



DACA: A Perspective

Robbie Pomeroy '19
(he/him/his)
Guest Columnist

I am deeply saddened by the decision to end the Deferred Action for Childhood Arrivals (DACA) program. Eliminating this protection affects thousands of individuals of different colors, creeds and countries of origin living in the United States. The xenophobia of this administration are going to ruin lives and tear apart families.

Legal and policy reasons aside, this decision is distasteful on the most basic human level. Many of the people I know who were DACA recipients know no other country. Their only language is English. They go to school and have friends and family in the States. They have dreams and aspirations as big and bold as the ones each of us have here at UVA. They are your neighbors and your classmates. They are just as American as you and I. This administration is creating dividing lines where none should exist.

The only difference between a DACA recipient and me is the fact that they were born in a different country. They were brought to this country when they were too young to have a choice in the matter. Many of them had no idea what it even meant to have papers or not. Growing up, they were just like any other person in school. The people affected by this decision are human beings who are American at their core.

We also should not blame the parents of childhood immigrants to this country. The reasons people choose to relocate their families to the United States are abundant. In my experience, the reason has almost always been for the opportunity to pursue the American Dream. Parents do anything for their children, and I do not fault anyone for making the decision to immigrate to the United States as an undocumented person. It is a deeply personal decision and a tough one. You have to leave everything behind, potentially risking your life, to overcome the barriers (both physical and otherwise) of getting into the country. And once you make it to the U.S., the barriers to becoming a part of society are still there. It's not a path for the faint of heart, and I respect those who make the decision for the betterment of their families.

My mother was born in Guadalajara, Mexico. When she immigrated to the United States with my uncle and grandmother as a young child, it was as an undocumented immigrant. Eventually she became a naturalized citizen, but she went to school for several years in California without documentation. My grandmother had a tax-paying job at a phone company and my mother and uncle went to school just like anyone else. Obviously, this was all decades before DACA was ever even contemplated, but imagining these circumstances under the present climate in America, I begin to wonder what would have made my mother so

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DACA Repeal: What Comes Now?



Photo courtesy of Andrew Shurtleff/The Daily Progress

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DACA, the acronym for Deferred Action for Childhood Arrivals, is a program created by the Obama administration in 2012. The immigration policy allows young people unwittingly brought across the border without documentation by others to receive a temporary reprieve from deportation and permission to work, study, and obtain a driver's license. Individuals could only receive protections from DACA after meeting a series of requirements. Applicants need to have been younger than 31 years of age at the date of program implementation. Applicants must prove they have lived in the U.S. continuously since June 15, 2007 and that they had arrived in the U.S. before the age of 16. Further, applicants must show they have clean criminal records; they must not have been convicted of a felony, certain significant misdemeanors (including a single DUI), or three or more misdemeanors of any kind.¹ Beneficiaries of the program must also all be enrolled or have completed high school, a GED program, or college, or serve in the military. These administrative requirements help to narrow eligible recipients to individuals most likely to further the declared purpose of the pro-

1 Stern, Mark J. "The Slow Death of DACA Will Be a Rolling Catastrophe that Trump Can't Escape," http://www.slate.com/blogs/the_latest/2017/09/06/rolling_daca_cancellations_will_dog_the_trump_administration.html Slate, 09.2017.

gram, which was to protect from deportation eligible immigrant youths who came to the United States when they were children. A DACA beneficiary's status was renewable every two years based on information supplied and recorded by U.S. Citizenship and Immigration Services. This same information may now be used by the United States Justice Department to deport unprotected recipients beginning in 2018.

Following its implementation, DACA provided relief from deportation and granted work permits to unauthorized immigrants than any other immigration policy since the 1986 Immigration Reform and Control Act.² There are approximately 800,000 DACA recipients now living in the U.S.³ Since 2015, the vast majority (81.3%) of DACA applications have been renewals. Most DACA beneficiaries arrived from Mexico (78.5%), El Salvador (3.6%), Guatemala (2.5%), and Honduras (2.3%). They live primarily in California, Texas, and Illinois. The average recipient of DACA protections is 22 years old and employed. The majority are students and 17% are

2 Baker, S. "Effect of the 1986 Immigration Reform and Control Act on Crime," Stanford Law and Economics Olin Working Paper No. 412 (2014).

3 U.S. Citizenship and Immigration Services, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_performedata_fy2017_qtr2.pdf

pursuing advanced degrees.⁴

After the implementation of DACA in 2012, academics began to monitor its effects. Many found the immigration policy directly translated into positive outputs in the education and employment sectors. Research conducted by Roberto Gonzales, a professor at Harvard's Graduate School of Education, focused on the factors that promote and impede educational progress for immigrants and Latino students. Gonzales noted that DACA has provided a "tremendous boost" to its recipients, helping them contribute to their families, communities, and the U.S. economy.⁵ DACA had large effects on eligible individuals' labor market outcomes, and there is evidence that suggests it altered recipients' education decisions. Many respondents to Gonzales' research study reported that DACA led them to enroll in community college or in job-training programs sponsored by community based organizations. Education has been and remains a key barrier for undocumented immigrant children, with 40% fail-

4 Wong, Tom K., "Results of Tom K. Wong, National Immigration Law Center, and Center for American Progress National Survey," (Washington: National Immigration Law Center and Center for American Progress, June 2015), https://cdn.americanprogress.org/wp-content/uploads/2015/07/DACA-Wong_NILC_CAP-Codebook-PDF.pdf.

5 Stern, "The Slow Death of DACA...", Slate, 09.2017.

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around north grounds



Thumbs up to Floridians helping each other face Hurricane Irma. While ANG wishes that we didn't need a natural disaster to come together, ANG loves seeing Floridians being #irmastrong.



Thumbs down to the Law School administration forcing ANG to repeat Civ Pro yet again. The Law School's tyrannical insistence that ANG be able to recite and apply this archaic code has prevented ANG from graduating for too long. Three generations of imbeciles are enough! Wait...



