Virginia Law Weekly

2017, 2018, & 2019 ABA Law Student Division Best Newspaper Award-Winner

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Hot Bench! With Professor Jason Johnston

Nicky Demitry '26
Staff Editor

Thank you for doing this! It will be fun. Let's start with the questions from our readers. What's your least favorite state?

My least favorite state... I don't think I have a least favorite state.

Not Iowa? [Iowa was mentioned quite a few times in contracts class earlier in the week].

No, I know a lot of people in Iowa who are great people. I don't like that it's covered with corn, but *shrugs.*

OK, that's fair. Do you have a favorite state then?

Oh, yeah. These days we really like Idaho and South Carolina.

Nice! Ok, next question. Do you have plans to start a podcast or a YouTube channel?

I wouldn't say plans. I am talking to people about a possible YouTube channel.

What's the content?

The content would vary. It would be law, economics, and beyond. For example, it might even include discussions of books, old books that are really relevant, though, to things happening now.

Like classics old or academics old?

Yeah. Academic, classic, old, I'm not sure. And that's why I'm talking with people trying to figure out if I could have a YouTube channel that had a really quite diverse set of topics. And if I did it, how would I put it together?

Ok next one. Which would decrease the value of a home the most: a termite infestation, a quintuple murder, or a ghost?

Um, I'm gonna say without having done a lot of research that the termite infestation would be devastating and it would—here's the difference between

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Maliyekkal and Gray Win 95th Annual Lile Moot Court Competition

Pictured: Aquila Maliyekkal '24 and Sean Gray '24
Photo Credit: UVA Law

Nikolai Morse '24
Editor-in-Chief

On Thursday, November 9, Aquila Maliyekkal '24 and Sean Gray '24 won the 95th Annual William Minor Lile Moot Court Competition. They argued against third-years Audrey Payne '24 and Hunter Heck '24. Held annually, the competition starts with a field of about fifty individual competitors who write briefs and argue student-written problems in a mock federal or state appeal. To reach the finals, these teams advanced through three previous rounds of the Competition in their second year and the fall of their third year. In each of the rounds, the students wrote a brief and presented an oral argument before a panel of judges on a problem written by a fellow law student.

In the final round, the competitors argued before a panel of three distinguished federal judges. The chief judge was Judge Allison Rushing, of the United States Court of Appeals for the Fourth Circuit, sitting in Asheville, North Carolina. The next judge, Judge Allison Nathan (who has judged the final round of Lile previously), is a judge on the United States Court of Appeals for the Second Circuit, whose chambers are in New York City. The final judge, Judge Jesse M. Furman, also hails from New York City, where he is a judge on the United States District Court for the Southern District of New York. Following the final round of oral argument, the judges joined the competitors and their families for a reception.

Ben Buell '24 wrote this year's problem, which was used in the semi-finals and final rounds. The problem concerned a computer programmer, James Oliver, who had been hired by a microchip manufacturer, Edison Technologies, to create a cybersecurity software program named Citadel. Nearly a decade later, Oliver learned that Edison sold dozens of copies of Citadel between 2014 and 2017. He promptly registered a copyright and sued for infringement as soon as it was secured. Edison Technologies appealed the decision of the district court, which found that Oliver owned the copyright and was able to receive damages.

In writing the problem, Buell focused on two issues common to copyright infringement suits: ownership of the copyright and the availability of damages. The first issue turned on whether Oliver was the sole owner, such that he possesses the exclusive right to distribute copies of the software, or whether Citadel was a "work made for hire," in which case that right vests in Edison. Importantly, whether the software was a "work made for hire" turned on whether Oliver was an independent contractor or an employee of Edison while he built the software. Second, even if Oliver owned the copyright in Citadel, does the Copyright Act's three-year statute of limitations for civil infringement claims preclude retrospective relief, such that his claims to damages stemming from Edison's sales of Citadel from 2014 to 2017 were barred?

