



Class and Intersectionality at the Law School and in the Law

Joe Charlet '18
(he/him/his)
Guest Columnist

A version of the following was presented at the Dinner Table Series on November 15, 2017

Class fascinates me. Part of my fascination stems from the fact that Americans have eschewed the explicit stratification seen in the British social class system, yet class has always felt inescapable in the United States to me. The existence of sometimes overt and sometimes subtle distinctions in manners, speech, and expectations of what life looks like requires people to learn how to do an interpersonal dance in order to succeed in a variety of contexts. But with class, as with all things, the burden of learning the performance—and the consequences of failing to do so—falls disproportionately on the most economically and socially marginalized.

The distinction between the economic and social components of class is particularly important. To me, economic class is something that can be measured objectively by analyzing wealth, which makes it distinct from social class, which is more subjective as it is performative and participatory. Economic and social class are clearly related because social class paradigms are based on economic class and the performative aspects generally require economic outlays, some greater than others. However, it is clear to me that the two are not synonymous, and people can move through either economic or social classes without moving through the other.

I think we intuitively understand that people can concurrently exist in incongruous economic and social classes. One example is our president, Donald Trump. While he probably has less money than he contends, he is unmistakably in the highest economic class. Yet there are a lot of people who see President Trump as occupying a much lower social class because he seemingly lacks the refined taste many associate with high social class. The way in which he tries to ostentatiously act out his economic class is precisely the reason he fails at performing the role required by the correspondingly high social class. He seems to fail to understand the nuances of social performance that his peers and “social superiors” expect, but he also seems to consciously choose to rebel

CLASS page 2

A Puzzlemaster's Parlance



Will Shortz '77 from his visit to the school in 2008.
Photo courtesy of UVAToday

An Interview with Will Shortz '77, Crossword Puzzle Editor, *The New York Times*

Jenna Goldman '18
(she/her/hers)
Editor-in-Chief

Ucagon: [noun] A neighbor whose house is on fire or has burned down.

“It’s a ridiculously specific word and that’s why I love it,” said *New York Times* Crossword Puzzle Editor, Will Shortz '77. The *Virginia Law Weekly* had the opportunity to interview Mr. Shortz about how he contemplates words and language, and how we as budding lawyers can learn a thing or two from UVa’s most famous wordsmith.

In his capacity as puzzle editor, Mr. Shortz receives between 75 and 100 puzzle submissions per week. “The biggest part of the job is actually looking at the submissions and deciding which ones are the best.”

What are the hallmarks of a great puzzle? “I’m looking for fresh, colorful vocabulary that is generally familiar to *New York Times* readers.” He doesn’t mean the language should be simplistic, “I like an interesting, difficult word sometimes but I want, generally speaking, familiar vocabulary.”

After receiving a submission, he marks it up on paper (the medium by which he requires all puzzles to be submitted), then he makes notes on what he likes and doesn’t like. “Everyone gets a response: yes or no.”

He likes words like “errata page” and “trashmouth” and “clam juice.” Words he doesn’t like: “Heme” as in a deep red pigment, the color of blood.” That type of word is what he calls

a “crosswordy-word” or “crosswordese” if you will: “It’s vocabulary that people know mainly from crosswords, not from real life.”

A career writing puzzles was always the goal for Mr. Shortz. The summer before he began at UVa Law, he interned for *Penny Press Puzzle Magazine* in Connecticut, where he saw how he could have a career in puzzles “without living in abject poverty.”

When he began law school, Shortz planned to practice for a few years then transition to a career writing and editing puzzles. But in the spring semester of his first year he wrote a letter home stating otherwise. “I told my parents I would be dropping out of UVa at the end of the year and go right into puzzles. And you could imagine how that news went over.”

His mother, a writer herself and an influence on Mr. Shortz’s love of words, responded thoughtfully about why he should remain in school. “I thought she made good points, so I went ahead and got my J.D. and then went into puzzles.”

Though Shortz never practiced law, he is grateful for his UVa education and uses it to this day.

“I think a legal education is just a great education for the world. It teaches you to handle complex problems, divide them into their constituent parts, and deal with each part individually.” The author of over 500 puzzle books has never used an agent or a lawyer. “I look at and analyze my own contracts.”

Even after forty years as a professional puzzle editor, Mr. Shortz still makes the rare, albeit comical, error that underscores the importance of precise language. A clue last year: 1996 horror movie with four sequels the answer was ‘Scream.’ “The problem was that there were four Scream films in total, but only three sequels. Of course the first one wasn’t a sequel.”

Another clue: “Head of state who resigned in 1974” the answer, “Meir, as in Prime Minister Golda Meir.” So what’s the problem? “In Israel she is the head of government but she’s not the head of state, that’s the President. We tend to overlook that distinction in the United States because our President is both head of government and head of state.” Mr. Shortz explained that there are 30,000 clues in the *New York Times* crossword each year, and occasionally mistakes happen.

Some are beyond the puzzle master’s control. The clue: The only NFL team to go 0 and 16 for a season. “The intended answer was the ‘Lions’ and the puzzle was put to bed on December 30 for publication on January 7. Over that weekend, literally two days later, the Cleveland Browns completed their season 0 and 16. So the clue was correct when the puzzle was put to bed, but by the time the puzzle appeared in print it was wrong. Of course a lot of people follow NFL so I heard a lot about that.”

As our faithful readers know, the *Law Weekly* has toyed with

SHORTZ page 3

around north grounds

On behalf of the Student Body, the Law Weekly accepts the return of the (broken) RFK bust as a sign of surrender from the Z Society. Mystically, ANG.

Thumbs down to the Super Bowl match-up. Speaking of shitholes, ANG can’t believe ANG has to choose between rooting for Philadelphia and the literal devils, but here we are. Yawn.

Thumbs down to new, ‘Good Harvest’ food in ScoCo. ANG depended on students’ tasteless, disappointed throw-aways to live. Doesn’t that mean anything to anyone? Shame on the food service department for making this change, and shame on Steven T. Parr for enabling them.

ANG gathers from general conversation that grades have yet to be posted. ANG just realized something terrible: we all forgot to email Dean Dugas to remind him to post the grades. Quick everyone, do your duty! Send Dean Dugas an email today! Remember to sign, “best-[your name in all lowercase].”

All kidding aside, ANG doesn’t know whose fault the failure to post grades is, so ANG will default to blaming the Law School’s most culpable subject: thumbs down to President Steven Glendon.