Thumbs sideways to scheduling the Concert for Charlottesville for the same day as Foxfield. Sure, ANG is double-booked, but ANG will be moving Side to Side while the 1Ls are still cleaning up at Foxfield.



Thumbs down to the new It movie. If ANG wanted to be terrified, ANG would ask what was living under the floorboards in WB (answer: snakes).



Thumbs up to the fact that Hillary Clinton and Bernie Sanders are back in the public eye with their new books, it really helps hide the fact that Steven Glendon stole the 2016 election.



Thumbs sideways to Princess Kate's new pregnancy. While ANG's chances of being adopted keeps decreasing, ANG's chances of marrying into the royal family keep increasing.



Thumbs up to softball starting! ANG has already joined five teams... but like ANG's teammates, ANG will stop showing up to games as soon as they pass out jerseys.



Thumbs down to the Rod and Gun club for going on a dove hunt. Seriously? Shooting the symbol of peace in these tumultuous times? If you must shoot something shoot the snakes in WB (Please don't, guns are not allowed on grounds).



Our hearts go out to the victims on 9/11 and their families. We will never forget.

Is DACA Constitutional?

Is DACA Constitutional?

When President Donald Trump announced this

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week that he was ending the Deferred Action for Childhood Arrivals (DACA) program instituted under his predecessor, reaction from critics understandably focused on the consequences of the executive action. With DACA rescinded, approximately 800,000 unauthorized immigrants living in the United States will now be subject to deportation, where previously they were permitted a semblance of legal presence in the United States. Under DACA, those 800,000 or so immigrants were permitted to obtain driver's licenses, attend college, and pay income taxes.¹ With DACA now facing a March 2018 execution date, those immigrants' continued protection from deportation is in question. President Trump has urged Congress to act, but it is uncertain exactly what sort of legislative fix he has in mind.

While the ramifications of DACA's rescission are grave and receive more in-

depth treatment in other sections of this newspaper, this columnist is stuck in 2012, when President Barack Obama issued the landmark protections for immigrants brought to the United States as children without legal authorization. Was that executive order legal? Legal scholars differ on that all-important question, and several states, led by Texas, had threatened suit against

summed up by a statement of one of their own, Attorney General Derek Schmidt of Kansas. Schmidt, in a statement to the Lawrence (Kansas) Journal-World, said, "The problem with DACA is that it is unlawful; under our Constitution, only Congress, not the president, has the power to change immigration law. Those who understandably feel strongly that the law should accommodate

That decision, should it be made, is Congress's alone.

Not so fast, say DACA advocates. Writing in The New York Times, columnist Linda Qiu points to the Department of Homeland Security's own DACA "Frequently Asked Questions" section, in which the department refers to DACA as "a form of prosecutorial discretion."³⁴ Scholars who support DACA's constitutionality dispute

of Law, writing for the Sacramento Bee, noted, "[P]residents always have discretion as to who to prosecute or deport. DACA did not confer citizenship on anyone."⁵ Defending the constitutionality of President Obama's order, Chemerinsky also noted immigration's proximity to foreign policy, which he called "uniquely in the domain of executive power and control."⁶

So what does DACA do, exactly? Does it, as critics claim, create a legal or quasi-legal status for unauthorized immigrants? Or, as Chemerinsky insists, is it merely a legitimate exercise of the president's prosecutorial (in this case, deportation) discretion? The conservative Heritage Foundation insists that DACA recipients have been granted what they call "pseudo-legal status," saying President Obama "promised them that they wouldn't be deported and provided them with work authorizations and access to Social Security and other government benefits" despite the fact that Congress rejected proposals to do just that.⁷

"So what does DACA do, exactly? Does it, as critics claim, create a legal or quasi-legal status for unauthorized immigrants? Or . . . is it merely a legitimate exercise of the president's prosecutorial . . . discretion?"

the order. States had already successfully sued to enjoin DACA's more wide-reaching twin, Deferred Action for Parents of Americans (DAPA), which offered protection from deportation to the parents of U.S. citizens and lawful permanent residents.² The position of those attorneys general challenging DACA's legality can be

children brought to the U.S. at a young age and raised here would be well-advised to focus on persuading Congress to act." Mr. Schmidt's statement sums up the legal opposition to DACA: Congress has acted and declared that those who immigrate to the United States without legal authorization are to be subject to deportation. The president, they argue, lacks the power to unilaterally grant a sort of quasi-legal status to a group of immigrants whose presence in the United States is unlawful.

that the program's recipients have received any kind of legal status. Erwin Chemerinsky, dean of the University of California at Berkeley School

³ <https://www.dhs.gov/news/2017/09/05/frequently-asked-questions-rescission-deferred-action-childhood-arrivals-daca>

⁴ <https://www.nytimes.com/2017/09/08/us/politics/why-common-critiques-of-daca-are-misleading.html?mcubz=0>

⁵ <http://www.sacbee.com/opinion/california-forum/article172670771.html>

⁶ Id.

⁷ <http://www.heritage.org/immigration/commentary>

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¹ <http://www.cnn.com/2017/09/04/politics/daca-dreamers-immigration-program/index.html>

² <http://www.politico.com/story/2017/06/29/texas-attorney-general-end-daca-dreamers-240121>

The New Wolf of Wall Street

"As future attorneys, we must know the language of finance in order to effec-

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tively interface with clients," says Allie Hemmings '18, who recently took over as Chief Investment Officer of the only student run investment organization at an American law school. Rivanna Investments began in 2010 with \$100,000 of seed money from alumni and in the seven years since has grown to \$160,000.

Despite the impressive gains, the purpose of the organization is focused on education, not risk. Its stated mission is "to promote opportunities for UVa law students to learn about financial concepts, through programming and speakers series, before entering the business world as attorneys."

"We want to make this club accessible," says Hemmings. "Our goal is to get everyone active in coming to meetings, even if they are coming in with zero knowledge about finance, to learn enough throughout the year to be able to give their own stock pitch by spring."

