

Emergency Diploma Privilege Facilitates Forward Momentum for BYU Law Class of 2020

BY RACHEL EDWARDS

On April 23, 2020, members of BYU Law's graduating class took part in the Law School's first-ever virtual graduation celebration. The remote celebration was just one example of adaptations being made at colleges and universities throughout the nation as faculty, administrators, staff, and students navigated the personal and professional complexities of the global coronavirus pandemic.

Just two days prior to that celebration, the Utah Supreme Court took a bold step toward mitigating pandemic-related hardships for Utah's legal community by announcing temporary amendments to the Utah State Bar admission procedures. The court's order made Utah the first jurisdiction in the nation to grant emergency diploma privilege during the COVID-19 pandemic. The court's unanimous decision to authorize the alternative path to bar licensure came after fervent public debate and through collaboration with the Utah State Bar and academic

leaders from BYU Law and the S. J. Quinney College of Law at the University of Utah.

In a statement accompanying the order, the court wrote:

At present, the Court cannot guarantee the Bar's ability to safely administer the Examination. . . . Nor is the Court in a position to predict when it may be able to offer the Examination. This creates hardship, risk, and uncertainty for a range of individuals and organizations—for law school graduates whose professional plans and future livelihood depend on receiving a license to practice law, for the public and private entities who have factored these graduates into their plans, and for the clients these new law graduates could serve at this crucial time. . . .

. . . We are also committed to preserving excellence and high ethics in the practice of law, and to protecting the public, whose lives and livelihoods may be in the hands of licensed lawyers.¹

With these objectives in mind, the court authorized a

model of licensure referred to as "diploma privilege plus," which allowed eligible candidates² to become licensed to practice law in Utah after finishing 360 hours of practice under the supervision of an experienced, licensed attorney, completing the Utah State Bar New Lawyer Training Program, and passing the Multistate Professional Responsibility Examination.

Deans D. Gordon Smith of BYU Law and Elizabeth Kronk Warner of the S. J. Quinney College of Law voiced their mutual support of the court's decision:

We applaud the Utah Supreme Court for being at the vanguard of this issue. Asking our new law school graduates to wait for an uncertain, future bar examination would be truly disastrous for citizens who need immediate legal help, employers who need support, and the graduates themselves. Allowing immediate access to the job market allows them to put their resources and talents into helping the most vulnerable Utah citizens.³



To date, nearly 200 candidates have applied for diploma privilege with the Utah State Bar. We spoke to four such candidates from BYU Law about their experiences.

Ashley Waddoups

ASSOCIATE AT BALLARD SPHAR

Prior to graduation, Ashley Waddoups received an offer from Ballard Spahr, a national firm specializing in litigation, business transactions, and finance. She completed her practice hours under the supervision of partners from Ballard's Salt Lake City office and says that despite working entirely remotely due to COVID-19, the transition from law school student to attorney has been a relatively smooth process. "I'm grateful to the Utah Supreme



Ashley Waddoups

Court," says Waddoups. "With all the issues going on in the world, I don't have to worry about whether I'm going to be able to work."

The court has encouraged diploma privilege candidates to complete their supervised practice by offering pro bono representation to those members of the public most affected by the COVID-19 global pandemic, and Waddoups is grateful to be working for a firm that also encourages its associates to donate their time for the public good. "One of the reasons I was attracted to Ballard Spahr is that they value diversity, pro bono work, and other values that I hold in my own life," she says. "A really good way to influence social change is through working with businesses and larger corporations that have the

opportunity to make large-scale change. In law school, I had the privilege of volunteering with the Timpanogos Legal Center with victims of domestic violence. Moving forward, I hope to contribute to my community in similar ways to make justice more accessible to people in Utah. So many people have given so much to me, and I would love to have the opportunity to give back."

