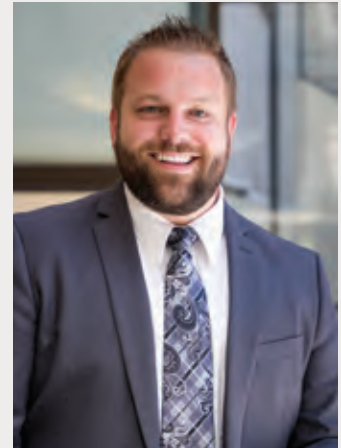
For others considering innocence work, London advises, "Every person you talk to will have their own viewpoint. You have to see the evidence for what it is and be aware of your

own slant as well. Practicing keeping an open mind and recognizing your own biases is something you can start now that will be an incredible benefit later."

London and other RMIC attorneys also address policy issues. One in particular is of concern to London: "One of the irrational things about our justice system is that if you are declared innocent, you get no help," he says.

After spending sometimes more than 20 years in prison for a crime they did not commit, exonerees are reintroduced to society with no resources and no assistance to help them reintegrate into the workforce. They often go directly from prison to the streets. Many exonerees have medical and counseling needs but aren't provided any help to secure medical care or obtain housing, and their criminal records often appear on background checks despite their being declared innocent.

In Utah, the RMIC and other groups have worked with the legislature to get a compensation act passed. The act allows exonerees to receive \$30,000 in compensation per year for up to 15 years of wrongful imprisonment. This money is vital in helping exonerees readjust, find housing, obtain education and job training,



and get medical attention. RMIC is working in Nevada and Wyoming to pass similar legislation.

London explains, "If we are going to spend that much time and effort to imprison an innocent person, we need to . . . do what [we] can to minimize the harm that experience will have on the rest of their lives. Unfortunately, the system is not set up that way."

Regarding his original plans to be a prosecutor, London has left open the possibility that he might eventually follow that route. He says, "We need conscientious objectors in the system—we need more prosecutors who are willing to look at things from a wider perspective." For London, working at the RMIC has been an important experience to help him gain that expanded view.

In the fall of 2017, BYU Law launched LawX, a legal design lab focused on innovation in the legal field with the ambitious goal of solving one legal challenge per fall semester. In introducing the lab, Dean Gordon Smith explained, “LawX will tackle some of the most challenging issues facing our legal system today. Some gaps in legal services may not be attractive targets for innovation by small, private startups or larger profit-oriented businesses, but closing these gaps can make a tremendous difference to many people who feel priced out of the market for legal services.”

LawX is structured as a design-thinking process in which students find the best solution to social legal issues, whether that is a change in policy, process, or product. And in only one semester, LawX

LawX and SoloSuit have been covered by multiple national publications, including NPR and Above the Law, and in April 2018, LawX received the Utah iSymposium Cyber Pioneer Award. For more information about LawX and to learn about its next challenge, follow @LawXLab on Twitter or the LawX blog at lawxblog.wordpress.com.

causing them to automatically lose their cases. SoloSuit provides a simple platform for debtors to respond to a lawsuit in as little as 10 minutes.”

LawX, which is staffed by second- and third-year BYU Law students, was conceived by Dean Smith and Parker. The students were given fast-paced deadlines and responsibilities that mimicked being in a startup, and they received a crash course in design thinking



by following a quick and simple response form with online prompts. Their finished answers are then available to download and print for submission to the courts.

While going through the design process, LawX students identified several rules in Utah that make it difficult for people who are facing debt-collection lawsuits without the benefit of legal representation. “One example is that Utah requires

problems. As they worked to design a solution, they were careful to build the software in a way that would make it easily adapted to other states and even to other areas of law.

“We think the software could help make the law accessible to millions of people across the nation,” said second-year BYU Law student Brock Foley. “The Alaska court system will pilot the software for debt-collection cases in their state later [in 2018], and LawX is currently in discussions with Step Up to Justice, a nonprofit organization in Arizona, to adopt the software to eviction cases in that state.” Several other states have signaled their interest in adapting the software to their needs.

