



# Setting a Lofty Vision

## BYU LAW'S NEW MISSION STATEMENT AND EDUCATIONAL OBJECTIVES

**O**n May 13, 2021, after a year-long study conducted by a committee of BYU Law faculty, administration, staff, and students, the BYU Law faculty approved a new mission statement and educational objectives for the Law School. The committee had been charged with updating the existing mission statement and educational objectives to articulate the core values of BYU Law, identify its unique strengths, and direct its future development.

In announcing the adoption of the new statement and objectives, Dean D. Gordon Smith said:

*The Committee engaged with a wide array of stakeholders, including current students, alumni, faculty, staff, and administrators of the Law School and university, and reviewed the mission statements of other Law Schools and materials particular to the founding of the J. Reuben Clark Law School. In all of this work, the Committee was guided by the question of why the Law School exists and how we might arrive at a shared sense of meaning about the overall purposes and effects of our work.*

While the Law School is required by Standard 204 of the ABA to have a mission statement, the committee worked not merely to meet the basic requirements of the standard but to develop a mission statement and educational objectives that might set a lofty vision around which we are united and offer some practical guidance for the next iteration of the Law School as we approach the 50th anniversary of its founding.

The full text of the new BYU Law Mission Statement and Educational Objectives is presented here and is also available online at [law.byu.edu/mission](http://law.byu.edu/mission).

### BYU Law Mission Statement

Founded, supported, and guided by The Church of Jesus Christ of Latter-day Saints, the J. Reuben Clark Law School is an integral part of Brigham Young University and embraces the university's global mission and aims.

BYU Law recognizes the inherent dignity and equality of each individual and welcomes people from the full range of human experience. We are

committed to the teachings of Jesus Christ and honor His many roles, including healer, peacemaker, mediator, counselor, advocate, lawgiver, and judge. In striving to emulate His example, we seek to be and develop people of integrity who combine faith and intellect in lifelong service to God and neighbor.

As a community, we aim to advance justice, mercy, liberty, opportunity, peace, and the rule of law. To these ends, BYU Law prioritizes inspiring teaching, rigorous study, and influential scholarship in an environment that values diversity, fosters unity, motivates excellence, nurtures leadership, promotes innovation, engenders empathy, and cultivates compassion.

### BYU Law Educational Objectives

1 Prepare students for meaningful careers and contributions in the diverse settings of a global legal market by focusing on the key competencies of a legal education grounded in legal theory, enhanced by experiential learning, and enlightened by the laws of God. A BYU legal education will

2 Afford students opportunities to develop leadership, transactional, and litigation skills.

3 Equip students with cross-cultural competence, preparing them to engage and communicate effectively across difference.

4 Inspire students to acquire and maintain the highest levels of professionalism, civility, and ethics.

5 Embrace a whole-building approach, engaging every member of the BYU Law community in developing the professional competencies, character, and diversity of our students' gifts.