Devin Cooper

CLERK WITH UTAH'S FOURTH JUDICIAL DISTRICT COURT

For Devin Cooper, the court's temporary order for diploma privilege during the pandemic has been beneficial both personally and professionally. During law school, Cooper developed an interest

in government and public service practice. He accepted a clerkship with the district court for the Fourth Judicial District of Utah and completed the required 360 supervised practice hours clerking for Associate Presiding Judge Kraig J. Powell and Judge Derek P. Pullan before being admitted to the Utah State Bar in October 2020. "Judges Powell and Pullan gave me significant projects in criminal law, civil law, and family law. It was nice to be able to focus my attention on those projects and not divide my time between work and studying for the bar. I've been able to learn in an enhanced way the rules of civil procedure and the rules of evidence," he says.

Cooper also says the diploma privilege option eased a financial burden. "I had saved up all through law school for a bar prep course," he says. "When licensing through diploma privilege became available, I was able to cancel that class, which saved my family thousands of dollars. I have a wife and two kids, and that savings covered about a month of household expenses, including rent."

When it comes to the court's decision, Cooper recognizes the important contribution made by academic leaders from Utah's legal community. "I saw many professors and administrators from both BYU and the University of Utah post comments to the Utah Supreme Court on behalf of students," he says. "This option was made possible because of a lot of work and sacrifice by many people when it seemed that the world was shutting down due to the pandemic. I am tremendously grateful, and I know my classmates are too."

Annemarie Garrett

ASSOCIATE AT KIRTON MCCONKIE

"I'm grateful the court was able to think outside the box and be flexible. I believe the diploma privilege option strengthened the law community in Utah overall," says Annemarie Garrett, who accepted a position working in litigation at Kirtan McConkie in Salt Lake City before the coronavirus pandemic hit. "The most significant aspect of diploma privilege is that, rather than taking an abstract exam, I qualified for my license through practical experience doing the type of lawyering work I was hired to do in the first place. I think that's beneficial." Garrett says she has a history of doing well on exams and passed the Multistate Professional Responsibility Examination. "I was confident I



Annemarie Garrett



Cory Thompson

could pass the bar, even though I was not looking forward to the preparation the exam would require," she says. "I believe my time was better spent working through the diploma privilege requirements."

When it comes to diploma privilege, Garrett wants to give credit where credit is due. "I think the decision was handled very well by the court. Kirton McConkie was considerate of the safety and interests of the graduates, and I really appreciate both my classmates and my professors for their role in this experience," she says. One of her reasons for attending law school was to pursue a career that would allow her husband to go into business for himself. "When the court announced their decision about diploma privilege, I was grateful that I was able to start working earlier than expected," Garrett

says. "I loved law school and everything I learned. And I love being a lawyer."

Cory Thompson **IN-HOUSE COUNSEL AT EBAY**

As Cory Thompson prepared to graduate from BYU Law, COVID-19 was rapidly changing the hiring landscape. Prior to law school, Thompson had worked for over a decade as lead contracting officer for the United States Air Force and, later, as a principal contract negotiator for the global software security company Symantec. "In March 2020 this [COVID-19 pandemic] was all brand new," he recalls. "Some law firms who had intended to hire were putting hiring on hold. Everything was really uncertain." Thompson applied to several firms and ultimately accepted an offer at eBay's Salt Lake City office. Due

to the coronavirus, the entire onboarding experience was virtual. "In April, eBay globally closed its offices for all but essential workers that had to be on-site," he says. "All my interviews were done by Zoom, and my corporate equipment was mailed to my house. I've never actually set foot in my office in Salt Lake."

As an attorney with eBay's commercial contracts team, Thompson is engaged in a corporate-wide special project regarding data governance and information sharing. "Having a solid, well-drafted, clear contract is a critical component of successfully running a business. Every successful business needs a competent contracts team." From Thompson's point of view, a significant benefit to diploma privilege has been the opportunity for supervised practice. "I did training for my

actual job on the job," he says. "Frankly, I don't think anything can replace practical experience. It's more valuable than just about anything else."

NOTES

- 1 Utah Supreme Court, statement accompanying temporary order, Utah State Bar Diploma Privilege Resources, utahdiplomaprivilege.org/files.wordpress.com/2020/04/statement-accompanying-emergency-proposed-order.pdf.
- 2 Eligible candidates include graduates of ABA-accredited law schools with first-time bar passage rates of at least 86 percent who had applied to take the Utah State Bar exam in July 2020.
- 3 Gordon Smith and Elizabeth Kronk Warner, "Utah Opens the Way for New Lawyers to Begin Their Service," *Salt Lake Tribune*, April 10, 2020, sltrib.com/opinion/commentary/2020/04/10/gordon-smith-elizabeth.