Buell said, "The problem was designed to test different skills. One issue was heavily fact-intensive and the other was a pure question of law on which there's a significant circuit split. The second issue is on the cutting edge of copyright law–the Supreme Court will resolve the split this spring in *Warner Chappell Music, Inc. v. Nealy*."[1]

1 60 F.4th 1325 (11th Cir. 2023).

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around north grounds

Thumbs up to professors who have announced they are cancelling classes before Thanksgiving Break. ANG appreciates that these professors are aware enough to know ANG and at least half of the class won't be showing up on Tuesday anyway.

Thumbs down to the VLR board member, who, in retaliation for last week's ANG about that weird PILA dance floor comment, removed the mint Lifesavers from the VLR/VJIL common space. ANG respects the VLR board member giving in to their childish, petty rage and basically taking their ball home so no one else can play. But ANG's mints are sacred. If it's a war you want, it's a war you'll get.

Thumbs sideways to The Flunkies, the winners of softball playoffs this past weekend. ANG congratulates 3L Section F on their softball skills. However, ANG does not condone badgering the umpires, players doing celebratory fence hops, and throwing erratic pitches in honor of disqualified players.

Thumbs up to the SBA Graduation Co-Chairs for planning an awesome 3L Bonfire at Pro Re Nata last week. ANG loves beer, pizza, private coaches, and, of course, fire.

Thumbs down the the Supreme Court's new ethics code. ANG thinks that Justices should be able to profit from their appointments. ANG has given enough bribes to judges to know it makes a difference. ANG also loves favorable loan rates for RVs.

Thumbs up to all the Lile Finalists. ANG fears and respects your nerdiness and public speaking prowess.

Thumbs down to professors who schedule makeup classes. ANG likes to at least maintain the illusion that ANG has something better to do with ANG's time.

Open Democracy: A New American Experiment?

Andrew Allard '25
Executive Editor

For the American public, it is a truism that ours is a government "of the people, by the people, for the people." But how well does our democracy succeed in meeting this high standard? Today, Americans deeply disagree over whether our elections produce results that accurately reflect the public's wishes. The tragic events of January 6 made this especially clear, but America's democratic woes long predate that unfortunate day. Voters' concerns about elections are wide-ranging, including debate over Voter ID requirements, absentee voting, and ballot collection. These concerns reflect disagreements about the balance between election security and access to the ballot box. But such disagreement also extends to more fundamental structural issues, such as how we should draw voting districts and whether the electoral college's occasionally counter-majoritarian results are desirable in a modern democracy.

Lawyers have an especially important role to play in answering these questions. Because in the American tradition, the law itself is legitimated by the consent of the governed,[1] protecting democracy is tantamount to protecting the rule of law. Recent Supreme Court decisions—such as those interpreting the Voting Rights Act and addressing partisan gerrymandering—illustrate the importance of lawyers' role in shaping democracy. Similarly, Congress cautiously stepped into the role of protecting democracy when, in the wake of efforts to overturn the results of the 2020 election, it passed the Electoral Count Reform Act.[2] But the gravity of democratic decline requires more from us than a reactive posture. We must consider how democracy can be revitalized, and

Pictured: Hélène Landemore
Photo Credit: helenelandemore.com

we must remain open to innovative and experimental alternatives to the existing paradigm. We must, like the Founders, look to nascent ideas rooted in the principles of self-government for inspiration. As lawyers, we should familiarize ourselves with these ideas, vigorously debate their utility, and determine how they can be adapted to our existing legal framework.

In that spirit, Hélène Landemore's *Open Democracy*[3] is an excellent place to start. Landemore is a professor of political science at Yale University who specializes in democratic theory. In *Open Democracy*, Landemore argues that traditional legislatures often fail to meet the ideals of self-government. "Modern parliaments themselves are intimidating buildings that are hard to access for the vast majority of citizens. They are typically gated and guarded. It also feels to many as if only certain types of people—those with the right suit, the right accent, bank account, connections, or even last names—are welcome to enter them."[4]

To supplement traditional legislatures, Landemore proposes, among other things, a system of "open mini-publics": randomly-selected assemblies of citizens, gathered for the purpose of lawmaking. Such a system, Landemore argues, allows the citizenry to participate directly in governing when representative authorities have failed to enact popular legislation.