Thumbs up to Netflix releasing all of these brand new seasons of television just in time for the new semester. ANG needed something to watch in the library now that all those pesky undergrads have finally cleared of ANG’s favorite pretend-to-do-work tables.

Thumbs down to NBC executives refusing to tell loyal fans how #jackdies in This is Us. ANG hasn’t cried this much watching a show since Grey’s Anatomy. And Game of Thrones. And Sesame Street. ANG actually just cries a lot.

Thumbs up to sharks. Sharks are ANG’s favorite animal. Anyone who doesn’t like sharks is clearly a person of moral turpitude. No, ANG doesn’t have anyone specifically in mind, why do you ask?

Thumbs down to the Kardashians. ANG hasn’t been keeping up.

CLASS

continued from page 1

against that expected performance just as often. Unlike most people, President Trump can choose to ignore or not learn social class performance because he started life in the highest economic class and thus has been protected from suffering meaningful material repercussions.

This is why I am interested in talking about class. Here at the law school, every one of us will end up at the very least in the relatively high and broad professional social class, though given the disparities in pay in the legal world, we will also end up in wildly disparate economic classes. But exactly how successful we will be on our respective paths seems more influenced by our class before law school than it should be—and influenced much more than we seem to discuss.

Part of the reticence to talk about class is because both economic and social class discussions have been subsumed by other needed identity-based discussion. Class expectations often are influenced by sex/gender, race, religion, sexual orientation, regional background, and other salient attributes like disability, and many social movements have developed around those needs. But class affects everyone, even people who do not have what are commonly understood to be marginalized identities, and for that reason I think it is important to discuss as a standalone topic, just with an

intersectional vantage point. After all, a huge barrier to the American ideal of economic class mobility is social class since economic class mobility requires success in networking, interviewing, finding mentors, earning promotions, etc. All of these activities require social-class performance, and the people with power in these situations often interpret and scrutinize someone's class performance through assumptions based on her identity, either consciously or unconsciously.

This scrutiny has shaped my entire life. I was born and raised in the American South. I was given up at birth by my biological mother and adopted into an all-white family to be raised in an all-white place. I was later effectively orphaned again as a young teen and emancipated myself out of foster care. I am also gay. Both in spite of and because of all this hardship, I actually got a full scholarship to attend a private boarding school for my last two years of high school and then I went to Yale on 100 percent financial aid for college. Now I am here at UVa Law, yet another elite institution. So in an effort to begin a larger conversation about class, I want to highlight some of my experiences as a particularly poor and dispossessed person in this country, who effectively leapfrogged from the bottom economic class—and certainly a lower social class—to potentially the top economic and a much higher social class.

When I was eighteen, the summer after my freshman

year at Yale, I was in D.C. working for my senator. This was an incredible experience, but a particularly stupid short-term economic decision because not only did I give up making money during the summer, I was also spending more money than I would have otherwise because D.C. is more expensive than going back home where I could have stayed with friends for free. So, unsurprisingly, for a short period of time at the end of the internship when I lost the fellowship housing I had, I was homeless. I remember going to the Gallery Place metro stop to beg for change where many others who were experiencing homelessness very differently than I was were also congregated for the same purpose, since there is so much foot traffic there. Within two minutes I probably had more than \$10.00 worth of change and a lot of sympathetic words whereas everyone else who had been there for much longer did not have anywhere close to that amount and were treated far more distantly.

The reason for the disparity was obvious. Though I do not remember exactly, I am certain I was wearing a Yale shirt, since my wardrobe at that time was mostly shirts I had gotten for free from college events. I do not want to overly psychoanalyze passersby with whom I had ten-second interactions, but I think it is fair to say that my shirt and my relatively clean appearance made me seem worthier of their even deigning to listen to my plea for money. Additionally, I was the only person asking for money

who could directly approach people effectively rather than sit passively and hope someone paid attention. Certainly my relatively light complexion played a role in that. I have always felt that people are much less intimidated by being randomly approached by me than by other African Americans with darker skin, despite the fact that I am so much larger than average people, which seems like a more rational reason to find a stranger imposing or threatening. Another reason I could approach, though, is I am physically able, while an inordinate amount of the other people asking for money that day had mobility issues from lost limbs or unattended-to injuries. So I was certainly perceived to be in a higher social class simply due to my appearance, but in all the ways I was not, my appearance also led to more favorable interpretations of how I asked for money.

For a slightly different and perhaps more controversial view of class, take my youthful interest in joining the military. I felt and still feel very strongly that there is a moral imperative to serve your country and not leave truly difficult service to others. Beyond that, it seemed like military service might be a practical way for me to alleviate my economic issues by giving myself stability through work and a measure of social respect I could build upon once I left active duty.

However, this path seemed unavailable to me because of Don't Ask, Don't Tell. I was six years old when President Clinton implemented the policy to

lighten what was previously an outright ban, and even this so-called lighter policy was not repealed until after I graduated from college. As I became more aware of how immutable my sexuality actually was, the military became less of a viable option because I could not risk getting dishonorably discharged and being left with nothing. So while the military is probably the most integrated part of our country in terms of race/ethnicity and economic class, my inability to ensure that I could fit into and consistently perform in a social class so predicated by law on a certain view of heterosexual masculinity kept me from ever pursuing this path. Fortunately I had less precarious academic opportunities for advancement as well, though I deeply respect all the other LGBTQ+ people who chose to join regardless, and I recommend reading the accounts many have shared to the news media for some firsthand accounts of how Don't Ask, Don't Tell affected their service.

Another issue I have always noticed is people treating the Southern accent in all of its forms as some sort of marker of intellectual inferiority. There are countless times when I have seen people dismiss good ideas or completely discounted the entire person simply because of the effect of that voice. I have mostly escaped this because I saw the school speech pathologist as a child because of a speech impediment, and consequently learned to speak

CLASS page 5

Innovation in Israel: A J-Term Story

Israeli Business Law and Innovation is a unique course offered to UVa Law students dur-

Brian Diliberto '19
(he/him/his)
Guest Columnist



ing the January Term. Students interested in exploring the recent developments in the Israeli start-up scene, or who want to explore a bustling foreign business and legal market, are encouraged to apply.

Alongside UVa Law Professors Michal Barzusa and Dotan Oliar, fifteen students spent five days (four days in Tel Aviv and one day in Jerusalem) exploring the recent developments in business law and entrepreneurship within Israel, known as the Silicon Valley of the Middle East. Having never been to the Middle East, I saw the study abroad program as a unique opportunity to engage in a comparative analysis of the U.S. and Israeli approaches, while refining my understanding of Israeli business law, politics, and culture.