The organization's investment strategy is to follow the S&P 500 Index and limits all stock pitches to S&P 500 companies. Throughout the year, students will learn

about companies from the ground up in preparation for a stock pitch to the ten 2Ls and 3Ls who make up the executive committee. The executive committee then votes on which stocks to add to the organization's portfolio. The current portfolio holds stock in companies like Apple, Boeing, Chipotle and Netflix.

Rivanna's emphasis on

equity research.

"I studied economics, so I understood the broader concepts, but when it came down to key words and the practical, day-to-day finance, I had to play catch-up." Hemmings recalls, "There would be days where I would have a textbook open next to my computer, and an assignment due to my boss in an hour. I loved it,

job, Hemmings recounts, was the glaring absence of women in her office. "Of the twelve researchers, only two of us were women. It was always disheartening to feel so outnumbered at work."

That's one reason why Hemmings is looking forward to her term as Chief Investment Officer: She will be the first woman to hold the position in the organization's history.

"The financial field is still intensely male-dominated, and I think there are lots of reasons for that. Two of which, I believe, are the lack of accessibility to the field and the lack of approachability. If you don't know anything about investing and you don't see anyone you can identify with, of course you will be more reluctant to join both the organization and the field." She says jokingly, "I mean, have you seen Wolf of Wall Street?"

As Chief Investment Officer, Hemmings will oversee the active portfolio, teach educational programming, and facilitate the speakers series and stock pitching along with her board. "I feel fortunate to work with a board of incredibly talented and passionate people." This year's board also has a record-breaking number of women and students of color serving in positions, Hemmings notes.

"In the past I think students have seen us as serving a very niche interest,



Photo courtesy of Rivanna Investments

education is what initially drew Hemmings in as a member in the fall of her 1L year.

Though she graduated with a B.A. in economics from Reed College and wrote her senior thesis on the economics of parking in Portland, Oregon Hemmings said she had to teach herself finance on the fly when she started her job in

but I definitely would have benefited from the skills I learned through Rivanna at that time."

Adding to the difficulty of the job was that, despite her firm's location on the West Coast, it operated on New York hours so she would arrive at work at 4:30 a.m. and leave at 3:30 p.m.

But the most disarming aspect of starting her

but I want to get the message across that finance is for everyone. It can sound very serious when you hear the term 'investment management,' but it's a very fun group of members. They have a good time and we work hard to make these concepts approachable."

What Hemmings finds most exciting about the organization is the opportunity to learn about different industries. "My first pitch was for a cyber-security software company and my second pitch was for Ulta, which required a lot of research into makeup marketing dynamics."

Hemmings looks forward to focusing on renewable energy financing at Norton Rose Fulbright in the Project Finance and Power group in Washington, D.C., after graduation.

Rivanna Investments meets every Friday at noon, location to be announced in the weekly SBA email. Hemmings and Max Hare will be co-teaching a lesson on financial statements and valuation methods this week. Everyone is welcome.

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The Sad Decline of Nelson Mandela's Party

In April of this year, South African President Jacob Zuma survived a vote of no confidence

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in the National Assembly, the lower house of the Parliament of South Africa. Mr. Zuma is no stranger to votes of no confidence; he has now survived eight since his election to the presidency in 2009. Throughout his political career, Mr. Zuma has been dogged by an unceasing stream of allegations of impropriety and corruption. Claims including ones of rape, arms dealing, use of taxpayer money for home improvements, and illegal business collaboration with the shadowy Gupta brothers.¹ A few weeks prior to his election in 2009, prosecutors dropped 786 counts of corruption against Mr. Zuma, though South African courts have since ordered that at least some of the counts should be reinstated.²

How, in a period of less than twenty years' time, did South Africa's presidency go from being occupied by the late statesman and Nobel laureate Nelson Mandela to its degradation under Mr. Zuma? The answer lies with the state of the party Messrs. Zuma and Mandela

¹ <http://www.aljazeera.com/news/2017/08/political-scandals-president-zuma-survived-170808082727236.html>
² <http://www.bbc.com/news/world-africa-17450447>

share: the African National Congress (ANC), a left-wing, African nationalist party with support from South Africa's Communist Party but a moderate governing record. The ANC, outlawed throughout much of the apartheid regime, negotiated an end to the state-

to win South Africa's first free elections in 1994 with nearly 63% of the vote. Freed from the embargoes and condemnation that haunted South Africa prior to desegregation, the nation's economy boomed throughout the '90s and the first decade of the 2000s.³ The South African

ities every election until 2009.

The ANC also benefited from a divided opposition. In the election of 1994, Mr. Mandela's main opponent was Mr. de Klerk's National Party, the main party of government during the apartheid era. After those elections, in which Mr. de Klerk took around 20% of the vote, the National Party's vote share steadily declined until it disbanded in 2005. In its place rose an opposition split mostly between the centrist, liberal, primarily white Democratic Alliance (DA) and, in recent years, the firebrand leftist Economic Freedom Fighters (EFF), led by ex-ANC youth-wing leader Julius Malema, who was once convicted of inciting racial hatred for singing a song encouraging the killing of white South Africans.⁴ Earning just shy of 70% of the vote in the 2005 general election, the ANC reached the peak of its power, winning enough seats to unilaterally amend the Constitution.

The story since then has been one of graft and decline. A fight between Thabo Mbeki—Mr. Zuma's predecessor—and Mr. Zuma, then Deputy President, led to Mr. Mbeki's early resignation and triggered allegations that the South African government's charges against Mr. Zuma were politically motivated. Mr. Zuma's election in

the end of apartheid that the ANC's percentage of the vote declined from the prior election. It declined further in 2014, as the ANC sunk from nearly 66% of the vote to just over 62%, and more dramatically in the municipal elections of 2016, in which the ANC received less than 54% of the vote. The DA, traditionally confined to Cape Town and its Western Cape province, gained municipal control of Johannesburg, Tshwane (which contains South Africa's executive capital, Pretoria), and Nelson Mandela Bay, three of South Africa's largest municipal areas. The EFF, meanwhile, made its debut with more than 8% of the vote, entering into municipal coalitions with the DA against the ANC across the country despite their ideological differences.