“The work being done by LawX beautifully complements BYU Law School’s mission to make the world a better place for those who lack resources and strength,” said Dean Smith. “LawX is tackling some of the most challenging issues facing our legal system today with an emphasis on non-lawyers who need help navigating a system that is designed for legal professionals. It is refreshing to see the strides LawX has made in a single semester, and I look forward to seeing LawX’s positive impact in Utah and beyond for years to come.”

Innovation at BYU Law

THE LAWX LEGAL DESIGN LAB

did just that. In January 2018, LawX students launched SoloSuit—a free online tool that helps Utahns who cannot afford legal services to respond to debt-collection lawsuits.

“Early in the semester we realized that debt collection was a legal crisis in Utah,” said Kimball Dean Parker, LawX cofounder and class instructor.

“In the last five years, debt collectors in Utah filed over 330,000 lawsuits; 98.5 percent of those sued do not hire an attorney. And in some years, over 80 percent of those sued did not respond,

and support from IBM designers. They also collaborated with students and professors in other departments at BYU—such as with Bryan Howell, an industrial design professor who team-taught with Parker—as well as with alumni, local businesses, and legal professionals and organizations.

“It has been the experience of a lifetime to bring a solution from idea to market,” said Cami Schiel, a third-year BYU Law student. “I am looking forward to seeing SoloSuit’s success.”

Using SoloSuit, available at www.solosuit.com, defendants are able to respond to a debt-collection complaint

those who can’t afford an attorney to print their response and mail or hand-deliver it to the court,” said Parker. “Only lawyers can deliver those documents electronically. Most of the debtors we spoke with don’t own printers or use the mail regularly. We estimate this rule alone prevents 15 percent to 20 percent of people from responding. It needs to change.” The Law School has met with court administrators, bar representatives, and the Utah Supreme Court to discuss tech solutions to these administrative issues.

The students also quickly realized that Utah is not the only state facing debt-collection

Pathways Through Law School

SEVEN STUDENTS FROM THE CLASS OF 2018



Taking the Right Step

Elizabeth MacLachlan's path to law school wasn't clear to her at first. All of her family members were in STEM-related fields, and that seemed to be the obvious choice for her too. When her father suggested she consider law school, his recommendation felt right, but she encountered unexpected obstacles on her new path.

"A lot happened in the year before I started law school," she says. "I separated from my then-husband and started studying for the LSAT. I found out I was expecting my daughter, and I began to question my decision to attend law school."

"I'm grateful for my supportive parents who told me to keep pushing for my goals even though it would be hard," MacLachlan continues. "Leaning on their words, I took the LSAT and applied. . . . I haven't regretted coming to law school and don't think I ever will!"

MacLachlan's involvement in cocurricular activities underscores her dedication to getting as much as possible from her legal edu-

cation. In addition to joining the moot court team and spending a number of hours outside of class researching, writing briefs, and preparing for competitions, she joined the *BYU Law Review*. As a 2L, she became an associate editor, and in her 3L year she advanced to lead articles editor.

MacLachlan notes that her professors and classmates made an incredible difference in her law school experience. "I specifically think about Professors Michalyn Steele, Gladriel Shobe, Elysa Dishman, and Dean Christine Hurt," she says. "They have all gone out of their way to help me along my career path and to lend advice, support, and encouragement. I look up to them for their aspirations, success, and kindness."

MacLachlan has demonstrated hard work, commitment, and excellence, and her peers have noticed. They have even cited her as one of the kindest people they know.

MacLachlan will pursue a master's degree in tax this fall. She hopes to eventually return to her hometown in South Dakota and practice tax law.

Teaching and Learning

After four years of teaching sixth grade in North Carolina, Grant Jones knew it was time to pursue a long-time dream: law school. But he believed that the skills he had cultivated during his time as an educa-

tor would not transfer or be useful to his legal education. "I quickly found, however, that I was mistaken," he says. "My time taking complex topics and breaking them into simple pieces for sixth graders helped my legal writing and argument skills."