In preparing for the course, I read *Start-Up Nation: The Story of Israel's Economic Miracle*, by Dan Senor and Saul Singer. I was surprised to learn that despite being the size of New Jersey, Israel has more companies listed on the NASDAQ exchange than all companies from the entire European continent, an incredible feat considering Israel has a population of just over 8.1 million people. With the highest density of start-ups in the world, Israel has the high-

est level of venture capital as a share of GDP of any nation.

As the name of the program suggests, a major theme throughout the course was Israeli entrepreneurship, especially in the high-tech market. We met with Eitan Israeli, Vice President and General Counsel

dia, mobile, digital life, and digital video. Tarlovsky brought in several Israeli entrepreneurs to pitch their business plans, and we were instructed to ask critical questions throughout each presentation.

Israeli corporate law was a major theme: we explored top-

and IPOs of biotech companies on U.S. exchanges. We met with Michal Rosen-Ozer, widely respected as the top white-collar criminal defense attorney in the nation, and Dr. Ilan Cohn, senior partner at Gilat Bareket/Reinhold Cohn, the largest intellectual property law firm in

fairs in Jerusalem, where we had formal presentations with the Director of International Law and discussed the Israeli-Palestinian conflict. Throughout the trip, students engaged in a candid dialogue with Israeli leaders about the impact of the Trump presidency, as well as predictions about the future of U.S.-Israeli relations.

Our trip to Jerusalem also included a memorable visit to the Western Wall, where we received a special tour of the complex tunnel system and learned about the rich history of the land. Finally, we received a guided tour of the Israeli Supreme Court, which included sitting in on a criminal appeal and meeting with current Israeli Supreme Court Justice David Mintz.

I hope to develop a strong international footprint in my legal practice, and this course certainly refined my understanding of recent developments in Israeli business law and high-tech entrepreneurship. Further, the opportunity to network with top legal scholars in a variety of disciplines and to meet with business leaders from widely respected multinational corporations—all while engaging in a comparative analysis of the U.S. and Israeli approaches and learning about current issues in Israeli law, geopolitics, and culture—was an invaluable opportunity as a law student. Overall, I give the program my highest recommendation.

bd3vp@virginia.edu



Students visited Israel over the break and were able to enjoy the Tel Aviv waterfront.

Photo courtesy of Ali Zablocki

for Wix.com, a cloud-based web development platform that allows users to create HTML and mobile websites, and which today boasts a \$1.7 billion market cap. We also met with Nir Tarlovsky—vice chairman and co-founder of Israeli company The Time—who is one of the leading Israeli early-stage investors in the digital space, focusing on technology startups in new me-

ics including corporate litigation, corporate control, corporate branding, and marketing. We met with Judge Ruth Ronen from the Israeli Economic Court, which we learned was modeled after the Delaware Court of Chancery. Further, the program included introductions to Israel's "innovation ecosystem," IP law, medical privacy and big data, e-regulation,

Israel.

We participated in a nuanced exploration of the nation's legal system and politics, and dived into a fascinating discussion on geopolitical issues in the region. We learned how Israel's unique history has contributed to the country's entrepreneurial successes; the region's "chutzpah" was palpable. We visited the Israeli Ministry of Foreign Af-

Nap Your Way to Success

Are you tired? Struggling to focus? Ready to reach for that next cup of coffee? With the

Eleanor Schmalzl
(she/her/hers) '20
Staff Editor



semester starting, some of you may be feeling sleepy at just the thought of starting another round of classes. And while I'm sure you all kept a consistent, normal sleep schedule over the long break,¹ you may still be searching for a way to stay refreshed in the chaos of your spring schedule. Well, rest easy, friends, because an afternoon nap may be the key to conquering anything that comes your way.

While American culture seems to frown upon the idea of an afternoon nap for adults, a siesta can produce huge benefits for hard-working law students.² Some of the greats, including Winston Churchill, Margaret Thatcher, and Albert Einstein, committed time in the afternoon to recharge with a short nap despite their busy schedules.³ And the amount of time it takes to reap the benefits of

the nap is minimal. While studies vary, some say even a five- to ten-minute snooze can improve your mood and productivity.⁴ Others agree that a twenty-minute nap is the ideal length to increase your energy throughout the day, while a

information and clear clutter that you have in your head from the first part of your day.⁶ If additional energy, improved mood, and a clear mind don't motivate you to set aside time for a relaxing afternoon ritual, then maybe money will.

ent variations of this competition have continued in Spain to revive the old tradition of an after-lunch nap, an important piece of their culture that is being washed away with the hustle-and-bustle of today's fast-paced world. So, if you're

lovers. If you need that morning brew to start your day and pick you up after a good lunch, start listening now. Coffee can be good for pushing you through your days, but can impact your ability to fall asleep at night, as most law students can attest to from personal experience. But when it comes to coffee and naps, you may be able to have your cake and eat it, too. If you can't imagine nixing your afternoon joe, you may not have to. Drink your afternoon coffee right before your short nap and you may experience an additional power up. The effects of the caffeine don't come until between fifteen and twenty minutes after consumption, meaning it won't affect your ability to fall asleep.⁸ So, while you may have to compromise in most relationships, you and coffee can still live together in peaceful harmony if you add a nap to your list of ways to get through the busy day.

Your classmates may judge you for falling asleep in the study lounge or at your table in the library, but you may end up having the last laugh when you wake up more alert, creative, and prepared to take on the rest of the afternoon. So stop worrying about everyone else and quit fighting that urge to close your eyes—it may be exactly what you need.