While the ANC has continued to bleed support, the opposition has to contend with a host of hurdles that will prevent it from dislodging Mr. Zuma's party for the foreseeable future. First, the country's history of racial divisions remains contentious and visceral. The DA is a primarily white party—though it is now led by a black man, Mmusi Maimane—and despite roots in the anti-apartheid movement,⁵ it has struggled to win the votes of black South Africans.⁶ After its 2016 municipal breakthrough, the party was mired

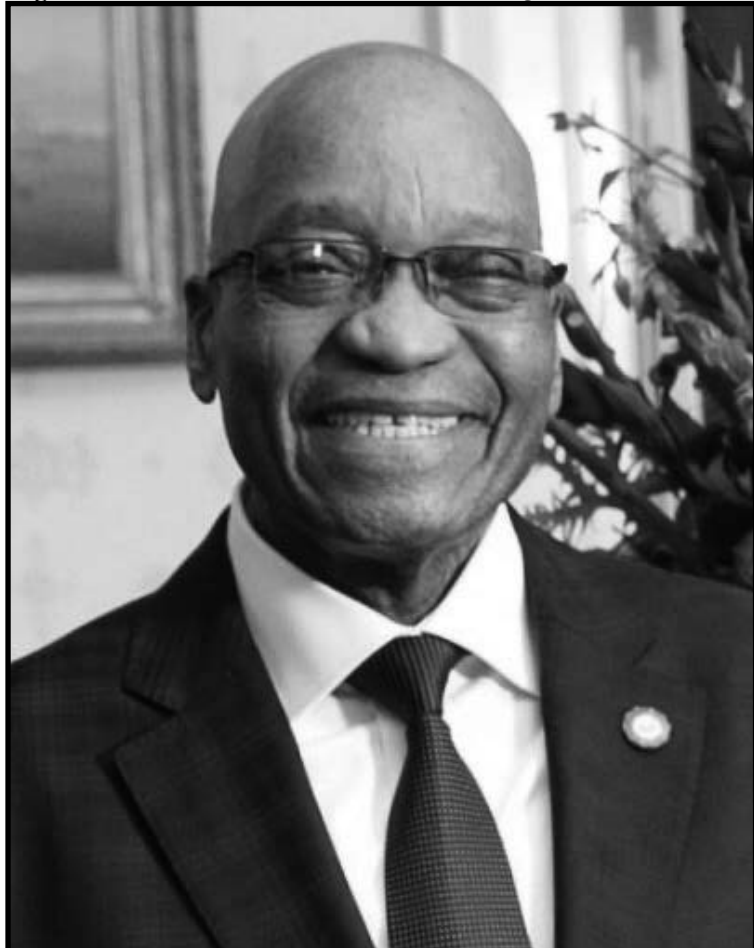


Photo courtesy of The United States Department of State

sanctioned regime of segregation and black disenfranchisement with the government of State President F.W. de Klerk in the early '90s, and went on

people rewarded the ANC with increased parliamentary major-
³ <http://www.focus-economics.com/country-indicator/south-africa/gdp>

2009 was the first time since
⁴ <http://www.nytimes.com/2011/09/13/world/africa/13southafrica.html?mcubz=0>

⁵ <http://www.sahistory.org.za/ada>
⁶ <http://www.reuters.com>

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HOT BENCH



Jason Boyle '18
(he/him/his)

1. Have you ever had a nickname? What?

JBo is what my teammates and coach from my college debate team call me.

2. What is your favorite word?

Free.

3. Where did you grow up?

Pilesgrove Township in rural Salem County, New Jersey. Basically, the "garden" part of the Garden State.

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

The special rolls at Sushi Lounge in Morristown, New Jersey. I especially recommend the Hoboken Roll.

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

Patrick Stewart. He seems

very approachable and I imagine he has a lot of wisdom about life and the world that he would be eager to share. And obviously, because Picard was the greatest captain of all.

6. If you owned a sports team, what/whom would be the mascot?

My sports team would be the Jackalopes. The mascot would appear as a large jackrabbit with deer antlers. I probably wouldn't attend any of the games, but I would wear the team shirt.

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

Take It from Me, by KONGOS. The sole motivation behind my desire to learn how to play the accordion.

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

I would love the power of flight more than anything. I would probably get stuck with something more mundane but practical, like the ability to locate buried potatoes with my mind.

9. What's something you wish you'd known about law school before coming to UVa?

While it is true that you don't have to know what you want to do after graduation while in law school, knowing what you want to do, choosing classes and extracurriculars, and networking toward a specific area of law from day one can make a huge difference. The hiring

process gives too little room to explore different areas and options while at law school.

10. What did you have for breakfast this morning?

Three scrambled eggs, wheat toast with hummus, and a bowl of plain yogurt with blueberries and granola. Big breakfast is key.

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

I skipped high school, I've run two marathons, and I have millions of views on YouTube. Unfortunately, the marathons are the lie.

12. If you could live anywhere, where would it be?

At the top of Lookout Mountain, located in the foothills outside of Denver, Colorado. But Buffalo Bill Cody already called dibs and claimed it for his gravesite.

13. What's the best (or worst!) PG-rated pick-up line you've ever heard?

"Tell me, how do you like your eggs in the morning?"

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

When I was very young, one of my older brothers gave me a package of modeling clay as a Christmas gift. I've loved sculpting clay ever since. I eventually went on to win Best in Show in the Home Economics category at the Salem County Fair for my sculptures.

15. If the law school had yearbook awards, what

would you want to win?

Most Time Spent Meditating at School.

16. If you could know one thing about your future, what would it be?

Whether I'll ever get the opportunity to travel into space. If I knew this was a possibility, I would work harder towards this goal.

17. Backstreet Boys or *NSYNC?

*NSYNC. Easy. Hands down. No contest. Now excuse me while I go Google search these bands...