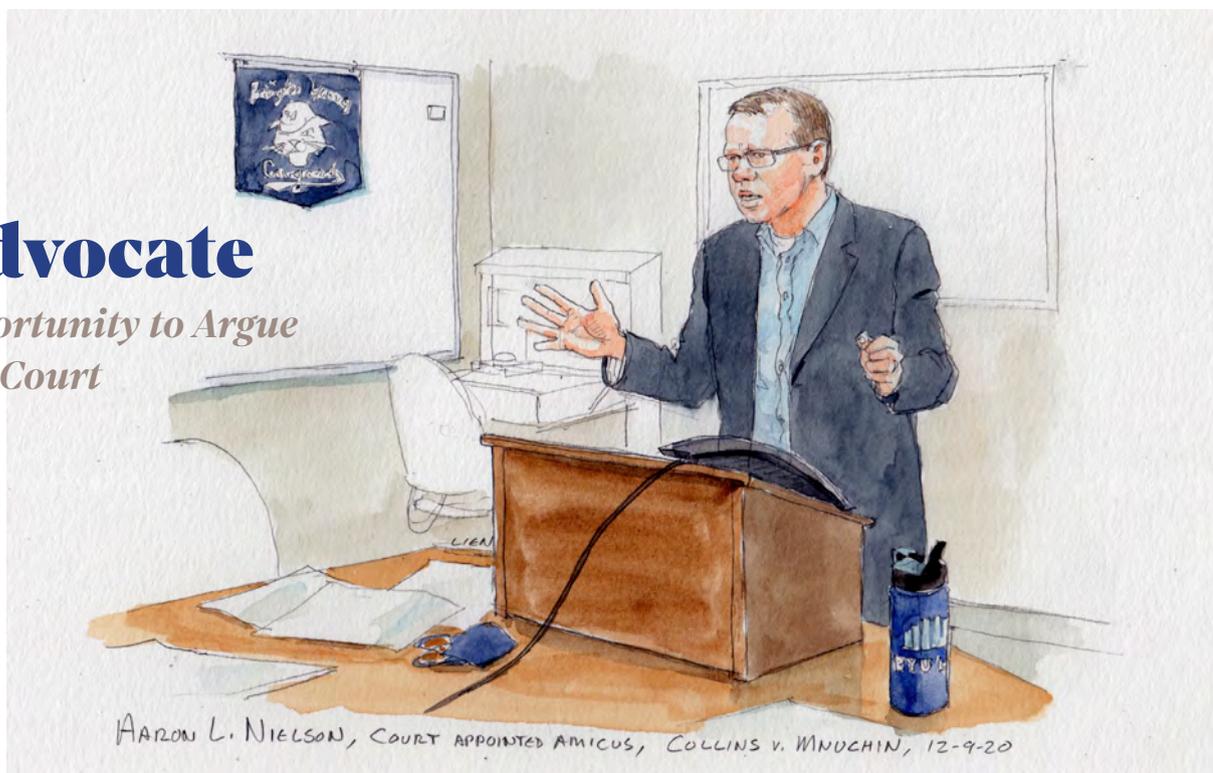
6 Develop and facilitate world-class, innovative scholarship and engage in respectful, civil dialogue that welcomes a diversity of voices and beliefs in an environment of intellectual honesty, academic freedom, and abiding faith.

7 Invite all members of our community to develop a service-oriented mindset and provide opportunities to use legal skills to aid those in need.

8 Instill respect for the US Constitution, human rights, and the rule of law.

# An Able Advocate

## One Attorney's Opportunity to Argue Before the Supreme Court



BY RACHEL EDWARDS

In August 2020, BYU Law professor Aaron L. Nielson joined a select group of attorneys when he was appointed by the US Supreme Court as amicus curiae in *Collins v. Yellen* (formerly *Collins v. Mnuchin*) to defend the constitutionality of the structure of the Federal Housing Finance Agency (FHFA). The case was argued during the October 2020 term, and the Court issued its decision in June 2021, holding by a 7-2 vote that the FHFA's leadership structure violates the separation of powers.

For Nielson, the invitation to argue as amicus before the Supreme Court was completely unanticipated. "It's an opportunity that every lawyer hopes to have but nobody expects that they will. I certainly didn't expect that I would," he says.

Nielson, who received a JD from Harvard Law School and an LLM from the University of Cambridge, joined the faculty of BYU Law School in 2013. Prior

to that, he was a partner in the Washington, DC, office of Kirkland & Ellis LLP, where he continues to be of counsel. He also clerked for Judge Jerry E. Smith of the US Court of Appeals for the Fifth Circuit, Judge Janice Rogers Brown of the US Court of Appeals for the DC Circuit, and Justice Samuel A. Alito Jr. of the US Supreme Court. Nielson's work has been published in many journals, recently including the *University of Pennsylvania Law Review*, *Duke Law Journal*, *University of Chicago Law Review*, and *Georgetown Law Journal*. He is an expert on administrative law, antitrust law, and federal courts.

*Collins* was a case suited to Nielson's expertise. It involved questions about the extent of the US president's control of independent federal agencies such as the FHFA. The Trump administration declined to defend the FHFA's structure—in which the president could

only fire the FHFA director "for cause"—so in August 2020 the Supreme Court invited Nielson to brief and argue the case.

"Many lawyers arguing in the Supreme Court have already been working on the case, either as the trial lawyer or in the court of appeals," Nielson says. "That wasn't the case here. I was invited into the case at the Supreme Court level after the Court had already granted certiorari."

### Preparing for Argument

With the brief due in October, Nielson had two months to get up to speed. He quickly assembled his team, starting with friend and colleague Christopher J. Walker, a professor of law at the Ohio State University Moritz College of Law, and other experts, including lantha Haight, a BYU Law research librarian; Joshua Prince, who helps with BYU Law's Supreme Court Advocacy Clinic; and James Heilpern, a

corpus linguistics fellow at BYU Law. A group of BYU Law students rounded out the team. “We divided into three groups,” Nielson says, “which we called ‘Team Separation of Powers,’ ‘Team Background,’ and ‘Team Parade of Horribles.’ The latter focused on determining all of the things that could happen depending on how the case was resolved.”