mes5hf@virginia.edu

8 <https://sleepfoundation.org/sleep-topics/napping>

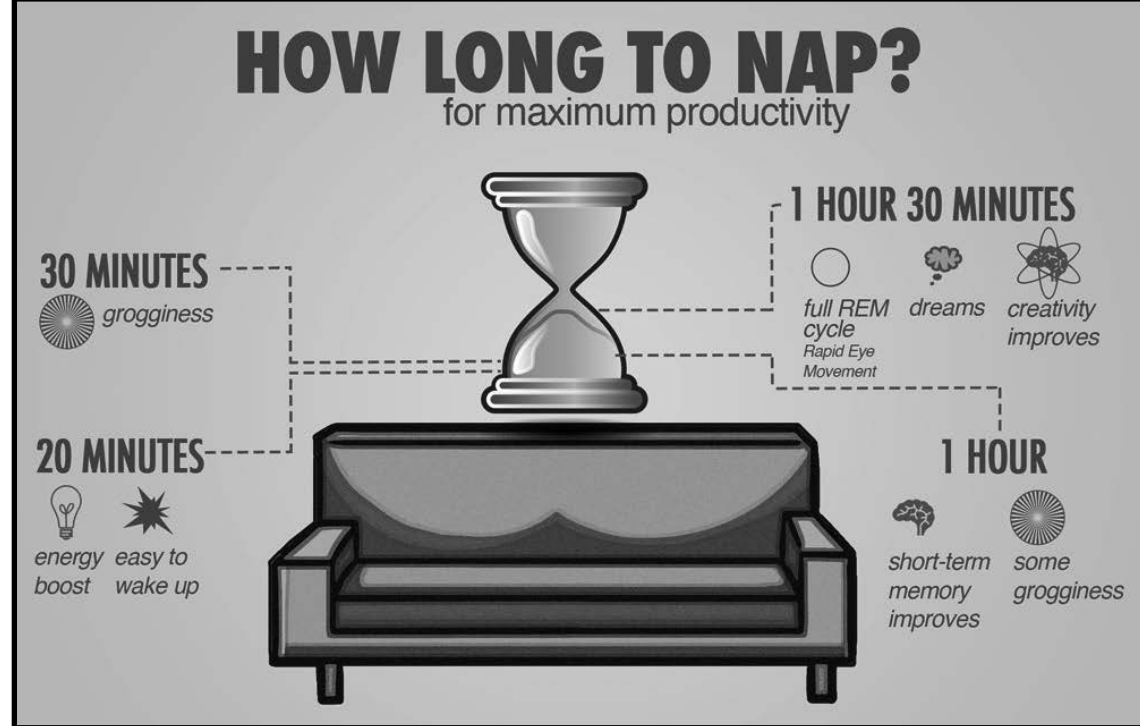


Photo courtesy of The Wall Street Journal

ninety-minute midday sleep can produce long-term benefits in your health.⁵ Humans benefit most from a nap between 1 and 3 p.m., allowing your brain to store important

information and offered a money prize to the best napper based on nap position and PJ style with bonus points for snoring.⁷ Differ-

ent variations of this competition have continued in Spain to revive the old tradition of an after-lunch nap, an important piece of their culture that is being washed away with the hustle-and-bustle of today's fast-paced world. So, if you're

1 Read: stayed up until 3 a.m. and woke up at noon

2 "Hard-working" includes those with perfect attendance at FebClub parties

3 AKA your "I don't have time for a nap" excuse may be invalid

4 <http://thedinformatics.com/2012/07/31/napping-types-statistics-facts-and-history-infographics/>

5 <https://sleep.org/articles/napping-health-benefits/>

6 Disclaimer: the author of this article is in no way responsible should your brain discard class lectures as "clutter"

7 I can't make this stuff up: <http://www.cnn.com/2010/WORLD/europe/10/15/spain.siesta.championship/index.html>

8 <https://sleepfoundation.org/sleep-topics/napping>

HOT BENCH



Daniel Grill '19

1. When will you be making your debut with the law school band?

I am currently in talks with Jordan Naftalis to become the next singer, so probably early next year.

2. Where did you grow up and what was your favorite aspect of your hometown?

I grew up in Pittsburgh and I am a huge fan of the city. I really liked growing up in a city with such great sports, people, and food. I try to go home whenever I can. Yinzer for life.

3. What's the best meal you've ever had?

It's tough to choose one meal, but probably Thanksgiving dinner every year.

4. If you could meet one celebrity, who would it be and why?

Topanga from Boy Meets World...she was my first

crush.

5. What is the best meme site on Instagram?
@Grillpiece412...it's a must-follow. Hottest memes in town.

6. If you had to pick one song to play non-stop in the background of your life, what would it be?
Friday by Rebecca Black

7. If you were a superhero, what would your superpower be?

Cutting the line at ScoCo... especially with the new Great Harvest options. I'm all about that chicken-barbecue sandwich.

8. What's something you wish you'd known about law school before coming to UVA Law?

Don't get too attached to the law school band because sometimes they graduate and don't play anymore.

9. What did you have for breakfast this morning?

Granola bar from the Snack Office

10. What's your most interesting two-truths-and-a-lie? (And what's the lie?)

I went to high school with Mac Miller. I went to the same high school as Wiz Khalifa. I am a rapper.
(For the time being, the last one is the lie.)

11. If you could live anywhere, where would it be?
Pittsburgh, the best city in the world.

12. What's the best gift you've ever received?

My aunt gave me a rice cooker when I graduated from college, which I use a lot. I cook stir fry for 95% of my meals, so rice is a key staple.

13. If the Law School had yearbook awards, what would you want to win?

Definitely best produce-based Halloween costume. Come at me TT.

14. Backstreet Boys or *NSYNC?
Guns n' Roses

15. What is the best concert you have ever been to?

I saw 2 Chainz live when I was in college at the University of Michigan, which was a lot of fun.

16. What is your favorite thing to do in Charlottesville?

Get Monsoon drunken noodles to-go and play Fortnite with the boyz.

dkg5rd@virginia.edu

Nominate a student for Hot Bench at editor@lawweekly.org!

SHORTZ

continued from page 1

creating crossword puzzles in lieu of the usual Sudoku puzzles, always with vitriolic backlash. We asked Mr. Shortz for advice in coping with such responses, and he responded with a laugh, "The sorts of people who are drawn to crosswords tend to be persnickety and care a lot about language." One anecdote he shared: "The answer was 'toad' and the clue was 'little hopper' and someone wrote in saying 'toads, sir, waddle, they do not hop.'" We assured Mr. Shortz we would not be discouraged by the haters and would continue our attempts.

Mr. Shortz has lots of fans on the *Law Weekly*, and we are in awe of how Mr. Shortz, as one staff member put it, "turned a boring old degree into a career that is fun and interesting." The staff was eager to ask him a variety of questions about his body of work, all of which he graciously entertained.

One staff member asked what first inspired his use of the word 'ecru,' Mr. Shortz replied with a laugh "Well that's an example of crossword-ese." He has used it 159 times since he became editor in 1993, usually with the clue "brown, stocking shade" or "like a decorator shade" or "neutral hue."

In another pressing question, we asked Mr. Shortz about potentially reprising his role as the Riddler in an inevitable Batman reboot, "If they were to ask me, yeah." The question was in reference to lending his expertise to provide riddles for Jim Carrey's character in the 1995

film *Batman Forever*.