18. What's the longest you've gone without sleep?

Thirty-six hours after pulling an all-nighter to pack and fly from Philadelphia to Melbourne, Australia. Planned to sleep on the plane. That was the same trip I learned that I can't sleep on planes.

19. What's your favorite thing to do in Charlottesville?

Walk the downtown mall and stop in at the Draft Taproom.

20. If you could make one law that everyone had to follow, what would it be?

Everyone would have to vote in federal elections. "No preference" would be an option on the ballot, but submitting something would be compulsory like it is in Australia.

PERSPECTIVE

continued from page 1

different than everyone around her or why someone would want to create a line barring her from going to school or participating in society.

Before DACA, people living as undocumented immigrants had to hide in the shadows. They couldn't bring attention to themselves because they feared for the safety of their families. DACA was an Obama-era program that allowed recipients to participate in society without fear that harm would come to them or their families. It gave people hope and a way to achieve goals and dreams that did not exist before the program.

The decision to end the program means there are so many things we need to do. Thousands of people need to renew their DACA benefits by October 5th. We have a call to action to contact our representatives in Congress to create legislation that will save the lives of all of these people. But both of these measures are short-term solutions for a problem that is much larger. For those lucky enough to be able to renew, the reprieve is only two years long. And while legislation codifying a DACA-like program would be helpful, it does not solve the underlying problem—the necessity of immigration reform in this country. The barriers to entry are severe and targeted. While we can and should participate in attempts to rectify this decision, we also need to advocate for more comprehensive immigration reform.

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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 is comprised of 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 UVa¹ v. Thimpson Sacher² 27 U.Va. 203 (2017)

ZABLOCKI, J., delivered the opinion of a unanimous Court.

The case at bar comes to us on appeal from the United States District Court for the Western District of Virginia, which held this subject matter to be too highly specialized. This matter arises out of events which occurred last Thursday, September 7, during Bar Review an otherwise generic Thursday night at Bilt. As the entire law school wearily acknowledges, the 2Ls are in the latter phases of OGI, which for many involves offers / offer dinners / accepting offers (note: WE DO NOT WANT TO KNOW WHO YOU ARE). Thimpson Sacher's was among those offer dinners hosted in Charlottesville. In addition to free food and alcohol, the representatives of Thimpson Sacher plied attendee-offerees with baseball softball hats that from the front appear as ordinary UVa hats.³ This Court supports uninhibited displays of school spirit, no matter how dismally crushed those spirits may be upon game's end or, you know, one quarter in. However, the backs of these hats were emblazoned with the true

name of party "Thimpson Sacher" (see Exhibit 1). Subsequently, the Thimpson Sacher contingent picked up and headed over to the venerable establishment known as Bilt, where, in keeping with the high-falutin' nature of the establishment, various offerees succumbed to the urge to dance on tables while wearing the afore-described caps.⁴ This gives rise to the

for recent law school graduates, even in comparison to their law school experiences, the provision of legal services being merely incidental to this goal.⁵ And so this Court finds." Georgetown University Law Center Graduates 2013-16 v. Big Law, 273 F.3d. 123 (D.C. Cir. 2017)). The base elements of a trademark infringement action are satisfied by (1) holding

to the Student Body's complaint whether or not permission was obtained from the school administration prior to customizing and distributing said hats. It is possible that "V" Thimpson Sacher gave up before they started and intended this invitation as a conciliatory outreach, but it wasn't taken as such and so this Court takes full notice. Regardless,

the logical capacity of J. Jani a Thanksgiving turkey⁶, this Court notes that Thimpson Sacher is equally liable regardless of any attempt to obtain permission because willful ignorance is not a defense. See, something in 1L crim, may that class rot in hell eternally.⁷ Therefore, on this first claim, this Court finds Thimpson Sacher liable to the nth degree; damages TBD.

The second claim brought by the Student Body against Thimpson Sacher is for inciting douchebaggery among its offerees, who also happen to be members of the Student Body. Though the base elements are the same as those requisite to a claim of intentional infliction of emotional distress, incited douchebaggery is distinct from IIED in that the emotional distress is determined according to a reasonable person standard rather than the subjective experiences of the victim, whose proximity to the events occurring may be as distant as shared group affiliation. Additionally, the emotional distress suffered can be shame and embarrassment. The tort of inflicted douchebaggery extends from the tort of douchebaggery, in some jurisdictions known as hurt feelings.

6 The logical ones realize it's Thanksgiving and hide before they can be turned into Thanksgiving turkeys, DUH.

7 Hi Ferzan.
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Exhibit 1

two claims on which this Court now passes judgment.

First, the Student Body of UVa claims trademark infringement under the Lanham Act for unauthorized use of a "V" that is confusingly similar to the UVa logo in connection with promotion of Thimpson Sacher's services of eliminating happiness from the lives of otherwise content young attorneys ("in the experience of those who have walked through that door, waited in the security line, taken the elevator up, walked through another door, successfully completed a maze of cubicles, and perched upon an uncomfortable chair at a cluttered desk in a shared office . . . Big Law's true purpose is to make life misery

of a valid mark, which, it's an orange "V" and we're in Charlottesville so not even disputed, (2) having priority (Tommy J., 1743-1826 vs. Thimpson Sacher, founded 188X . . . yeah, math checks out, also undisputed), and (3) likelihood of confusion. This latter element is the source of contention. The Student Body strenuously objects to Thimpson Sacher's casual appropriation on basis of each likelihood of confusion ("We don't want people thinking we're with the miserables over there.") and dilution ("Do you really not get it? School sucks but we still have a reputation for being happy-ish people.")

It is unclear from the reception invitation Thimpson Sacher emailed in answer

the Student Body disputes the validity of any authorization that may have been given. Being composed largely of current/future employees of competing firms, the Student Body demands a say in the use of a logo that derives value from goodwill that exists because, well, the Student Body is so good, and also because each member thereof pays \$60,000 annually for tuition, thereby sustaining the logo. This much being obvious to anyone with


1 Excluding offerees and current/future employees of Thimpson Sacher.

2 A pseudonym to protect against sullyng the name of a party not yet shown to bear liability against the wrath of Career Services, those god-like beings who make it rain for us in a way the inhabitants of Mount Olympus only ever aspired to. See In Rem Noah's Flood.