Once he arrived at law school, Jones became involved in a variety of organizations, including the *BYU Law Review* and the Minority Law Students Association. In addition, he participated in Gene Schaerr's Supreme Court Clinic, where he had the opportunity to write for real clients who had cases before the U.S. Supreme Court.

For Jones, the most valuable parts of law school were the internships he had with federal and state judges. He says, "My time working for brilliant judges and their law clerks has helped me develop the skills and confidence to begin my law career."

In his pursuit of learning how to "think like a lawyer," Jones was most influenced

by his professors, specifically Professor Kif Augustine-Adams. "She has always encouraged her students to push back on the law and policy in order to form opinions about what is best," he says.

Jones's classmates also had an affect on him. "My fel-

low students here at BYU are amazing people," he says. "I didn't realize before I came to school how important my law school peers would be to me. So many have helped me grow, get through the tough times, and enjoy my law school experience."

Jones moved with his wife and two children to Houston, Texas, after graduation. He currently works for Kirkland & Ellis in their litigation group and hopes to continue building upon the foundations he established at BYU Law.

Deploying Law

Karina Osgood was 1 of 15 law students across the nation who were accepted in 2017 to par-



ticipate in the Air Force ROTC one-year program in preparation to become an Air Force JAG lawyer.

For Osgood, that meant learning in one year what most take four years to learn—all while attending her final year of law school. She also had the opportunity to participate in field training, which is something most Air Force JAG lawyers typically don't experience. The entire experience gave Osgood a unique perspective on the military and prepared her to excel in the Air Force.

"After graduation and passing the bar exam, I will go to the Air Force JAG School, where I will learn about the Uniform Code of Military Justice in preparation for my first assignment—either stateside or abroad," Osgood says. "I intend to pursue a full career in the Air Force JAG Corps, and I will be using my legal training to assist airmen, participate in court-martials, and work in many other areas of law."

Osgood has excelled not only in her ROTC training but in a variety of activities during her three years at BYU Law. She has been a member of the BYU Law moot court team, has served on the moot court board, and was a semifinalist in the Rex E. Lee Moot Court

Competition. She also traveled to Dilley, Texas, with a group of fellow law students to provide volunteer legal aid to women and children who had fled their home countries and were waiting for the courts to make a decision on their claims for asylum. Her ability to speak Spanish—something she learned while serving as a missionary for the LDS Church in Huancayo, Peru—has proved to be an invaluable skill.

Once she is commissioned as an Air Force officer, Osgood hopes to deploy to Afghanistan or another zone where she can gain experience working in operational law. She would like to one day become a district court judge.

Engineering Patents

As Mark Hammond completed an undergraduate degree in electrical engineering, his desire for broader exposure to new technologies, more significant opportunities for writing, and improved control over his future made a career in intellectual property (IP) compelling. After shadowing patent attorneys and sitting in on a few law school classes, his decision was solidified, and he applied to BYU Law.

During Hammond's three years of law school, he partici-

pated in a variety of IP organizations, including IP Moot Court and the Student IP Law Association. He passed the patent bar during his 2L year and is now a licensed patent agent. He also externed at law offices in Madrid, Salt Lake City, and Houston.

"BYU has wonderful IP opportunities, making it competitive with top-notch IP-focused law schools," Hammond says. He was able to take a number of IP- and patent-focused classes as well as complete several externships at IP law firms. "My courses and experiences during law school developed the skills I need as a patent attorney."

Hammond notes that his experience in law school has drastically changed his thinking and the way he approaches life. What impacted him the most was the process—and aggravation—of learning legal analysis as an engineer. "Answering legal questions is an exhaustive journey of analysis, the circumstantial or uncertain outcomes of which challenge an engineering mindset," he says. "Law school removed me from a world filled with constants and models to a zero-sum world which involved shifting public policies and evolving rules packaged into arguments.

But through my peers and professors, I slowly realized and enjoyed the beauty of the legal world. . . . BYU Law and my technical background gave me the enthusiasm to enjoy an exciting career in which I have the privilege of representing others and their ideas."