"Each riddle had to contain a number—that was the one constraint." Though the Batman franchise has not yet asked Mr. Shortz, he recently filmed an episode of *Brooklyn 99*, which will air March 20.

Mr. Shortz has been interviewed by Oprah, David Letterman, Jon Stewart, and has been featured on *Nightline*, and *60 Minutes*. His favorite spotlight was in the 2006 documentary film largely about Mr. Shortz's work, "Wordplay." "At the time it came out it was one of the top twenty-five highest grossing documentaries of all time."

What is his advice for law students and lawyers wanting to improve their vocabulary and word choice precision? "Solve *The New York Times* crossword!" This is not merely a plug to sell papers. The weekly crossword has on average seventy-six answers covering seventy-six different topics. Mr. Shortz believes this exposure to a variety of language that individuals in one profession might not come into contact with is a valuable teaching tool.

But, he cautions, "You shouldn't do the puzzle because you think it's good for you. That's a bore." Instead, "You should do it and you should enjoy it. Here's the thing, you should do crosswords for their entertainment value and the nice thing about it is that there are lots of things in life that are entertaining; crosswords are good for you."

You can read the transcript for this interview and listen to the audio at www.lawweekly.org

jmg3db@virginia.edu

LAW WEEKLY FEATURE: Court of Petty Appeals

The Court of Petty Appeals is the highest appellate jurisdiction court at UVa Law. The Court has the power to review any and all decisions, conflicts, and disputes that arise involving, either directly, indirectly, or tangentially, the Law School or its students. The Court comprises four associate justices and one Chief Justice. Opinions shall be released periodically and only in the official court reporter: the Virginia Law Weekly. Please email a brief summary of any and all conflicts to jmg3db@virginia.edu.

*Student Body of UVa Law v. Slackers of the Faculty of UVa Law*¹
178 U.Va. 924

ZABLOCKI, J., delivered the opinion of the Court following an emergency hearing convened abroad,² in which GOLDMAN, C.J., and VANDERMEULEN, J., joined. MALKOWSKI, J., filed an opinion concurring in part and concurring in the judgment. JANI, J., filed a dissenting opinion.

JUSTICE ZABLOCKI delivered the opinion of the Court.

Despite its diverse interests, current activities (*i.e.* ways of destressing from the prolonged torture that is exams), and future career paths (ahem, grades needed to see what these might be—to quote one not-even-particularly-anxious 1L, “I need my grades in order to submit job apps for next summer. Or is the magic of K-Don really that limitless?”), the Student Body is united in angst resulting not from actual fall semester grades,³ but rather from the

¹ Timely graders seem to be the exception rather than the rule; therefore, defendants shall be referred to as “the Faculty.”

² So many members of the Classes of 2018, 2019, and 2020 have complained through so many media, the Court has been compelled to write a decision from Ghent, Belgium. From a hostel. From, importantly—though likely only for the Court, always denied such privilege in childhood—the top bunk.

³ And in fact, the Student Body acknowledges that seeing the (maybe?) forthcoming grades will somehow, defying all rules of physics and metaphysics, result in a deeper plunge into despair.

apparently endless wait for said grades to post on SIS.⁴ Having given the matter much thought over the many weeks that have passed since the end of finals, the Student Body therefore has decided to bring suit on grounds of (1) failure to fulfill contractual obligations, (2) inhumane treatment in violation of any convention on human rights, and (3), because it is more or less a default claim in any complaint that comes

burden of having a soul,⁵ these being held in abeyance by Uncle Sam for the foreseeable future,⁶ it is taught and assessed by a Faculty of mostly pretty stellar legal scholars.⁷ While the individual members of the Student Body would welcome personalized thoughts regarding course performance in lieu of mere comparison to fellow members of the Student Body, the Student Body long ago conceded that

letter grades are a more efficient means of issuing this assessment. However, the emphasis on efficiency was clearly never intended to be one-sided; *i.e.*, it was never intended to benefit solely the Faculty such that the Faculty might choose to enjoy the holiday season so cruelly denied the Student Body and then, in the ensuing weeks, kick back recovering from all those arduous parties (as the Student

tract. The evidence presented not allowing for any other explanation,⁸ the Court has no choice but to find breach of contract by the Faculty, or, in the alternative, bad faith in forming said contract and then accepting really rather horrendous sums of money from the already impecunious Student Body without any intent to issue timely assessments as reasonably expected.

The second claim brought by the Student Body reflects the perils of tardiness particularly neatly. You see, not only is inhumane treatment a claim with merit, it is a claim the Student Body had opportunity to study in greater detail over the many, many, many weeks of winter vacation. In particular, learning about the comparatively frivolous claims which succeed before the EU Court of Human Rights in a J-term which may well be graded before fall semester grades are all posted⁹ inspired this claim. Without further ado

⁸ Surprise, surprise, the Faculty failed to even acknowledge the Student Body’s complaint in a timely manner, so the evidence is primarily in the form of absence of grades as of the end of J-term. What *do* the Faculty do all day??

⁹ This Court has faith in you, Madame Goré. But even if not, French pastry atones for a multitude of sins.

“On the matter of damages, the Student Body will never be able to relive Winter Break 2017-2018 and celebrate whatever holidays in truly peaceful fashion.”

-J. Zablocki

before the Court of Petty Appeals, intentional infliction of emotional distress.

First, the bargain between the Student Body and the Faculty is pretty clear. In consideration for the dozens of millions of tuition dollars the Student Body pays each year—or, more accurately, the dozens of millions of dollars of debt the Student Body accrues each year—the Student Body not only is relieved of the heavy, heavy

⁴ This is the system that is supposed to be used to communicate grades to students, in case confusion about how to do so is what’s holding any professors up.

⁵ Say what you will, soullessness can only be an asset in Big Law.

⁶ Please, PLEASE no one say it is Uncle Don who has grabbed these now. Life is cruel enough.

⁷ This Court will name names of those more, ah, terrestrial teachers only if compelled by subpoena, forms for which may not be found on the Court’s website. Although the Court will note that, as always, Professor Mitchell remains a shining beacon for all professional sort and got his grades out almost before the twelfth day of Christmas.

Body remains hung up on exams) before hastily assigning everybody B+’s with a smattering of A-’s and B’s, maybe even an A+ or, heaven forbid, a B-. Any interpretation by the Faculty in line with such is clearly in bad faith, and any action in accordance with such interpretation is a breach of con-

COPA page 5

Faculty Quotes

M. Gilbert: “According to the attendance policy, you have to attend 80 percent of the classes. And now you gotta ask yourself, is he a rules guy or a standards guy?”