Landemore's ideas are admittedly radical. But American lawyers should appreciate them for many reasons; I will offer three. Firstly, Landemore's ideas are rooted in history. As Landemore explains, modern democracy looks very little like its historical predecessors. As examples, Landemore cites the use of democracy by lot in Athens, the Icelandic Vikings' practice of gathering in a field each summer to form a parliament, and New England's historical use of town hall meetings. Contrary to popular belief, early democracies did not generally engage exclusively in direct democracy. They, too, were representative, but representation was decided by lot or self-selection, rather than by competitive elections. These historic systems—though not without their flaws—emphasize openness and participation.

Secondly, Landemore's ideas build on an existing American legal practice: the jury. Landemore compares the mini-public to "a supersized version of the criminal jury in the American system."[5] Landemore points out that juries are too small to offer an accurate sample of the population. But they are nonetheless rooted in the ideals of community wisdom and participatory democracy.

Lastly, Landemore's ideas, like the legal system itself, rely on deliberation and pluralism. As lawyers, we understand that truth

1 The Declaration of Independence para. 2 (U.S. 1776) ("Governments are instituted among Men, deriving their just powers from the consent of the governed . . . .").

2 H.R. 2617, 107th Cong. (2022) (clarifying that the Vice President's role in presiding over vote counting in Congress is "solely ministerial" and raising the number of objections required in each house of Congress to challenge a state's slate of electors).

3 Hélène Landemore, Open Democracy: Reinventing Popular Rule for the Twenty-First Century (2020).

4 *Id.* at 2.

5 *Id.* at 13.

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A Runner's Guide to Charlottesville

Caitlin Flanagan '24
Staff Editor

As both a Double Hoo and a person who finds it difficult to relax by staying still, I've been running around this town for (going-on) seven years. Somehow, I'm still finding new fun routes, and love being shown hidden charming neighborhoods by friends. I've never encountered as many former cross-country stars in one place as I have here at the Law School. So, this crowd-sourced runner's guide to Charlottesville aims to save newcomers to the area from pounding out too many miles in the tepid climate of the North Grounds Recreation Center or, perhaps worse, running along Route 29.

Best Routes:

(1) The Corner to W. Main Street to the Downtown Mall:

If you're looking for a relatively flat route buzzing with the quirks of city life, from the sounds of the accordion on the Mall, to the smell of several bakeries, to the trudge of hungover undergrads on the Corner, look no further than running down West Main Street and down the Mall. Sometimes the sidewalk is a bit narrow, but that seems a worthy price to pay in exchange for one of the livelier routes in town.

(2) The Rivanna Trail

There are several points of entry to the Trail. Some are more running-friendly, and some require a lightness of foot that I, unfortunately, lack. Lately, I've been running from a small trail-like path over by the Wool Factory to get onto the larger, paved trail. This is a lovely (above pictured) run alongside the Rivanna River that is, miraculously, also flat!

(3) The Monticello Trail

The Saunders-Monticello trail is four miles of paved walking path. It is runnable, but as the path does wind its way up to Monticello, it is a challenging uphill climb. Worth it for the views, though!

(4) John Warner Parkway

I am a bit directionally challenged and therefore have not yet entirely pieced together how each part of this route comes together. But every time I find myself on a piece of it, it is really quiet, except for the sounds of birds and the wind in the trees.

(5) Main Grounds

Running from the Rotunda over to First Year dorms is a real walk down memory lane for me, and a run through a beautiful college campus (Grounds) for you! I recommend swinging a left once you get to Alderman Road and then running over in the Fry's Spring neighborhood, too—lots of cute streets and homes.

Best Races:

(1) Charlottesville Ten Miler

The Ten-Miler somehow manages to be the perfect soft launch for spring every year. The course is perfect, and so many people come out to cheer. Usually, the trees have begun to bud, but there's a bit of a chill in the air. And ten miles is so impressive, yet also so doable!