According to Nielson, writing the brief was a collaborative effort, with each group contributing content. He says, “In the end, there were only two names [Nielson and Walker] on the brief, but it really was an immense amount of work from a lot of different people who wanted to make sure the Court had the best possible argument.”

In preparation for oral argument, Nielson’s team conducted three moots, including one with members of the BYU Law faculty. Due to COVID-19, the argument before the Court was scheduled to take place by telephone. Nielson practiced accordingly, using Zoom in the moots but turning the camera away so that he wasn’t looking at anyone while he was speaking. “A lot of communication is based on reading a face. Since I couldn’t do that in this case, I practiced doing things by ear, especially listening for whether a question was friendly or helpful,” he says.

Nielson estimates that he spent well over 100 hours preparing for the argument. Much of that time was used in refining answers to potential questions that the Justices might ask. “Our team compiled a list of over 100 questions,” Nielson says. “After the moots, I went to Moab, Utah, alone and essentially spent three days hiking and talking to myself, going through each

of the questions. My wife later joined me, and while we walked together, she threw questions at me from the list so that, over time, my answers became tighter and tighter.”

### **Advancing the Rule of Law**

Throughout the fall 2020 semester, while Nielson was busily preparing for the oral argument in *Collins*, students in his administrative law class had a front-row seat to the process. “Usually a lawyer arguing a case before the Supreme Court has a client, so they have attorney-client privileges they need to protect,” Nielson says. “I didn’t really have a client, so I could say things to my class such as, ‘Here are the arguments they have; here are the arguments we have. What are new arguments?’ I really welcomed their thoughts and reactions because we needed fresh eyes, and students have fresh eyes.”

The respect Nielson has for his students and the value he places on their ideas and insights is a hallmark of his teaching style. He consistently demonstrates a deep investment in teaching and in his students, which is one of the factors that led to his being awarded the BYU Law Alumni Professor of the Year Award in 2019 and, more recently, the Federalist Society’s 2021 Joseph Story Award.

The Story Award is an honor bestowed annually on “a young academic . . . who has demonstrated excellence in legal scholarship, a commitment to teaching, a concern for students, and who has made significant public impact in a manner that advances the rule of law in a free society.”<sup>1</sup> The namesake of the award, Joseph Story, “was appointed to the Supreme

Court at the age of 32, served as the first Dane Professor of Law at Harvard, and wrote the *Commentaries on the Constitution of the United States*.<sup>2</sup> Nielson says, “In my classes I always talk about my ‘Mount Rushmore of Supreme Court Justices,’ and by any measure, Justice Story is on that list. He was very much an academic at heart, thoughtful on a whole range of issues. I admire the breadth of his intellectual interests.”

### **Arguing Before the Court**

The oral argument in *Collins* took place on December 9, 2020. Nielson presented his argument telephonically from a conference room on the fourth floor of the Law School. BYU Law’s tech team had rerouted a landline to the room in order to meet the Court’s requirements. “I never thought I would argue before the Supreme Court, and I certainly didn’t think that my argument would be via telephone from Provo, Utah,” Nielson says.

During the argument, his entire team was listening and emailing each other back and forth. Nielson asked Walker to moderate the comments and text him only if necessary to avoid distraction. “In that sense, we were all virtually together, although I was alone in the room,” Nielson says. “I brought in one of the podiums that I use for teaching, and when it came time to argue, I stood at the podium. I’m sure I was doing hand motions.”

Nielson had been allotted 15 minutes but was given more time during the actual proceedings. “The Justices did their best to let me engage, and I did my very best to answer every question,” Nielson recalls. “They were respectful and polite and listened to what I had to say.”

Although Nielson felt prepared, he noted that one question from Justice Stephen G. Breyer surprised him. “You could tell that this case concerned issues very near and dear to his heart,” Nielson says. “During the argument, he essentially said, ‘I’ve dissented in these cases, and I’ve lost. Why should I keep dissenting? Why shouldn’t I throw in the towel?’ It was an honest question on his part. I think the answer I came up with was fine, but that was not a question I was expecting.”