E. Kitch: “Hello... well good bye I guess. Merry Christmas, Happy New Year, and have a good rest of your lives.”

J. Mahoney: “Have you ever wondered about the history of the Internal Revenue Code?”


Student: I have a million questions.

D. Brown: “I’ll take seven.”

B. Armacost: “Trevor, what’s wrong with your face? Wait, no, don’t put that in the *Law Weekly!*”

D. Oliar: “And the squirt gun. One of the largest menaces to humanity.”

Heard a good professor quote?
Email editor@lawweekly.org!



Virginia Law Weekly

COLOPHON

Jenna Goldman (she/her/hers) '18
Editor-in-Chief

Eric Hall (he/him/his) '18 **Jansen VanderMeulen '19**
Managing Editor Executive Editor

Anand Jani '19
Production Editor

Kim Hopkin (she/her/hers) '19 Columns Editor	Greg Ranzini (he/him/his) '18 News Editor	Lia Keane (she/her/hers) '18 Features Editor
Katherine Mann (she/her/hers) '19 Columns Editor	Ali Zablocki (she/her/hers) '19 Cartoonist-in-Chief	Julie Dostal (she/her/hers) '19 Features Editor

Published weekly on Wednesday except during holiday and examination periods and serving the Law School community at the University of Virginia, the *Virginia Law Weekly* (ISSN 0042-661X) is not an official publication of the University and does not necessarily express the views of the University. Any article appearing herein may be reproduced provided that credit is given to both the *Virginia Law Weekly* and the author of the article. Advanced written permission of the *Virginia Law Weekly* is also required for reproduction of any cartoon or illustration.

Virginia Law Weekly
580 Massie Road
University of Virginia School of Law
Charlottesville, Virginia 22903-1789

Phone: 443.812.3229
editor@lawweekly.org
www.lawweekly.org

EDITORIAL POLICY: The *Virginia Law Weekly* publishes letters and columns of interest to the Law School and the legal community at large. Views expressed in such submissions are those of the author(s) and not necessarily those of the *Law Weekly* or the Editorial Board. Letters from organizations must bear the name, signature, and title of the person authorizing the submission. All letters and columns must either be submitted in hardcopy bearing a handwritten signature along with an electronic version, or be mailed from the author’s e-mail account. Submissions must be received by 12 p.m. Sunday before publication and must be in accordance with the submission guidelines. Letters and/or columns over 1200 words may not be accepted. The Editorial Board reserves the right to edit all submissions for length, grammar, and clarity. Although every effort is made to publish all materials meeting our guidelines, we regret that not all submissions received can be published.

UVA Special:
Large 1-Topping Pizza \$8.99



Locally Owned
Caring for the Community

Open Late! **We Accept Plus dollars**

977-UVA1
1137 Millmont St.

CLASS

continued from page 2

more in the accent-neutral way of news anchors.

Outside the South, parts of the bias against the Southern accent can be somewhat, but not completely, overcome by high socio-economic class markers. For instance, President Clinton, one of our drawl-iest presidents, went to Georgetown and Yale Law. He is often characterized as brilliant, noting his education, but usually this recognition is despite his voice, which is condescendingly seen as a tool that connects him with lower class voters. Similarly, President Bush, son of another President Bush, who went to Yale and Harvard Business School, is not seen as smart despite the trappings of his education, and most people connect their perception of his intellect to his drawl. However you feel about the relative intelligence of either of these presidents, I have always noticed how their intellect has been discussed through the lens of their accent and regional background.

So what does this have to do with the law school and the law? As you may have noticed, like most professional arenas, the legal world is focused on elite things—elite schools, elite clerkships, elite jobs, elite clients, etc.—even in areas where some of those considerations seem inherently counterproductive like in public service roles. Unsurprisingly, there is an overlay of class on these trappings of elit-

COPA

continued from page 4

or analysis of U.S. law regarding violation of human rights—torture is banned pretty much everywhere, and obvi making a bunch of high strung students¹⁰ wait, oh, over a month for a single grade is torture—this Court finds that the Faculty has violated the Student Body's basic human rights. Maybe this knowledge is limited to normal humans,¹¹ but quick life lesson: the whole point of an endurance contest—such as finals—is that at the end (because yes, there is an end), there is some measurable satisfaction, even if it is only identifiable conclusion of the contest allowing participants to know that they have survived.¹²

With respect to the Student Body's third claim of IIED, obviously the Faculty's inaction is intentional, obviously it's extreme if it's not just 1Ls who are upset,

¹⁰ Have you seen any truly easygoing law students? Because this Court hasn't. Ever.

¹¹ *i.e.*, those not scarred by law school and then also by years of tenure-tracking.

¹² Again, this Court KNOWS there might be no satisfaction in the grades received. That's a case for another day.

ism, and it makes navigating law school and the legal world surprisingly difficult if you do not come from an economic or social class that overlaps with it because you have not been taught the interpersonal dance required to present yourself effectively. It also affects how we interact with our clients, since many people from high economic and social classes have not been taught to understand or maybe even consider that people from other classes might interact with them and the world differently. A lot of this is implicit, so even when people are not consciously considering class distinctions it is probably still coloring their experience with others.

I would like to use one of my favorite parts of UVa Law to begin to illustrate this. One of our greatest assets is how engaged and open professors are in our community. The fact that students can talk with them in office hours, have lunch with them, work on their research, and see them out in the wild is a unique and truly wonderful opportunity to get even more out of our law school experience than our peers at other schools. It is also an opportunity I personally struggle to utilize.

I often literally have no idea how to talk to professors outside of class. If I do not have an actual question about whatever subject they teach, I just assume I have nothing to talk to them about because I have internalized my old economic and social-class identity even though neither are strictly true anymore. I am lucky that

this Court is outraged,¹³ and it's all the Faculty's fault. A few days in which to move on from first semester grades, be it by coming to terms with lousy ones and mourning futures no longer possible,¹⁴ or by celebrating that one A- in a sea of B+'s, is only an unreasonable request from the standpoint of gosh, that's really so very little to ask after beasting through weeks of finals and then weeks of anxious waiting before resuming months of tedious studying and then doing it all over again.

On the matter of damages, the Student Body will never be able to relive Winter Break 2017-18 and celebrate whatever holidays in truly peaceful fashion. It is impossible to assign a numerical value to such lost experiences; therefore, this Court has no choice but to award equity in the form of A's for all. With regard to this award, all parties hereto shall be bound by a gag order in order that the firms don't realize we're not all little geniuses.