3 To which, hoo would object?

4 To those who didn't . . . you have a defense; use it.

5 Congrats on hitting your target, we guess?



Virginia Law Weekly

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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.

Faculty Quotes

K. Kordana: "I don't believe in what they teach you in LRW stuff, like I always say, 'Don't get bogged down in IRAC'"

J.C. Jeffries Jr.: [Discussing the 9th Circuit] "[Summary reversal] is particularly insulting: you were so wrong that we don't even need to talk about it."

O.W. Broome Jr.: "That was a great party... they're now in jail."

J. Hylton: "I believe there is a common law tradition that the time on the clock on the wall governs."

B. Spellman: "How many of you are 1Ls? Good, none."

A. Vollmer: "What do you do if you are a real American? You sue under the Securities Act!"

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

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Toward Resilience in the Face of Hate

When I was a growing up, I had a recurring nightmare. I was on a chaotic, cramped,

Baruch Nutovic '19
(he/him/his)
Guest Columnist



frightening train ride to some unknown, yet terrifying destination. I always woke up, deeply distressed, before I got there.

At first, my parents did not know what to make of the dreams. Then, it dawned on them: my grandmother's stories.

She had been deported to Auschwitz, the Nazis' largest concentration camp, with her family in the spring of 1944. After days in a cramped cattle car without food or water, they arrived. One of her brothers was shot in front of her. Her younger brother, after whom my brother is named, was sent with her parents to the gas chambers. I grew up hearing her stories.

I can only imagine what she'd say if she were alive to hear of white supremacists marching by the thousands through the streets where I live.

That my wife and I were going downtown to join the counter-protests was never in question. It was a surreal scene. White supremacists in militia outfits with military gear. David Duke, former head of the KKK, spewing hate. People wearing

DACA

continued from page 1

ing to complete high school.⁶

DACA helped recipients find jobs. "69% of respondents reported moving to a job with better pay."⁷ Within two years of implementation, DACA moved 50,000 to 75,000 unauthorized immigrants into employment.⁸ Generally, research indicates that DACA benefited labor market outcomes and increased the likelihood of employment for beneficiaries. The positive economic outcomes for beneficiaries of DACA were the same outcomes placed under scrutiny when the Justice Department commented on its concerns with the program. Attorney General Jeff Sessions stated that the program had "denied jobs to hundreds of thousands of Americans by allowing those same illegal aliens to take those jobs."⁹

⁶ Id.

⁷ Wong, Tom K., "Results of Tom K. Wong, National Immigration Law Center, and Center for American Progress National Survey,"

⁸ Pope, Nolan G., "The Effects of DACAmentation: The Impact of Deferred Action for Childhood Arrivals on Unauthorized Immigrants" 2014

⁹ Shear, Michael D. and Julie Hirschfeld Davis, "Trumps Moves to End DACA and Calls on Congress to Act," New York Times, 09.2017.

shirts quoting Hitler, calling for the subjugation of black people. Fights breaking out in the streets between the white supremacists and Antifa. It felt like we had been transported back in time, as though we were in the old Jim Crow South or 1930s Germany. Charlottesville was not the Charlottesville we know and love on that weekend.

But it is precisely that which gives me solace. That weekend was the antithesis of what Charlottesville is about. We believe in equality for people of every race, creed, gender, and sexual orientation. We are tolerant of political differences and stand for reasoned debate in a spirit of goodwill. Charlottesville's great coming-together after the Unite the Right rally, the candlelight vigil on the Lawn, demonstrated our unity in the face of hate.

I'm also heartened by the size of the Unite the Right rally. I don't want to be misunderstood; a few thousand white supremacists marching through Charlottesville's streets is a few thousand too many. But when you compare the rally, billed as the largest hate rally in America for decades, to the estimated crowd of 1.8 million at Barack Obama's inauguration, the contemptible weakness of the white supremacist movement comes into focus. This is a small movement at the fringes of society, almost

universally despised, condemned by the leadership of both major political parties. Even our vacillator-in-chief, though he managed to create the perception of ambiguity with his bumbling response, condemned them. The media spotlight that the white supremacists garner may make them seem powerful, but in reality, their movement is politically diminutive.

Their aim is to terrorize us and create a false perception of strength. The best insult we can pay them is to refuse to be intimidated or change the way we do business, except insofar as we reaffirm our core values as a community.

During the chaos that followed the dispersal of the rally, I was distraught to find Antifa extremists beating people up, as they have done at similar counter-protests across the country in recent months. We need to exorcise from our ranks those who would cede any part of the moral high ground and disregard the great Martin Luther King, Jr.'s example of nonviolence. Antifa extremism provides recruiting material for the alt-right and makes it much harder to persuade white supremacists of the error of their ways.

We should also not allow the white supremacists to appropriate the debate over historic monuments. Before the white supremacists inserted themselves into the conversation, the debate

was a respectful dialogue between people of good will on both sides, a model for the rest of the South to follow as it reckons with its tragic past.

At its core, the divide on the monuments is one of perception. To some, the monuments are a statement of white supremacy, a relic of the South's evil Jim Crow history. To others, the monuments are a tribute to those who fought with valor on behalf of their home, hearth, and state; a set of fixtures in the landscape that evoke a mystical sense of the region's history, not the evils of racism. So it's no surprise that the former group passionately believes the monuments must go, and the latter that they must stay. The white supremacists should be viewed as extraneous to this debate and should not be allowed to influence it.

If we're to be true to Charlottesville values, we must work to bridge this divide and reach a shared understanding on what the monuments mean, rather than bulldozing opposition. The main reason our country is so polarized, hateful, and divided is that people of good will have lost the capacity to understand and respect those with whom they disagree. Those seeking to take the monuments down are not on an Orwellian mission to destroy history, and most of those in opposition disagree for legitimate reasons.