Hammond has moved to San Diego, California, where he has accepted a position in the intellectual property practice at Perkins Coie.



Choosing to Love Law

Teaching and learning are integral parts of Elise Faust's life. In the fourth grade she set her course to teach history. By age 21 she had earned a master's degree in education from Columbia University and went on to teach high school for seven years in Washington, DC, California, and New York.

Faust enjoyed the years she spent teaching because of her passion for education. "I think one of the exciting things about teaching is that you learn new things every day—whether you're preparing new material to share with the students or you're studying a topic more in depth," she says.

Faust decided to leave teaching to come to law school because she saw it as another way to expand her mind. She was also following a family tradition—her father, brother, and uncle are BYU Law alumni.



Though Faust knew law school would be demanding, she looked forward to the challenge. She engaged with fellow students and professors by participating in the *BYU Law Review*, moot court, the Supreme Court Clinic, and an externship with the U.S. District Court in Salt Lake City.

Faust says that the variety of skills that law school has given her have had a positive impact on her career. "Overall, law school has helped me to think more clearly and has increased my capacity to do good in the world," she says. "I think you decide how happy you want to be in whatever career you choose, and so I made a decision that I was going to love law."

Faust plans to take the New York Bar and work at Skadden, Arps, Slate, Meagher & Flom in New York City for a year. In 2019 she will begin a yearlong clerkship with Judge Kent A. Jordan on the U.S. Third Circuit Court of Appeals.

Becoming a Blockchain Guru

While participating in a summer externship at Davis Polk in New York, Ryan Lewis was introduced to blockchain, an algorithm and distributed data

structure for managing electronic cash without a central administrator. According to Lewis, blockchain is a complicated way of decentralizing the power of central bodies that control the things we do in our lives (e.g., banks and colleges).

Lewis's interest in blockchain motivated him to organize the BYU Blockchain Summit, which brought in 23 speakers from seven states and more than 250 attendees. Since the event, Lewis reports that he has "connected with hundreds of folks in the industry, researched and published articles on blockchain and securities laws, and joined several blockchain projects in an advisory role." He is currently advising four companies about blockchain.

In addition to finding a passion for blockchain during law school, Lewis has participated in the *BYU Law Review*, the Jessup International Law Moot Court Competition, the Transactional LawMeets Competition, LawX, and the Law and Entrepreneurship Clinic.

"I came to law school with no experience in or comfort with networking," he says, "but as I've pursued my personal and professional goals, . . .

I've developed an incredible network that continues to bring me new opportunities almost daily that I could never have dreamed would be available to someone in my position."

Lewis notes that his time at BYU Law has changed how he thinks about and approaches challenges. "[Law school] focused my energies. I'm much more effective now at identifying goals for the day/week/semester/life and executing. At first I was driven by the overwhelming fear of failure. But as I've progressed, this has been entirely replaced by the recognition of my potential and the bounty of opportunities that are available—thanks, in large part, to my association with BYU Law," he says.

Lewis is returning to work at Davis Polk, where he will join their capital markets practice in New York City.

Finding the Path Forward

Lisha Lisonbee thought she had found the perfect fit when she started college as a wildlife ecology and management major. But that changed when she had a debate in an English class. "I loved it!" she recalls.

Lisonbee then called her father and asked what major would include debate. "He said law and I laughed at him, convinced there was no way in this world I would ever pursue law," she says.

After her dad's suggestion had percolated for a while, Lisonbee made an impromptu decision to take the LSAT. Then she sent in her application to BYU Law and held her breath. "That's when things got nuts," she says. "I was waitlisted and spent the summer wondering what would happen next. I called BYU Law



the Monday of orientation week and was told they were no longer accepting students. . . . I was out law school, out a job, and out of my mind." After "a devastatingly anxious hour," as Lisonbee describes it, she received a voicemail asking if she still wanted to come to law school. Two days later she was at BYU Law for orientation.