Blah blah it is so ordered.

JUSTICE MALKOWSKI, concurring in part and concurring in the judgment.

I join nearly all of my colleague's insightful opinion. I write separately to note the

¹³ The person on the bottom bunk probably is, too, at this point.

¹⁴ Don't spend too much time on this—Career Services is that magical.

seemingly every law professor in the world went to Yale Law, so I can use New Haven pizza and its status as the best pizza in the country as a conversation crutch, but beyond that I falter.

Yet I watch so many of our classmates develop relationships with professors seemingly effortlessly. It is not truly effortless since students are putting so much work into their studies and building off that to connect with professors, but there seems to be something more than just diligence at play. For some people that ease seems to come from family connections, shared experiences, and other class-based distinctions that other students from different socio-economic backgrounds could not hope to share with our professors. I want to highlight this disparity in particular because professor relationships are so important to tangible outcomes like getting clerkships or highly competitive government jobs.

I think UVa Law does a good job at partially alleviating this structurally by having small-section professors with an expected pseudo-mentorship role, through professor lunches, and through other formal and informal activities that provide access to professors. But even with access, I feel a heavy sense of reluctance to engage in even light conversation with professors since the answer to almost any personal question I might be asked would reveal either how poor or tragic my life has been. I do not want to be seen as a down-

er." In fact, really get into it. Throughout the break, interrupt our sole period of respite to remind us that you have not graded anything yet and in fact have no intention of hurrying things along. Keep us on edge! Send out mysterious announcements via Canvas to the tune of Amtrak's "This is just an estimate, but we will be very late leaving the station and then likely also be behind the local commuter train the rest of the way. Again, this is just an estimate. Things are probably much worse." Send out a few emails with the subject line "Grades" but with no content. Consider including an audio file of unintelligible noises that we can spend hours trying to open. Start a rumor that grades HAVE been posted and then watch as days at a time are laid to waste by a whole new strain of anxiety. Take my word for it: law students will LOVE this. We were hoping you would drag out the thrill of exams for as long as possible and frankly live for the excitement.

In addition to the damages prescribed above, this Justice proposes that the grading process be treated in the following manner moving forward: fall term grades should be released if at all possible within five business days of New Year's Day. The Student Body frankly would not like to see them any sooner, as this would imply you didn't actually read our novella of stream-of-consciousness sentences,¹⁵ and this would cause the tenuous illusion of the academic social contract holding our frail bodies together to shatter into a billion pieces.

In the event this is not possible, the Faculty should adopt the policy (hereinafter the "Amtrak System") of periodically releasing the following unsolicited message: "This semester's grade anticipation train making stops in panic, anxiety, and identity crisis will be delayed. There will be no estimate of the delay. Information will be provided as it is available but probably nev-

¹⁵ We recognize that the Faculty will likely still not read them, but we'd like you to at least play along.

er or be pitied, and I expect others might be motivated by the same reluctance. I am also reluctant to ask the questions I am most interested in asking out of fear of committing an unknown faux pas and being seen as stupid.

Contrast that class performance anxiety with another form that I find much easier cope with. As the 2Ls and 3Ls know, and the 1Ls will soon know, once you get to the interview portion of the job search, your desirability as a potential hire becomes much more about personality fit since employers have already reviewed your credentials. But because of the relatively small amount of time any student has with any one interviewer, the interactions are more akin to speed dating than anything else. But unlike more amorphous interactions with professors, there is a certain set of vocabulary and select appropriate experiences to discuss. Identifying what these are and how to approach them is one of the ways our career services provides such a valuable service to us.

Yet knowing about the topics is one thing. Actually being able to interact with the class implications of these topics is entirely another. I think the best example is one callback lunch I had where the entire discussion centered on international travel. Luckily I have been fortunate enough to travel abroad on fellowships to do research and for other privileged reasons such as accruing airline miles from reimbursed business travel. But in every interaction I have like

this, I cannot help but think of both former foster youth and also my friends here at UVa Law who have never traveled abroad. What do you do when associates and partners are judging you based on conversations about things you have never been able to experience like international travel or ski vacations? If you are a woman, do you worry that you seem less fun than similarly situated men? If you are a racial minority, do you worry that you are playing into a stereotype about your race? How can you control your perception if you cannot perform as people from a higher socio-economic class expect you to be able to perform?

Due to my unique life experiences I am probably more consciously aware of class than others, but this is not meant to be a comprehensive examination of the issue. We are all affected by class and perform roles in certain ways based on class every day that are unique to our circumstances. Hopefully sharing a small bit of my views on and experiences with the intricacies of class and the way intersectional identities further complicate it as a topic can help spark a broader conversation on the barriers class creates and how to be more thoughtful about the role we play in the strength of those barriers here at UVa Law specifically and in our lives more generally.

jmc3hf@virginia.edu

from a Justice, drunk on brioche bread dough and unfluoridated water, issuing rulings from a strange and foreign land.

This claim should be dismissed for lack of standing. The body of glorious and wonderful professors at the Virginia School of Law (*vivat in aeternum*) is not the entity that sets the due date of grades. This responsibility lies with the Registrar's Office. This court has already ruled that professors are allowed to party. (*See Frightened 1L v. Professor Who Looked at Him at Alley Light*) ("Professors are not immune from the urge to drink away the PTSD of seeing the same gunnery, shrill students in their offices every day.") This court has also granted the protection of the *I'm Rich, Bitch* doctrine, extended to 3Ls returning from their BigLaw summers, to professors. (*Broke 2L v. Professor Johnston*) ("You should be so lucky to attend a school at which your professor can publicly bemoan the sale of his ski cottage for a loss. Would you rather go to Georgetown?"). UVa Law's tax professors are undoubtedly taking advantage of this protection. Therefore, professors cannot be held liable for delaying grades as long as they are permitted to do. Finally, the Code of Conduct for Justices of this august Court should be amended to discourage the overuse of footnotes. I know we were all thinking it.

amz2ea@virginia.edu

Virginia Law Review Online Symposium Examines Law Behind Events of August 11-12

Over the past few months, UVa Law students have responded to the events

Clayton Bailey '18 (he/him/his) Guest Columnist



of August 11 and 12, 2017 with grace and conviction. Their accounts of the events, and reactions to them, have been published

Michael Dooley '18 (he/him/his) Guest Columnist



in numerous outlets, including *The New York Times* and the *Virginia Law Weekly*. I am so proud to call many of these people, who spoke out passionately for their beliefs, my friends. Their collective reaction shows the true character of our community. Much like our classmates, members of the *Virginia Law Review* were horribly disturbed by the scenes of violence and hate that made “Charlottesville” national shorthand for the dangers of white supremacy. In the aftermath, fighting the feeling of helplessness that comes when confronting true tragedy, we turned to the law. These events did not happen in a vacuum. They were influenced—and,

to an extent, even dictated—by background legal principles that govern our state and our country. Perhaps by examining these questions of law, we can advance our understanding of the incomprehensible actions of men.