Highlights from the 27th Annual Law and Religion Symposium

BY AMBERLY PAGE

On October 4–6, 2020, the International Center for Law and Religion Studies hosted its 27th Annual Law and Religion Symposium, exploring the theme “Religious Freedom: Rights and Responsibilities.” Highlights from each of the symposium’s three plenary sessions are provided here. Full recordings of the plenary and regional breakout sessions are available on the Center’s website: iclr.org/annual-international-law-and-religion-symposium/27th-annual-international-law-and-religion-symposium-2.

Opening Session—Religious Freedom: Rights and Responsibilities

SUNDAY, OCTOBER 4 20 Years of Global Influence

Center director and Rex E. Lee Chair and Professor of Law Brett G. Scharffs stated that 1,400 individuals from around the world have attended the symposium over the years. However, the virtual format of the 2020 conference enabled “several multiples of that total number” to attend the opening session. Scharffs also noted that, since its founding in January 2000, the Center has participated in

nearly 800 conferences in almost 90 countries, an average of 40 conferences a year.

The World’s Premier Conference

President Henry B. Eyring, second counselor in the First Presidency of The Church of Jesus Christ of Latter-day Saints, described the symposium as “the world’s premier conference where religious leaders, leading scholars, and government authorities come together to discuss global religious freedom issues.” He noted that the 2020 theme “reflects well our faith’s belief in the importance of both religious freedom and responsibility to respect the rights and needs of everyone,” and he expressed hope that “the peoples of the world will be united in solving the health and economic challenges wrought by the COVID-19 pandemic” and that “ways to minister to and serve those who have great needs will be found.”

A Foundation for Unity

Bani Dugal, principal representative of the Baha’i International Community to the United Nations, New York, said: “With the many challenges facing humanity, the world stands more and more in need of the hope and



the strength of spirit that faith imparts. Therefore, it is essential that the right to hold a belief be protected. . . . The freedom to hold beliefs of one’s choosing and to change them is . . . central to human development, as it makes possible the individual’s search for meaning.” She went on to note: “Everyone has an essential role to play in implementing fundamental human rights. When individuals assume responsibility for ensuring each other’s human rights, the foundation for unity will be firmly established.”

Honoring the Divine

Azza Karam, secretary general of Religions for Peace International, affirmed that “when we come together as diverse believers, there is a divine spirit that comes amongst us, that sits with us, that becomes part of us.” Karam also spoke about the interconnectedness of freedom of religion with freedom of thought and conscience, emphasizing the vital role of believers in protecting those rights and freedoms for others: “Our beliefs require each one of us to champion and to defend the right of everybody else’s freedom of thought and conscience and belief, even those who have no belief.” In doing so, Karam said, “we honor the divine.”

Dimensions of Responsibility

Heiner Bielefeldt, professor of human rights and human rights policy at the University of Erlangen, Germany, and former special rapporteur for freedom of religion or belief for the United Nations, discussed three dimensions of responsibility concerning freedom of religion and belief: (1) the legal dimension, which recognizes the role of states as guarantors of human rights under international law; (2) the moral dimension, which recognizes that each of us as a human being is responsible for the promotion and protection of the human rights of others; and (3) the philosophical dimension, which recognizes that all human beings have a responsibility to enhance the awareness of the significance of human dignity, which, Bielefeldt emphasized, is the core of human rights and religious freedom.

Protecting Religious Rights in a Way to Benefit All

MONDAY, OCTOBER 5 Celebrating Founding Director W. Cole Durham Jr.

In a celebration of the Center’s recently retired founding director, W. Cole Durham Jr., Scharffs echoed a statement

by Bill Atkin, associate general counsel for The Church of Jesus Christ of Latter-day Saints, describing Durham as a modern example of one willing to “waste and wear out” his life bringing light to dark places with great earnestness, a man positioning himself to face the storm “workways with the wind.”¹ In a beautiful video tribute, Durham’s colleagues from around the world expressed their gratitude for his groundbreaking and field-shaping contributions to the work of religious freedom.