On June 23, 2021, Justice Alito delivered the opinion of the Court, holding that the restriction on the president’s authority to remove the director of the FHFA violated the separation of powers. “It took the Court more than six months to resolve the case,” says Nielson. “It was an extremely complex case, encompassing not only the separation of powers issue but a complicated statutory issue and the remedy issues. Obviously, after I read the opinion, I realized there were additional things I could have said, but that is part of the process. At the time, I felt I was given all the time I needed to address the Justice’s questions and concerns. My job as amicus was to be helpful to the Court. I am so grateful for the opportunity and that, with the help of so many people, I was able to do that job.”

The Court agreed, noting specifically in its opinion that Nielson had “ably discharged his responsibilities.”<sup>3</sup>

### **NOTES**

1 “Joseph Story Award,” Federalist Society, [fedsoc.org/joseph-story-award](https://fedsoc.org/joseph-story-award).

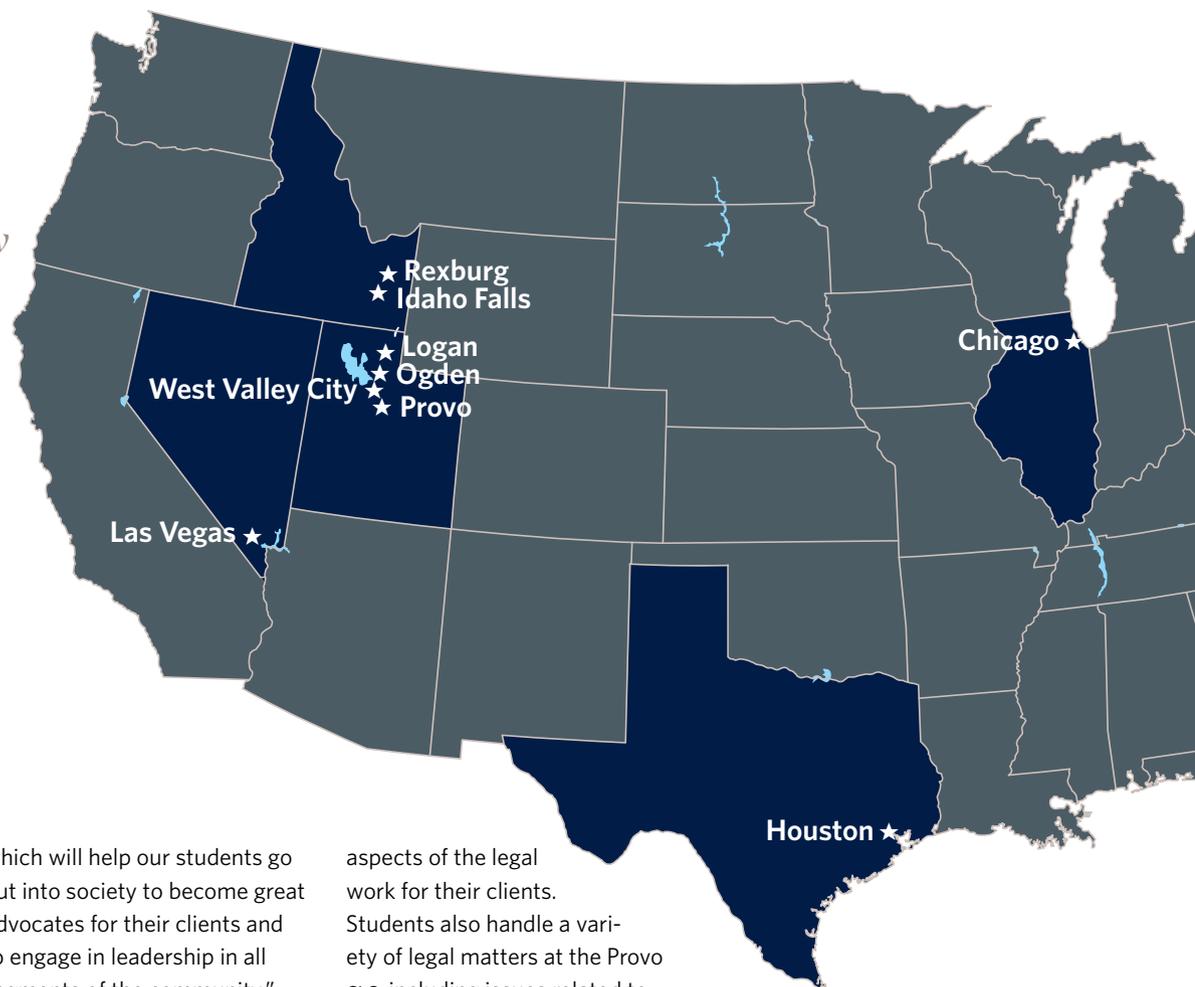
2 *Id.*

3 *Collins v. Yellen*, No. 19-422, slip op. at 12 (U.S. June 23, 2021).