2) Richmond Marathon, Half Marathon or 8K

Richmond is a charming and often under-explored (for UVA students) city. They call it "America's Friendliest Marathon" for a reason: There are so many happy runners and happy onlookers!

(3) Charlottesville Marathon or Half Marathon

For whatever reason, the energy around these races never seems as electric as the Ten-Miler. I think the course is far hillier, and when I convinced my mom to do it with me, she said this is "the last half marathon" she'd ever do. So, not my favorite.

Best Ways to Make Running Friends:

(1) Send a message in your Section GroupMe! I made some friends from these early "Anyone want to run?" type texts and still run with some of those buddies today.

(2) Try out Cou Cou Rachou Run Club. You wake up early, show up at 6:30 a.m. at Cou Cou Rachou, run three miles, and get a couple dollars off whatever delicious pastry you want! I cannot imagine a better way to start a Thursday morning.

(3) Prolyfyck: I haven't been, but have heard from friends that this Black-led running group has a "no one left behind" policy, where they wait for you at the top of hills, which seems really nice if also potentially embarrassing. They were also at the Richmond races this last weekend and cheered me on in a moment of real desperation.

(4) If beer is more your speed than pastries, try out Random Row Run Club! They meet at 6 p.m. on Mondays to run a 5K, followed by beer deals!

(5) Run with Jim Ryan! I am not sure how often this happens, but it seems cute.

Best Place to Buy Running Gear:

Ragged Mountain Running Shop! Although I actually can't even think of anywhere else in town, this is my favorite place even taking my hometown running store into account. They're so helpful and friendly, and there's even parking behind the store if you, like me, generally avoid the Corner for parking reasons.

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Plaintiff-Side Litigation: Instead of Answering, You Can Also Write Complaints!

Garrett Coleman '25
Managing Editor

Because there is such a dearth of knowledge on the subject, the editorial board of this paper has coerced me into writing an article on plaintiff's side litigation. This was something of an odd choice given that I am privileged and happy to have a job at a large firm specializing in defense work. But since I interned at a plaintiff's firm this past summer and have a father who is a terrific plaintiff's attorney in California, I am an expert in the area as far as fancy law schools go. Before you quit reading and rest easy in the comfort of your future career at Simpson Thacher, remember where your bread gets buttered—Apple will only consider paying those exorbitant fees because of the sweat and tears of the plaintiff's bar, the men and women who, though few, take on large teams of T-14 dweebs.

The first thing to note about plaintiff's work is the character of people who are attracted to it. These are righteous men and women willing to risk it all, with a predominantly old school bent. On nearly every car ride to lunch with the attorneys I worked for, they would mention how the named partners really cared for their clients. They were old people harmed by nearby construction, the families of minors killed in car accidents, and consumers who consistently lost money from monopolistic practices. Seeing those attorneys interact with clients, I believed in their sincerity. Even when there was no settlement to be obtained, my boss would routinely take calls from struggling people in his community looking for help. Similarly, my dad has spent the bulk of his career suing insurance companies who, in bad faith, deny benefits to their disabled insureds. Many of his clients have to live on credit cards through the litigation process. Because of this righteous cause, tensions would get high in the office. There was (some) yelling, a good amount of cursing, and plenty of aggressive walks through the halls. Good plaintiff's lawyers are like crusaders, totally devoting themselves to a cause and willing to destroy everything in their path.

The second notable element strongly influences the culture at these firms: how they get paid. There are no billable hours, beyond estimates for calculating attorney fees when a statute allows for it. Instead, a plaintiff's attorney worth his salt will charge on a contingency basis, meaning that he gets paid a fraction of the settlement or judgment award, usually in the range of 18 to 33 percent. This setup has certainly been good for the manufacturers of blood pressure medication. Complex cases will take years to resolve, while these entrepreneurial attorneys can do nothing but burn more time and money. This is a far cry from the constant streams of cash flow that defense firms garner.