Irrespective of how one feels about historic monuments, I think all can agree that the South needs more monuments marking milestones in its history of integration. We should never forget that the University of Virginia was once a segregated institution. It's high time the Law School reckoned with its Jim Crow past and honored the trailblazers who broke the color barrier here. Gregory Swanson, the first black UVa law student, and John F. Merchant, the first black UVa law graduate, merit large, prominent monuments on our campus. I can't think of a better rebuke to the white supremacists.

Ultimately, I don't feel the same distress I did when I was having those nightmares. I take heart from the currents of history. As Martin Luther King, Jr. said, "the arc of the moral universe is long, but it bends towards justice." The white supremacists will go the way of the dinosaurs if we fight the good fight, as I know we will. The future belongs to us.

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LEGAL STATUS

continued from page 2

The liberal ThinkProgress calls that "nonsense," citing longstanding federal regulations from 1981 that allow an unauthorized immigrant granted deferred status the right to an employment permit.⁸ Critics argue that granting access to benefits, confirmed reprieve from deportation, and the ability to obtain a driver's license is tantamount to conferring legal status upon individuals whose presence in the United States is proscribed by Congress. Supporters say the limited set of benefits given to DACA recipients is nowhere close to legal status, and that the president is empowered and, indeed, required to use his discretion to decide which unauthorized immigrants will be deported.

What is clear is that this issue is highly litigable and depends greatly on how "legal status" is defined. Both critics and supporters of DACA seem to agree that the president lacks the power to confer legal status on unauthorized immigrants. They disagree on whether DACA conferred that status. Reportedly, it was the suit threatened by the Texas-led attorneys general that led president

tary/daca-unconstitutional-obama-admitted

⁸ <https://thinkprogress.org/trump-admin-constitutional-case-daca-a3134e0059e3/>

Trump and Attorney General Jeff Sessions to announce the program's termination.⁹ The Department of Justice lost the battle to preserve parent-focused DAPA when the United States Court of Appeals for the Fifth Circuit upheld a district court's preliminary injunction against the program. While the program's end fits conveniently with President Trump and Attorney General Sessions' well-known disfavor of unauthorized immigration, a charitable observer of the administration might argue that the Department of Justice's uncertainty of its ability to win the suit against the state attorneys general in court led to the president's decision.

With the executive order now rescinded, the legal question may be moot—for now. If Congress cannot pass a fix, it seems likely that a future Democratic President would implement a similar policy. But one of this newspaper's core values is "there is never a bad time to discuss the separation of powers." No doubt, the debate will rage on, and if there is any hope of coming to a consensus, defining what it means to have legal status seems to be the key.

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⁹ <http://www.businessinsider.com/what-is-daca-trump-decision-obama-immigrant-program-dreamers-2017-9>

The Department of Homeland Security (DHS) has scheduled a six-month phase-out for the program. "The DHS timeline ensures that a new group of beneficiaries will lose their status and accompanying benefits every day from March 2018 through early 2020."¹⁰ Therefore, the consequences of the DACA repeal will continue uninterrupted for the next two years, damaging the lives of hundreds of thousands of recipients and the American economy. DHS has already outlined a schedule for the loss of DACA protections. Starting September 6, 2017, DHS will not accept new DACA applications. Current beneficiaries whose status expires between September 5, 2017 and March 5, 2018 must apply for renewal by October 5, 2017. Individuals who renew their status by October 5th will keep their DACA protections for two years. The unluckiest of DACA recipients will lose their protections on March 6, 2018. The final group of DACA-protected immigrants will be stripped of their status in January or February of 2020.

The ramifications of repealing DACA will be swift and severe for its recipients. Former beneficiaries will lose their work permits. In several states, beneficiaries will lose their in-state college tuition.¹¹ Others will be expelled from higher education altogether, where a handful of states lift-

¹⁰ Id.

¹¹ Stern, "The Slow Death of DACA..." Slate, 09.2017.

ed the bar on undocumented immigrants attending public universities for DACA beneficiaries. Texas has already declared it will cancel driver's licenses of DACA recipients, and more states are likely to follow.¹² DACA beneficiaries serving in the U.S. Armed Forces will also lose their protected status and may be discharged from the military.

Perhaps the most concerning element of the DACA repeal is that the same information that immigrants voluntarily submitted by unauthorized immigrants seeking to benefit from a government-offered immigration policy could now be given to immigration authorities for the purpose of their deportation. However, the future of DACA is uncertain. President Donald Trump urged Congress to pass a replacement piece of legislation to take the place of DACA. President Trump specifically called on Congress via Twitter to "legalize DACA." The words of the President seem to imply he would be willing to sign into law a legislative equivalent of the DACA executive order. For the moment, the fates of 800,000 individuals raised in the U.S. remain uncertain. A large majority of the American people agree DACA beneficiaries should continue to receive legal protection. The fate of DACA beneficiaries is now in Congress' hands.

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COPA

continued from page 4

UVA Law Class of 2022 v. UVA Law Faculty, xx ___ xxx (TBD, 2018) (“This Court

the group constituting offer-ees—to get drunk and dance on tables—and of the group constituting non-offerees—the majority of whom are generally nice, not obnoxious

call classmates douchebags, these individuals are certainly guilty of the crime of douchebaggery and We are ashamed at sharing grounds with them.⁹

Having determined Thimpson Sacher’s liability on both counts, this Court now turns to the matter of damages. Compensatory damages being impossible to determine,

assuage the Student Body but tough shit. It is henceforth decreed that should Thimpson Sacher dare to darken our doors during OGI 2018 and onwards, the firm’s representatives shall leave their hats behind and bring not only Bodo’s, but also donuts. And not just any donuts, DUCK DONUTS. Because what’s up with firms bringing bagels and no donuts??

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“We do not hesitate in applying a reasonable person standard and recoiling in horror at the douchebaggy behavior on display on Bilt’s tabletops.”