# Expanding Our Reach

## *The Opening of Four New Community Legal Clinics*

BY RACHEL EDWARDS



In September 2017, BYU Law opened its first Community Legal Clinic (CLC) in Provo, Utah, creating an opportunity for second- and third-year law students to provide pro bono legal services to marginalized and underrepresented members of the community while gaining practical legal experience. In partnership with the No More a Stranger Foundation (NOMAS)—a non-profit organization dedicated to advocating on behalf of and together with individuals from immigrant, migrant, and refugee backgrounds—the Law School has since added CLCs in other parts of Utah, Idaho, and Illinois. In 2021, four new clinics will open in Texas, Idaho, Nevada, and Washington, DC, bringing the total to 10 clinics.

“We view a law degree as a leadership degree,” says BYU Law professor and CLC supervisor Carl Hernandez III, ’92, “one

which will help our students go out into society to become great advocates for their clients and to engage in leadership in all segments of the community.”

Hernandez teaches constitutional litigation and professional skills courses at BYU Law and supervises the legal work of the BYU Community Legal Clinic in Provo. He and BYU Law adjunct professor Athelia Graham, ’19, work together with students at the clinic, where Hernandez says students “are learning to exercise some of the most important and fundamental skills required of those in the legal profession.” Once a week, students conduct client intake interviews, which they later discuss with Hernandez in a classroom setting. According to the Utah Rules of Professional Conduct, eligible law students are authorized to enter into attorney-client relationships and take responsibility for many

aspects of the legal work for their clients. Students also handle a variety of legal matters at the Provo CLC, including issues related to immigration, housing, employment, contracts, and more.

“BYU Law’s legal clinics provide students with direct, hands-on client representation

from start to finish,” Hernandez says. “[Students’] engagement with clients changes their perspective about the world and about life. Students often tell





Washington, DC

me they have gained more from their clinical work with clients than from the service they themselves are offering.”

Katie Rane, '20, worked at the Provo CLC from 2018 to 2020. She says that the CLCs are helping to bridge the access-to-justice gap. “We have had people come to the Provo clinic all the way from St. George, Utah. There are often people waiting to be seen, and we have to turn some away. That’s how much this type of service is needed,” she says.

### Opening Even More Clinics

Prior to working in the CLC, Rane volunteered at the South Texas Family Residential Center in Dilley, Texas—the largest family immigration detention center in the United States—helping families with asylum applications. That experience changed the trajectory of her career. “I came away from Dilley thinking, ‘I didn’t really know any of this was happening. What am I going to do about it now that I do know?’”

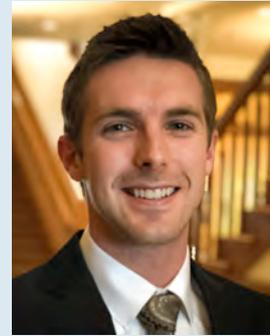
In 2019, Hernandez was looking for ways to expand the reach of the CLC, so, together with Rane, he founded NOMAS. As executive director, Rane oversees the clinics in Utah, Idaho, and Illinois.

One challenge that Hernandez and Rane have faced in expanding the clinics to other places in the US has been determining how to staff them without relying solely on BYU Law students. “We worked with the immigrant services program of The Church of Jesus Christ of Latter-day Saints to develop a scalable model,” Hernandez says. Unlike the Provo CLC, the additional clinics exclusively provide legal immigration services, such as asylum, citizenship, family-based lawful permanent residence, and assistance related to Deferred Action for Childhood Arrivals (DACA) status.

One benefit of taking this targeted approach is that it creates an opportunity for non-lawyer volunteers to become involved. “NOMAS offers an eight-week training course on the fundamentals of immigration law for interested individuals to become accredited representatives who are authorized by the Department of Justice to do legal work in our immigration clinics,” Rane says. The foundation has a memorandum of understanding with the J. Reuben Clark Law Society (JRCLS) and will contract with JRCLS attorneys who will direct and oversee the legal work in different locations. Attorneys can also volunteer to work on cases. “It’s pretty exciting because we can now invite anyone who is interested to become trained and volunteer in our clinics,” Hernandez adds. “Volunteers and supervisors

### Motivation to Keep Going

Adam Erickson, '21, first heard about the Community Legal Clinic near the end of his 1L year. “I was immediately drawn to the idea of using the law to help people who are less advantaged,” he says. Erickson then worked in the clinic during his 2L year, managing a caseload of clients who needed help navigating immigration issues. “At the end of the semester, their cases were not closed,” he recalls. “We had developed a good relationship, and I wanted to keep working with them. They were real people, and just because the semester had ended, it didn’t mean their problem had ended. That was motivation for me to keep going.”