There are, of course, some criticisms of contingency work. The first is that the payouts on large awards can dwarf what a defense attorney would have billed. Though after you calculate the expected return—factoring in the risk of dismissal—and discount it over the years of litigation, I am not sure that is true. And, more importantly, it gives anyone with a valid legal claim access to our judicial system. A more valid criticism is that contingency work functionally excludes small claims. A plaintiff's attorney who wants to keep the lights on cannot take a tenant rights case for $5,000. That money is probably the difference between life and death for the client, but the expected payout is simply too low to justify the work. My response to this problem is that plaintiff's work cannot be expected to remedy every societal ill, and these cases are best addressed by non-profit legal aid groups or state attorneys general acting as consumer watchdogs.

If none of this appeals to 1Ls or other students contemplating a career shift, you should also consider the experience opportunities that plaintiff's work offers. Every young associate at the firm I worked for managed several small cases, arguing before the court along each step. We all know that this experience is more beneficial to the lawyer than being the third seat in a deposition. Plaintiff's work offers its lawyers a trial-by-fire environment and should be attractive to anyone interested in jump-starting her career.

None of this is to say that plaintiff's lawyers are God's gift to man. After making fun of me for applying to Big Law firms, my former supervisor admitted that business would grind to a halt if plaintiff's attorneys got everything they wanted. If judges did nothing more than greenlight their complaints, then this would absolutely be true. Zealous defense attorneys have an important role to play in preserving a workable economy and defending their clients. Further, there are undeniably bad incentives for the less-skilled plaintiff's attorneys to harass defendants with untenable claims, hoping

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First-Gen Law Students Stand Up and Stand Out

Ryan Moore '25
Law Weekly Historian

Last Wednesday, November 8, the Virginia Law First-Generation Professionals (VLFGP) hosted an event celebrating National First-Gen Day. First-generation UVA Law students gathered in WB 125 for community, as well as hot chocolate, coffee, and free t-shirts. VLFGP President Ugomma Ugwu-Uche '25 organized the event as a way for first-generation members of UVA Law to gather and share our struggles and successes as first-generation law students.

I say "our" struggles and successes because I am a first-generation law student as well. VLFGP's event induced me to do my own research into first-generation law students because when you are a first-generation law student, it can feel like everybody else has lawyers in their family and knows how law school operates. The truth is not far off.

A first-generation student is typically someone who is among the first in their immediate family to attend higher education. First-generation professional students would therefore be among the first in their family to attend a professional school (medical, business, law, etc.). Per The National Association of Law Placement (NALP), first-generation college students made up about 23 percent of 2020 law school graduates.[1] But this number breaks down by race. Out of the Class of 2020 nationwide, 42 percent of Latino law students, 36 percent of Black law students, and 55 percent of Indigenous law students were first-gen college students.[2] By comparison, white law school graduates were most likely to have at least one parent who is a lawyer, at 18 percent.[3] Unfortunately, I do not have UVA Law specific numbers.

VLFGP's goal is to address these disparities between first-generation and other college and professional students by facilitating the transition to law school. The organization is geared towards assisting first-generation college students, first-generation professional students, students from immigrant backgrounds, and students from low-income or working-class backgrounds. VLFGP addresses barriers that exist in the legal profession with the goal of making law school, and the legal field itself, more inclusive. Most importantly, VLFGP helps first-generation students feel that we are welcome and supported at UVA Law.

Several of my classmates and I were interviewed by the Law School about what being a first-generation law student means to us. During my portion of the interview,[4] I mentioned that being a first-generation student was defined by "determination" and "difficulties." "Determination," because to be the first in your family to do anything takes a lot of drive and determination to chart your own path and make your own way. I said "difficulties" because, in any field, when you are first-generation, you lack that built-in familial knowledge of how the system works.