Putting Legal Rules in a Broader Context

Renáta Uitz, the chair (director) of the Comparative Constitutional Law Program in the Department of Legal Studies at Central European University, noted that Durham’s work “allows us to study the law . . . and the workings of the law in comparative perspectives. His work teaches us that we should not focus on a single event, no matter how dramatic or spectacular, but put legal rules into their broader context and make sure that we understand the larger trends.” Uitz also counseled that “the starting point of entering into any dialogue, of seeking principled compromises, is one of deep humility.”

Developments in Religion and the State That Challenge Religious Liberty

Sophie van Bijsterveld, professor of law, religion, and society at Radboud University, Nijmegen, the Netherlands, discussed developments in the domains of religion and the state that present challenges to religious liberty and offered suggestions to help legislatures

balance individual and collective religious rights with the public interest. “It is important to remember that freedom of religion and belief as a human right is a way of articulating human dignity in a concrete, legally relevant form,” she said. “Human rights are not simply nice, legal instruments; they are informed by deeper values. Seen from a social perspective, guaranteeing freedom keeps the debate open on what is the good life. Thus, it also serves the common good. It also helps to enable people to live together peacefully in an enduring way even if they have fundamentally different views.”

Celebrating Diversity in a Multireligious Society

Faizan Mustafa, vice chancellor at NALSAR University of Law, India, discussed the treatment of the majority and minority religions in India and recent developments for minority religions in India caused by COVID-19. Mustafa noted that ensuring the religious freedom of both the majority and minority religions in a state benefits everyone. “If a multireligious society like India is to survive,” he said, “we must celebrate our diversity. . . . The distinctive identities of all Indian religious communities must be preserved and must be celebrated. If we guarantee freedom of religion, I am sure we will be able to create an upright, honest, humane, and more caring society.”

Religious Organizations and the Common Good

TUESDAY, OCTOBER 6

Imagining and Creating Common Ground

Viva Bartkus, associate professor of management and founder/director of the

Business on the Frontlines program at the Mendoza College of Business, University of Notre Dame, emphasized the role of dialogue in society and the world, noting that it is “from those discussions that sprout the early ideas that after much work become common ground and become potential solutions.” Bartkus said that “common ground does not exist until we imagine it, and then we need to work ridiculously hard to create it.” She went on to say, “We must acknowledge at a very fundamental level that our society’s and the world’s most pressing problems cannot be solved only by business or government or faith-based charities or even just by those that agree with us. The solution to difficult problems lies in the common ground we imagine and create together.”

Fostering Cooperation Through Faith-Based Organizations

Sharon Eubank, president of Latter-day Saint Charities and member of the Relief Society General Presidency of The Church of Jesus Christ of Latter-day Saints, identified as a “core humanitarian skill” the ability to acknowledge that although our deeply held beliefs may be very different, we can “find an area where we can communicate, cooperate, and do something together despite or because of our individual beliefs.” Eubank also noted the efficacy of faith-based organizations in fostering cooperation: “People only change their behavior based on their experiences, so people need to have experiences that build trust . . . and that build this social fabric with people that are different from them but care about something similar. There is no more efficient or

effective way to get down to the individual, the family, and the congregational level than to work through faith-based organizations.”

Seeing the Whole Person

Suzanne Akhras Sahloul, founder and executive director of the Syrian Community Network and founder of the Syrian American Medical Society Midwest Foundation, observed that religious organizations offer resiliency, human power, and a commitment to service. She cited the 2015 Syrian refugee crisis as an example of the power of people and organizations—faith-based and secular—working together to alleviate suffering. She noted that “certain crises are horrible in the moment, but they can lead to a lot of good and a lot of amazing initiatives within communities to bring about that common ground and to see . . . people who are different from you as whole, as just like you.” Sahloul warned that racism and classism can take root, even within our own religious traditions and cultures, when we fail to see another as a whole person: “As humanitarians, we really have to push back on this. . . . Everyone deserves to be seen as a whole person.”