As a 3L, Erickson became one of two lead fellows for the Provo CLC and took on additional administrative responsibilities. He says that “a challenge and a benefit” of working at the clinic is the autonomy students are given. “Professors Hernandez and Graham expect each student to stay on top of their caseload because students are the primary contact—often the only contact—with the client,” says Erickson. “It was a great opportunity to learn independence and responsibility as a law student.”

Erickson graduated from BYU Law in April 2021 and will be joining Haynes and Boone LLP, a corporate law firm based in Dallas, Texas, to practice patent law. He hopes to continue his involvement with immigration law in Texas. “These clinics are filling a need,” Erickson says. “When it comes to immigration, there’s just enough uncertainty that many clients end up going to an attorney and getting charged for legal work that is tedious but not terribly complex. We can help people who can’t afford to pay for an attorney or for whom it would be a significant burden to do so.”

are trained in one area—immigration—and in only a few different types of cases so that the work doesn’t overwhelm the clinics.”

### Serving as the Savior Would

According to Rane, the NOMAS mission goes beyond providing free legal services. “We are educating and training people in immigration law and bringing people together from

different worlds as we do that. Many individuals who volunteer at NOMAS don’t have prior knowledge of immigration law, while others are immigrants themselves,” she says. The name of the foundation, No More a Stranger, was inspired by Matthew 25:35-36: “For I was an hungred, and ye gave me meat: I was thirsty, and ye gave me drink: I was a stranger, and ye took me in: Naked, and ye clothed me: I was sick, and



ye visited me: I was in prison, and ye came unto me.”

“We want people to interact with and understand different cultures and different viewpoints and to come to love each other,” Rane says. “We view our clients as people we can serve but who can also serve us by giving back. When we file a case, we invite the client to come back and volunteer with us by translating documents or helping with our country-conditions database. We will help people with legal services, and we will help more people understand immigration law, but we hope to do more than that. Our mission is to help people come together and truly see each other as brothers and sisters who are able to love and serve each other.”

It has been nearly five years since the first Community Legal Clinic opened, and Hernandez says the impact has been far-reaching. “We have wonderful stories of individuals whose lives are being changed, who

are able to fully participate in our communities because of the work that our students are doing,” he says. “The clinics create opportunities for our clients, helping them to resolve issues often caused by power imbalances in our system of governance and to get fair representation when they wouldn’t otherwise have it.”

Rane and Hernandez foresee expanding the clinics beyond the 10 that are currently operating or in the process of opening. Hernandez believes a natural next step is to partner with other programs of study at BYU, as well as other law schools, so that more students can take advantage of the opportunity to serve and gain experience in this way.

“Our hope is to serve in the way the Savior serves,” Hernandez says. “He wants us to serve the strangers in our midst. The Lord is able to do His own work, but if we want to be involved, He will let us.”

### A Rewarding Experience

Lynae Bevan, 3L, developed an interest in immigration law during law school and decided that working in the Community Legal Clinic would be a great way to get hands-on experience. For Bevan, helping immigrants with asylum cases and applications for temporary protected status is rewarding, and interacting with real clients has been a confidence-boosting experience.

Working at the clinic also gave her experience in problem-solving. “At the clinic, you deal with all sorts of problems, and they are usually problems that you’ve never dealt with before,” she says. One memorable case Bevan handled involved helping a client file a wage claim and collect pay that was owed to him by an employer who had disappeared. “My client had a young family, and going three weeks without



pay was a significant burden. If you can’t buy your family groceries, you can’t afford to hire an attorney,” Bevan says. “The most rewarding times are when I am able to help someone who would not have had help without the clinic.”

Bevan is currently interning with NOMAS and hopes to work with the forthcoming CLC in Las Vegas after graduation. She says: “The clinics are not only great at teaching you to have compassion for all types of people, they also help you develop practical skills. The clinic has helped me learn how to manage my time. It’s also refreshing to take a break from studying and actually meet with clients. I think these things will help me as a practicing attorney.”