Lisonbee never looked back. She found a home at BYU, engaging in the law school experience as a member of BYU Trial Advocacy and the *Journal of Public Law*. She was also heavily involved in the Student Bar Association, serving as president her 3L year.

On April 26 Lisonbee spoke at the Law School convocation. Her remarks were based on the line "hither by Thy help I've come" from the hymn "Come, Thou Fount of Every Blessing." Recounting moments of encouragement and counseling that came from family, classmates, professors, law school employees, reflection, and prayer, she said, "We will be hard-pressed to find more loyalty than in the friendships that have been forged in the walls of this law school."

Lisonbee plans to take the bar and pursue a career in criminal prosecution.



The 2017 Entering Class

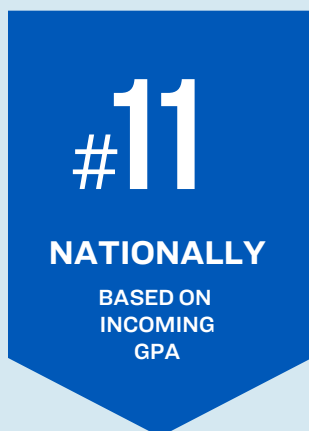
LSAT



MEDIAN



GPA



MEDIAN



* Paul Caron, "Law School Rankings by Student Quality (LSAT and UGPA)," *TaxProf* (blog), April 2, 2018.

† Watch for news from the August 6–7, 2018, ABA House of Delegates meeting.

They will vote on changes to—including possible removal of—the standardized test requirement in Standard 503.



Susan Lundstrom, '94, begins her story about how BYU Law School changed her life with a brief description of where she is now. "At 75 years old, I no longer practice law. I'm 100 percent disabled and in a wheelchair, and I have a service dog. I'm kind of scrawny, and I've switched from brunette to blonde," she says, pausing for just a moment before filling in the blank—"you know, because blondes have more fun!"

Lundstrom's path to law school is as unique as she is. After completing high school in Illinois, she joined the United States Air Force, where she enjoyed a 22-year career as a "mustang," rising from an enlisted person to senior officer status. In the Air Force Lundstrom

flew a mission in an F-4E—something few women had done at the time—and even enjoyed a brief assignment as a personal assistant to President Richard Nixon and the First Family. Throughout her Air

Court judges. She explains that this is when the door to law school unexpectedly opened to her. "After I'd been there a couple of years, one of the judges said, 'Miss Lundstrom, I want to see you right after

determined that I should go there too."

Lundstrom soon received a congratulatory letter from BYU Law School welcoming her into the 1991 entering class. She remarks, "I was amazed, delighted, and indeed shocked! At 51 years old, as a non-Mormon, and with a middle-of-the-road LSAT score, I had no acceptance expectations. I wondered, 'Why me?' and I even phoned the director of admissions, Scott Cameron, to clarify whether my selection had been a mistake. He laughed and told me that indeed I had been selected! So, from South Dakota I hired a cowboy to haul me, my dog, my household items, and my horse to Provo, Utah."

Feelings of adventure soon gave way to reality and a difficult physical setback. "I was excited to start law school, yet each day I seemed to lose

Why Me?

A STORY OF KINDNESS AND GRIT

Force service, Lundstrom pursued her education, earning a bachelor's degree in general studies in psychology from the University of Nebraska and a master's degree in management and supervision from Central Michigan University.

Following Air Force retirement, Lundstrom worked as a Nevada parole and probation officer writing presentencing reports for nine Nevada District

court.' I thought, 'Oh no, what have I done this time?' In his chambers he said, 'All the judges concur that you write the finest reports. You should go to law school. No, you *must* go to law school. We will endorse you wherever you want to go, but you will go to BYU.' I didn't know what BYU meant. I didn't even know where it was. But one of the judges had graduated from BYU and was

self-confidence when I listened to the skillful, intelligent classroom remarks and briefings by my fellow students,” Lundstrom says. “Most all of these students were younger than me by 30 years—and they scared the blazes out of me!” Then, at the end of Lundstrom’s second semester, with her arms full of books for studying and reviewing for finals, excruciating pain shot through her neck. Years earlier, while in the Air Force, she had herniated a disc in her neck and had undergone major surgery and a lengthy recovery. She was diagnosed with degenerative disc disease but had had no further spinal problems until that point.