This week, it is our pleasure to publish in our *Online* companion a number of scholarly essays, written by UVa students and faculty, that seek to do just that. The full essays can be read at virginialawreview.org, and a panel discussion with the authors will be held Thursday, February 1 at 1 p.m. in Purcell Reading Room. Lunch will be provided.

The essays alternate between U.S. constitutional law and the relationship between states and municipalities. A brief summary of each piece follows, in order of its appearance in our symposium.

Professor Farah Peterson, who joins our faculty this semester, provides the introduction to our symposium. She explores how the events of August 11 and 12 may have come about, drawing connections to the sordid elements of our country’s recent history. Despite the horror and chaos, Professor Peterson recognizes the abundant potential for change and our role in bringing it forth.

Timothy Horley’s essay, *Rethinking the Heckler’s Veto After Charlottesville*, asks one of the most difficult questions in First Amendment law: when can a speaker’s expression that is likely to provoke a violent response from listeners justify government intervention against the speaker? Examining the morass surrounding the issue, he proposes drawing on the test created by the Supreme Court in *Brandenburg v. Ohio*. This solution, he argues, would better protect speakers’ rights while expanding the ability of authorities to intervene before violence occurs.

In her essay, *Your ‘Little Friend’ Doesn’t Say ‘Hello’: Putting the First Amendment Before the Second in Public Protests*, Kendall Burchard addresses an issue that was on plain display on August 11 and 12—whether the states are (or should be) able to restrict the presence of firearms at protests. Exploring the current state of the law, she concludes that protests should be recognized as “sensitive places” where states are permitted to bar such weapons.

Amanda Lineberry’s essay, *Payne v. City of Charlottesville and the Dillon’s Rule Rationale for Removal*, addresses Virginia’s ability to

remove the Lee Statue that ostensibly served as a reason for numerous protests in Charlottesville, including the “Unite the Right” rally on August 11 and 12. Discussing decades of statutory grants that permitted localities to erect monuments, she determines that the statutory grant under which the statue was purportedly erected, as well as subsequent statutes, cannot serve as a legal bar to its removal.

Finally, Professor Richard Schragger’s essay, *When White Supremacists Invade a City*, argues that Charlottesville’s response to the events of August 11 and 12 was a result of its weakness and liminal status under Virginia (and United States) law. Since cities like Charlottesville are not afforded the rights granted to private corporations and lack the full power of the state—instead relying upon specific grants of authority—they have limited abilities to respond to crises. Professor Schragger asks whether this should be the case, particularly given all that we demand from our cities and municipalities.

In her thoughtful forward, Professor Peterson invokes Justice Thurgood Marshall’s optimism for the capacity of law. While anger and protest are often necessary in the face of injustice,

we learn in law school that change can also be found “through the rule of law and the elaboration of legal principles.” It is the “mutually enforcing efforts of law and protest, of anger and optimism, that have dragged this country out of the darkness of the early twentieth century, and that are responsible for all of the civil rights gains we have made.” Today, we continue this tradition of optimism. While we would love to believe that “Charlottesville” was a turning point, the final thrust of a dying sentiment of hate, more dark days may yet litter our path forward. But we are confident that these challenges, legal and otherwise, will be overcome by the men and women of compassion and capacity who inevitably rise to meet them.

clb5jc@virginia.edu
mpd8af@virginia.edu



TIME	EVENT	LOCATION	COST	FOOD?
WEDNESDAY – January 24, 2018				
4:00 PM	Jake Busching Happy Hour & Wine Dinner	Parallel 38	Depends	Yah, that’s the point
5:30 PM	War of the Ports – Wine Tasting & Pop-Up	Wine Guild of Charlottesville	\$5	Kitchen Catering (that’s its real name)
5:30 PM	Dab for Good Bingo	Random Row Brewery	\$5	Blue Ridge Pizza for sale
THURSDAY – January 25, 2018				
11:30 AM	Innovation vs. Incumbents: the Internet and Regulation	WB 101	Free	Pry. It’s a FedSoc Event
1:00 PM	Butler Snow 1L Lunch and Panel	WB 129	Free	They better have food.
3:00 PM	VJSPL Symposium: <i>Loving v. Virginia</i> on its 50 th Anniversary	Caplin Pavilion	Free	Almost certainly.
FRIDAY – January 26, 2018				
9:00 AM	VJSPL Symposium: <i>Loving v. Virginia</i> on its 50 th Anniversary	Caplin Pavilion	Free	Surely.
11:45 PM	Lambda Law Alliance General Body Meeting	WB 101	Free	hopefully
SATURDAY – January 27, 2018				
10:00 AM	Charlottesville Parks & Rec Job Fair	233 4 th St. NW	Free	Knope.
1:00 PM	Know Good Beer & Bourbon Festival	963 2 nd St. SE	\$50.61	Local food vendors
SUNDAY – January 28, 2018				
2:00 PM	Funny Face	Alamo Draffhouse	\$10	Available for purchase
5:00 PM	Geeks Who Drink Trivia	Random Row Brewery	Free if you don’t drink	Available for purchase
MONDAY – January 29, 2018				
4:00 PM	Add/Drop Period Ends	SIS	Catastrophic	Why would you even ask that?
TUESDAY – January 30, 2018				
4:30 PM	Pizza and Pint Night	Random Row Brewery	\$10–\$12	No

THE DOCKET

SUDOKU

4			1	5		3		
		6			9		5	
7					4	1		2
	2			6			3	
		4				5		
	3			1			4	
9		1	8					3
	4		7			6		
		7		2	3			9

Solution

6	1	4	3	2	9	7	5	8
5	8	9	1	6	7	3	4	2
3	7	2	5	4	8	1	9	6
8	4	7	2	1	5	6	3	9
9	2	5	8	3	6	4	7	1
1	3	6	7	9	4	8	2	5
2	9	1	4	8	3	5	6	7
4	5	8	6	7	2	9	1	3
7	6	3	9	5	1	2	8	4