Stepping Up to Welcome the Stranger

Krish O’Mara Vignarajah, president and CEO of Lutheran Immigration and Refugee Service, noted that during the pandemic, religiously affiliated humanitarian organizations were “able to step up where the government would not or could not,” citing as just one example the role of the Neighbors in Need Fund in providing emergency financial assistance

to at-risk families who were not eligible for COVID-19 stimulus payments. Vignarajah said that many faith traditions share the mandate of welcoming the stranger and believe in protecting the most vulnerable. “During the crisis, we have seen so many examples of how religiously affiliated humanitarian organizations have stepped in not just to provide basic assistance but even to remind us of our faith of helping those most in need in these difficult times,” she said.

The Upward Lift of Human Dignity

Scharffs invited all who were interested to become signatories to the Punta del Este Declaration on Human Dignity for Everyone Everywhere, saying, “Perhaps more than any other concept, human dignity can help us understand how to regard ourselves. Perhaps more importantly, it can remind us how to regard each other. It provides a promise that can bridge divides—ideological, cultural, and religious. It is almost unique in its generative energy and its upward lift. It is fertile soil for rights and responsibilities. . . . Human dignity for everyone everywhere . . . is a tool that can help us solve the myriad challenges and even crises we face as a global civilization.”²

NOTES

1 Doctrine and Covenants 123:13, 16; see also verses 14–15.

2 To become a signatory to the Punta del Este Declaration or to submit a statement on what human dignity means to you, please visit dignityforeveryone.org.

BYU Law’s Achievement Fellowship Program

Perseverance in the Face of Hardship



BY RACHEL EDWARDS

In 2021, a group of incoming students at BYU Law and the University of Utah S. J. Quinney College of Law will be selected as Achievement Fellows in a new program established through the collaboration of both law schools and several leading law firms in the state of Utah. Designed to recognize students who have prepared themselves for law school in the face of significant personal or family challenges, the Achievement Fellowship program provides recipients with full tuition for all three years of law school as well as the opportunity to interact with and be mentored by outstanding attorneys who are committed to diversifying Utah’s legal community.

“As a first-generation college student, I viewed law school as a path to opportunities that were not available to my parents,” says D. Gordon Smith, dean of BYU Law. “But the prospect of attending law school can be daunting if you think of yourself as an outsider to the legal profession. The Achievement

Fellowships are an expression of our eagerness to welcome students who have taken a more challenging path to law school. We hope that the generous funding will draw people to BYU Law who might not otherwise come, and we believe that the Achievement Fellows will thrive at BYU Law.”

The program also promises to invigorate the learning environment for all law students. It is motivated in part by a desire to further diversify the student body and to create an increasingly enriched experience for every member of the BYU Law community. BYU Law traditionally attracts a geographically diverse population. “Admitting students to the school from different parts of the country and the world helps provide context for greater understanding,” says Smith. The same principle applies to all types of diversity. To this end, in addition to looking at LSAT scores and GPAs, BYU Law’s admissions committee considers personal statements, work and educational history, and any particular family history that might be interesting or relevant. Smith says, “An important motivation for creating the Achievement Fellowship program was to explicitly express that, as a school, BYU Law values the whole person. Our goal is to attract great students to BYU Law who represent the whole range of human experience.”

Not only is Smith confident that the Achievement Fellowship program will help

attract qualified students from a variety of backgrounds to Utah, but he feels certain that BYU Law has the potential to bless the lives of these students. “We don’t bring students here for our gratification; we bring them here because we think we have something to offer them,” he says. “The training they receive at BYU Law will equip them to serve the world and make it a better place.”

The idea for the Achievement Fellowship program began in 2019, after Smith had a conversation with friend and colleague Jennifer Mnookin, dean of the UCLA School of Law. The Southern California law school launched a similar program in 2017, and within three years, it had helped 24 law students achieve success. “When I looked at UCLA Law’s website and read about what they were doing, I thought it was brilliant,” Smith says. After consulting with members of the dean’s council and other faculty members, he drafted a preliminary description of the fellowship, including ideas about how it might be funded. “We drew heavily on UCLA Law’s program but made it specific to Utah law schools,” he says.