The next day Lundstrom drove to the VA hospital in Salt Lake City, where tests revealed that she had simultaneously herniated three more discs in her neck and would need extensive surgery. Rather than remain at the VA hospital, however, she chose to return to Provo for final exams. “I was given strong narcotic pain medications to help me endure the pain in order to take finals,” she says. “It was a miracle that I managed to pass my courses—though I did so with less than mediocre grades.”

That summer Lundstrom underwent surgery, and her head was placed in a metal device called a halo, which was screwed into her skull in four places and attached to a body brace that extended beyond her hips. Just before fall semester, she endured major surgery again for another herniated disc—for a total of five cervical fusions. A fellow law student who lived near the hospital brought Lundstrom class recordings so that she could stay up with her coursework.

She says, “Although people had urged me to quit school, I refused. I was 53 years old. I knew if I quit I would not have the energy or desire to return. Professor Michael Goldsmith became the main faculty member who encouraged me and insisted I not give up. He kept me going. I will forever be grateful to him.”

Lundstrom made it through her 2L year with a lot of grit and some kind assistance. She lived alone and was miserable from the halo device and from constantly being in a wheelchair. Each day she rode to school in a special bus for disabled people, and each day a group of students met the bus and wheeled her to her classrooms.

When final exams were approaching, Lundstrom had a hard time studying and couldn’t speak above a whisper because her vocal cords had been damaged during the surgery. “That is when a number of the brightest law students intervened in my life and changed its destiny,” she says.

“At least once a week, four male students—all ‘top drawer’ students—drove to my house and lifted me and my wheelchair and my service dog into their vehicle. After driving to the law school, the five of us studied for finals. Because I could not speak loudly, I just listened to the students discuss the subjects. I listened and listened and listened for several hours until it was time to return home. This is how I learned. And part of what I learned is just how important listening is. When finals came, I had learned enough of the material by listening to those outstanding students to pass my finals.”

During her 3L year Lundstrom took an externship

set up by Professor James Backman, who Lundstrom describes as “just outstanding.” He connected her to Thomas Steffen, chief justice of the Nevada Supreme Court. “I said to Justice Steffen, ‘If you want a top-notch law student who can whip those reports out and do superior work, you don’t want me.’ But I worked hard. My externship was supposed to last for three months but went on for seven months for full BYU Law School credit, because Justice Steffen liked my work so much.”

Through her hardships, Lundstrom learned important life lessons that made her law school experience worth the trouble. “First and foremost, she says, “I learned humility. I was a smart aleck when I started at BYU, but I quickly learned to be humble. Second, it wasn’t just that the Law School students enriched my life and changed my career path. Rather, I learned from them about the deep impact that graciousness and kindness can have on others. I will never forget all the goodness offered to me that helped me reach my goal. I know how important it is to help others who might hit roadblocks—whether from age or life situations. Mainly I learned to help others with physical and academic challenges to keep going, to keep trying, and to never, never, never give up, despite the hardships in life.”

At graduation Lundstrom was given the Faculty Award for Meritorious Achievement and Distinguished Service—and, she notes with a smile, “I graduated with Steve Young, and I got the biggest ovation! Can you believe it? He even gave me two big thumbs up!”

After law school, Lundstrom moved back to South Dakota with her dog and went on to earn professional prestige—something she attributes to the great education she received at BYU Law. She says, “I passed the South Dakota Bar exam with the highest grade of any student who took the bar at that time—and I thank BYU for that. I obtained a great law position. I then served as the only criminal prosecutor for adult crimes for the Rosebud Sioux Indian Nation in South Dakota, the second-largest tribe in the entire state. I was honored to be selected.”