– J. Zablocki

acknowledges even the iciest of special little snowflakes may suffer on the hot seat of professorial cold calls; truly extreme examples of such may result in liability for the tort known as douchebaggery. However, this Court warns that such liability could result in legend status for the professor and probs backfire against plaintiff-victim, so really, just do the reading—we’re not here to help.”). Regardless, inflicted douchebaggery typically involves pain and suffering (mental, emotional, or otherwise) of a group of three or more people.

The base elements of IIED corresponding to the base elements of incited douchebaggery are easily satisfied by this fact set. Defendant’s intent is clear from embroidery of “V” and its own name in garish orange and white thread; this conduct was outrageous in the extreme, given reasonable knowledge both

folk who would be appalled by the conduct incited; there is enough distress that we have been forced to take judicial notice⁸; and now the Student Body as a whole is suffering severe shame at being associated with the actors in the events of September 7. This Court comprising mostly reasonable individuals who are in no way biased by their membership in the Student Body, we do not hesitate in applying a reasonable-person standard and recoiling in horror at the douchebaggy behavior on display on Bilt’s tabletops last Thursday. Parading around your offers of Big Law jobs with full knowledge there are people nearby who neither know nor, more importantly, care to know about your success is the very definition of douchebaggery. While We hesitate to

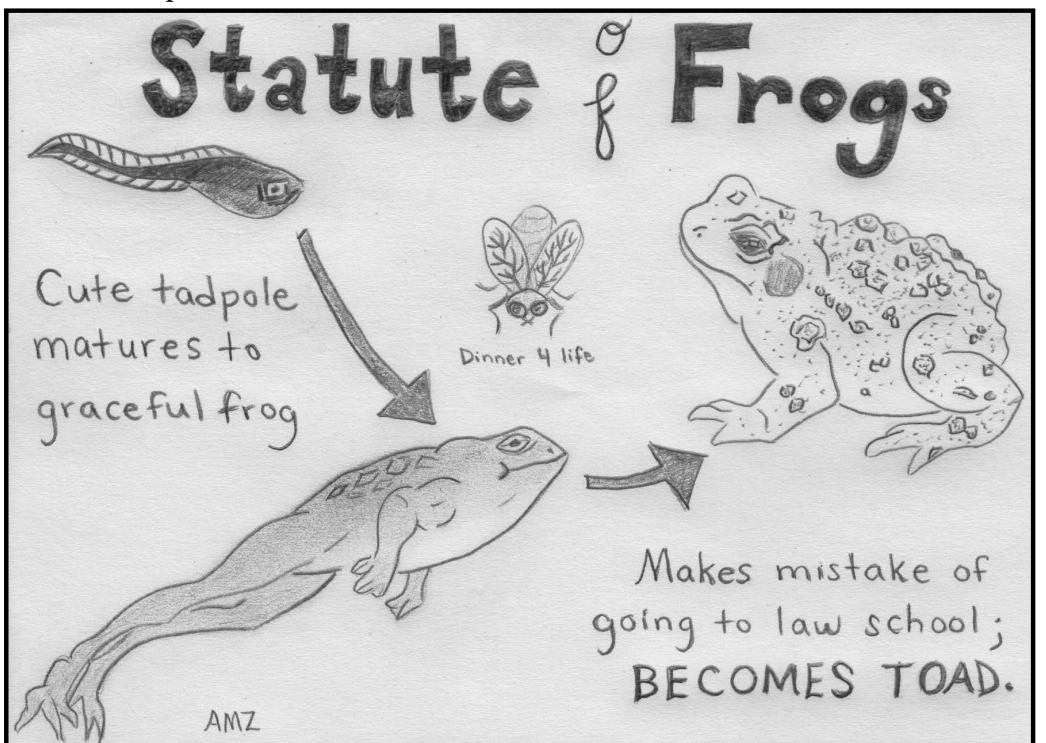
⁸ Given that we DGAF about all y’all’s bitching and moaning, this says a lot. In fact, it says it all.

⁹ Unfortunately, charges have not been formally brought against these individuals, so we can only hope that shame at being the source of the Student Body’s shame is sufficient punish-

this Court will solely award punitive damages, which it acknowledges will do little to ment. And karma. She’s a bitch, in case you haven’t heard.



Cartoon By Ali



THE DOCKET

TIME	EVENT	LOCATION	COST	FOOD?
WEDNESDAY – September 13, 2017				
1:00 PM	An Epic Conversation with Professor Ortiz	Purcell	Free	Yes.
5:00 PM	Lone Star Lawyers Welcome Event	WB104	Free	No.
5:00 PM – 7:00 PM	Supreme Court Roundup	Caplin Pavilion	Free	Wine and snacks
THURSDAY – September 14, 2017				
12:00 PM	The Reliability of Eyewitness Testimony	Capilin Pavilion	Free	Yes, Bellair Market
5:00 PM	Student Bar Association Thursday Social	Spies Garden	Free	They say so but we remember Glendon’s donuts.
5:00 PM	Spouse/Partner Panel	Purcell	Free	ldk, but babysitting available upon request
FRIDAY – September 15, 2017				
12:00 PM	Enforcing Civil Rights under the Trump Administration	Caplin Pavilion	Free	Yes.
6:00 PM	Light House Studio Presents: 16 th Annual Youth Film Festival	Paramount Theater	\$15	Tears from realizing youth are more talented than you
8:00 PM	Sylvan Esso w/ Helado Negro	Jefferson Theater	\$25	No.
SATURDAY – September 16, 2017				
7:30 PM	ASC’s Peter and the Starcatcher	American Shakespeare Center	\$29-\$59	No.
SUNDAY – September 17, 2017				
5:00 PM	WTJU and The Charlottesville Jazz Society: The Mingus Awareness Project	Brooks Hall at UVa	\$10	No.
MONDAY – September 18, 2017				
11:00 PM	The Real Deal: Prosecution	Purcell	Free	Yes, but RSVP
TUESDAY – September 19, 2017				
11:00 AM	Immigration Law Program Ice Cream Social	Purcell	Free	Read the event title

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Solution

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