When he pitched the idea to Dean Elizabeth Kronk Warner of the S. J. Quinney College of Law, she became an enthusiastic partner in the initiative, and the two put together a formal proposal for potential donors. Lee Wright, managing partner at Kirton McConkie in Salt Lake City, was the first to commit support for the program, followed by five additional law firms: Dentons Durham Jones Pinegar, Greenberg Traurig, Parsons Behle & Latimer, Snell & Wilmer, and Strong & Hanni. Business intelligence firm Domo

“You might feel like it’s impossible to be here, but we need your voice.”

is the most recent organization to join the Achievement Fellowship program.

In addition to generous financial support, participating organizations have pledged to be involved with mentoring activities, something Smith believes to be a highly beneficial aspect of the fellowship. “There are students who come to law school who don’t know lawyers,” he says. “I was in that category.” A graduate of the University of Chicago Law School, Smith is the first attorney in his family. As such, he recognizes the importance of being mentored by other lawyers along the way. “The chance these students will have to access a different kind of professional training is a key component of the program,” he says.

When it comes to would-be candidates for the program, the Achievement Fellowships are not exclusively intended for those who have experienced what might be considered extraordinary hardships. The Law School’s web page notes:

The reviewing committee will consider a broad spectrum of life challenges, including socioeconomic disadvantage, disability, being the first in their family to attend college, attending under-resourced schools, or status as an immigrant or former refugee. Hardships such as homelessness, living in foster care, working multiple jobs or long hours in high school or college, or living in

*a family struggling with poverty, incarceration, abandonment, physical or mental health issues, and/or substance abuse are examples of the types of disadvantages that may be considered when selecting recipients of these awards. In all cases, the reviewing committee will be looking for evidence of personal growth, initiative, perseverance, and character development.*¹

Although certain qualifying factors mentioned in the fellowship description might seem extreme, leading some students to assume that they don’t fit the scope and not apply, Smith says students shouldn’t view it that way. The new Achievement Fellowship program is one way that BYU Law can recognize the extra effort required of some students in preparing themselves for law school. “We know that many students are able to prepare themselves for law school in the face of daunting circumstances that they may not recognize as such. We recognize that being prepared for law school in spite of these challenges takes perseverance. We want to honor those achievements,” Smith adds, “You might feel like it’s impossible to be here, but we need your voice.”

Smith’s attitude toward supporting students who have persevered despite significant life challenges was shaped by his own experience as a first-generation college student. Raised in rural Wisconsin by high school-educated parents who worked blue-collar jobs, he always planned to attend college, but when it came time to apply, he had more questions than answers. “Though my parents valued education, there was nothing they could tell me about college,” he recalls. “I remember how hard it was to

not know anything about that process. I had to get good at asking questions.” Smith also appreciates how significant it was for him to have guidance and support from friends, professors, and others along the way. “There were so many people who helped me. The road would have been so much more difficult without that help,” he says.

The long-term vision for the Achievement Fellowship program is to cultivate large-scale change in Utah’s legal landscape. “We hope that by increasing diversity at the law schools, we will become more in tune with changes that need to be made within our legal community and become better equipped to make them,” Smith says. The new program is also a way of expressing a sincere desire to change the Law School for the better. “We are inviting people to be part of the change. If BYU Law is not already the law school you want it to be, come and help make it into the law school you want it to be. Choose to come here and make it happen.”

For more information regarding the Achievement Fellowship program, visit law.byu.edu/departments/admissions/tuition-and-scholarships/scholarships. For information on how to provide financial and mentoring support, contact Tony Grover, assistant dean of admissions, at grovert@law.byu.edu or 801-422-6386, or Andrea Fitzgerald, director of admissions, at fitzgeralda@law.byu.edu or 801-422-0842.

NOTE

- 1 “Scholarships Overview (2020–2021),” Scholarships, BYU Law, law.byu.edu/departments/admissions/tuition-and-scholarships/scholarships.