More than anything, Lundstrom is grateful for her law school experience. “I want to inform other students of the fine intelligence, kindness, generosity, and care that enabled me to graduate from BYU Law School,” she says. “The interventions and assistance of many law school students and faculty helped me through physical pain and my studying to reach the graduation pinnacle. Seldom a day goes by that I do not think of these people and thank them in my heart and in my prayers. I did not deserve such kindness!”

Lundstrom lands on deepening the question of “Why me?” that she began law school with in the first place—a question that would be tempting to ask in the face of her intense physical difficulties during law school. But Lundstrom clarifies: “I believe that ‘Why me?’ should be altered to ‘Why not me?’ Thank you to BYU Law School and its excellent people. I love all the students and faculty who made it possible for me to write ‘Esquire’ after my name. I’m very honored to be a graduate of BYU Law School.”

The Outward Mindset and a Heart at Peace

JAMES FERRELL RECEIVES THE PEACEMAKER AWARD

Last year on the International Day of Peace—September 21—the Center for Conflict Resolution held its annual Peacemaker Award Presentation. The 2017 recipient was James Ferrell, a founding member and managing partner of the Arbinger Institute, an organization dedicated to changing the way people think about resolving conflicts. A graduate of Yale Law School and a celebrated author, Ferrell was recognized by the center for his efforts to establish peace.

After receiving the award, Ferrell spoke about a progressive way to view and manage conflict. In contrast to the old adage “It takes two to tango,” he proposed that it only takes one. When we are self-focused, we already have a conflict: we are in conflict with the rest of humanity. He said, “When it’s about me, others don’t matter like I matter.” Thus, Ferrell explained, we start objectifying others, and they become vehicles, obstacles, and irrelevancies. When we treat people this way, we have a “heart at war,” or an inward mindset that inherently creates conflict. A heart at war invites others to behave in the same self-absorbed manner; it “lies at the center of every heinous thing.”

ALUMNI AND FRIENDS



In contrast to the heart at war, the “heart at peace” views others as people with goals, needs, and concerns. Personal objectives and behaviors are calculated with others in mind. Developing a heart at peace is the move that, in Ferrell’s words, “changes everything.”

To further explain this view of conflict, Ferrell discussed four levels of conflict work:

- (1) conflict management,
- (2) conflict resolution,
- (3) conflict transformation,
- and (4) reconciliation.

At the first level, two parties are in conflict. An arbitrator comes in and partitions the parties—either literally or by introducing coping

mechanisms—to stop the conflict. However, both parties remain self-centered and frustrated with the behaviors of the other party.

At the conflict resolution level, an arbitrator adjudicates the dispute to reach what is considered a fair resolution. Each party is forced to compromise in light of their disparate objectives.

Conflict transformation is the level at which real change happens. One party decides to change their behavior, moving from an inward focus to an outward focus. The other party may still have a heart at war, but the changed party will want to help its once-adversary.

At the final level, reconciliation, both parties turn outward and discover that their once-adversary is a person not so different from themselves. Ferrell pointed out that even at this final level of conflict work, someone must be the first mover. In that spirit, he invited audience members to be the first movers—to turn outward and start to view others as people and not objects. When we make the first move, Ferrell said, others will follow, leading to levels of global peace never before seen.

Adapted from an article published on the BYU Law School website on September 22, 2017.

Employment Summary for 2017 Graduates

EMPLOYMENT STATUS



EMPLOYMENT TYPE

● LAW FIRM ● OTHER



We Built Walls

BY SARAH CLIFFORD

We built walls. We built walls. We built walls for our walls. We dug our fingers into the earth to scoop up damp sand, protecting the sand castle with sand walls. We built a safety system: eight small walls surrounding a big wall surrounding a misshapen, half-built castle. We spent more time building the walls and fortifying the walls and rebuilding the walls than we did on the castle.

My brother had started the castle alone and had moved on to build walls when he noticed the tide. I joined later, after he had built the big wall but before he had started constructing the elaborate system of safety walls.

And we knew we were going to lose the battle. The tide was creeping in. The ocean water was breaching the ninth wall—the outer wall—almost every time a wave thundered up the beach. I’m honestly not sure why that misshapen castle was worth protecting, but it was. Maybe the need to build walls hit some primitive nerve within my brother and me. After all, as long as humans have been building communities, we have been building walls around them.

We know this because we have stories of ancient walls, stories baked into the bricks of our collective psyche, stories that were passed down from generation to generation until someone took the time to chisel them into stone tablets or scratch them onto parchment because they were worth immortalizing. Stories like that of Joshua, who led his people in a march around the walls of Jericho and brought the walls down by shouting. Stories of Odysseus, who breached the mighty walls of Troy with a wooden horse. And stories of Gilgamesh, who built walls around Uruk and found his immortality in them.

But apart from the stories, we know that humans have a long history of building walls because we’ve found archeological evidence of them: ancient stone, pieced together to create fortifications around the ancient cities of Babylon, Athens, Mycenae, Great Zimbabwe, and Jerusalem, walls that were built and rebuilt hundreds—sometimes thousands—of years ago. But today these ancient city walls are crumbling because the humans who built them are gone.

It turns out even the mightiest walls don’t stand forever.

And now archeologists and historians and tourists take planes and buses to visit the crumbled mighty walls so they can debate why these walls—these ancient city walls—were built. Some argue that the walls were built to defend against invaders and warring tribes. Others argue that the walls were built to protect against wild animals. Still others argue that the walls were built to protect against the elements and flooding.

But regardless of the reasons, there’s not much of a difference between those ancient peoples and us. Thousands of years after Gilgamesh built his walls and Jericho’s fell, we’re still building walls, building them around ourselves, around our houses, around our schools, and around our communities—trying to keep others out, trying to feel safe.

We’re even trying to build a wall around our country.

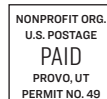
Like those ancient city walls that undoubtedly seemed immortal to the people who built them, all walls eventually fall. And after the walls fall, the very people and forces that the old walls were meant to keep out become woven into the fabric of society, and their children and their children’s children build new walls.

So maybe the need to build walls hit some primitive nerve within my brother and me. But maybe we were just two humans digging in the sand, building mounds that were meant to stop the water but instead were washed away as soon as we turned our backs.

Sarah Clifford, '18, was listening to a lecture in Professor Brigham Daniels's Law and Social Change class when she was inspired with the idea for this piece, which received a judge's choice award at LawStories 2018.



BRIGHAM YOUNG UNIVERSITY
J. REUBEN CLARK LAW SCHOOL
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BYU Law Alumni Calendar

2018

JRCLS CLE Education Week Lunch
THURSDAY, AUGUST 23 | NOON-1:00 P.M.

1L Welcome Breakfast
FRIDAY, AUGUST 24 | 8:00-10:00 A.M.

Alumni Weekend

FRIDAY, SEPTEMBER 7

Golf Tournament | 7:00 a.m.-1:00 p.m.
CLE Supreme Court Review Symposium | Noon-3:30 p.m.
Dean's Reception | 5:00-6:00 p.m.
Reunion Dinners | 6:30-8:00 p.m.

SATURDAY, SEPTEMBER 8

Saturday CLE | 8:30-10:30 a.m.
Tailgate Party | 5:15-7:30 p.m.

Founders Day Dinner

TUESDAY, SEPTEMBER 25 | 6:00-8:30 P.M.

Women in Law Networking Event

WEDNESDAY, OCTOBER 3 | 6:00-9:00 P.M.

JRCLS Leadership Conference

THURSDAY-FRIDAY, OCTOBER 4-5

Fall General Conference Reception

SATURDAY, OCTOBER 6 | NOON-1:30 P.M.

Honored Alumni Luncheon and Speech

MONDAY, OCTOBER 15 | NOON-1:00 P.M.

2019

JRCLS Annual Fireside

FRIDAY, JANUARY 18

JRCLS Annual Conference

THURSDAY-SATURDAY, FEBRUARY 14-16

Utah State Bar Summer Convention and BYU Law Reception

THURSDAY-SATURDAY, JULY 18-20