In law school, unfamiliarity with how legal education and the legal field works truly sets you behind. Law is, as we all are painfully aware, a field that values tradition. For the most part, the Socratic method, 1L curriculum, journal tryouts, casebook readings, and exams have all remained the same since our parents entered law school when they were our age.[5] Law itself is ever-changing as legislatures draft new laws to address societal and technological transformations, and judges issue opinions interpreting those laws. But legal education and the legal field itself remain relatively static. And if a process or institution remains static, there is a premium placed on those with prior knowledge of how that institution operates.

In law school, that can look like parents who understand the stress of 1L year and send you care packages. It can look like family members who understand you cannot make the same time for them as you could before. Maybe you have an aunt or uncle who can review and provide you feedback on your first year LRW memo.[6] Maybe your parents drill you on doctrinal law over Thanksgiving break to prepare you for exams.[7] Getting quizzed on the elements of negligence by your parents over Thanksgiving dinner sounds like my personal Hell and gives off major gunner energy. But the food at white peoples' Thanksgiving dinners usually sucks anyway, so how could things get any worse?[8]

I do not resent my classmates with lawyers in their families in the slightest for these advantages. I think America needs the best trained lawyers that our society and educational system can turn out. And if your parents have trained you to study the law since birth like a Soviet gymnast, good for you, you freak. All I mean

1 https://www.reuters.com/legal/transactional/having-lawyer-parents-boosts-job-prospects-salaries-law-grads-2021-10-20/.

2 *Id.*

3 *Id.*

4 You can find our interview in full as a Reel on the UVA Law Instagram page. I highly encourage you to check out what our classmates shared about themselves.

5 Except my parents, because again, you know, the whole first-gen thing.

6 This is a true story.

7 Again, a true story.

8 I took my wife to Thanksgiving hosted by the Black side of my family and she cleaned plate.

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LAW WEEKLY FEATURE: Court of Petty Appeals Cert Denials

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 eight 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 editor@lawweekly.org

Not every petty dispute makes it into the halls of this esteemed Court. Here are some of the most recent entries in the loathed "denial pile."

1Ls v. Legal Research & Writing Professors, 23-CV-0064. 1L petitioners seek review of the lower court's opinion denying their request for an injunction against the Law School's LRW professors preventing them from assigning additional memos and other writing assignments. The petition for certiorari is denied. The Court finds no reason to disturb the trial court's application of the principle that 1Ls must always lose.

Morse, C.J., concurring in the result. I agree with the Court's decision to deny this petition for certiorari but write separately to urge an alternate grounds for denial. Insofar as LRW fellows are also parties to this suit, and assuming (as any reasonable person would) that these LRW fellows are gunners, they must lose based on this Court's rule of a more recent vintage: Gunners always lose.

Allard, J., dissenting. I would grant certiorari in this case, as I am hoping and praying that petitioners have a plausible legal argument that will save me from my work as a Writing Fellow. I can't believe the 1Ls are my only hope, but here we are.

> "I can't believe the 1Ls are my only hope, but here we are."

Gunners v. The Rest of Us, 23-CV-0124. A collection of Law School gunners seek an injunction against being described as gunners, alleging that there is a negative connotation to the term and requesting this Court require the Law School community describe them as "dart-throwers," "boomerangers," or "spitballers." Cert is denied because there is, as a matter of law, a negative connotation to being a gunner.

Allard, J., with whom Foss, J. joins, dissenting. I would grant certiorari in this case to give respondents the opportunity to suggest an even worse term for gunners.

Students of UVA Law v. Sidley Austin Café, 23-CV-0230. The student body seeks a writ of mandamus against the Sidley Austin Café, requiring them to extend hours past 2:00 p.m. and stay open until at least 11:00 p.m. Petitioners allege that they cannot make it through the 3:40 p.m. to 5:00 p.m. window without a cup of coffee from Greenberry's in tow. Cert is denied because Mandy is a queen and can do no wrong. Further, students in need of an afternoon boost can bring their own mug to MyLab for free coffee.

In re The Pavilion at North Grounds Renters, 23-CV-0784. The tenants of the "Pav" seek an injunction to prevent rate increases for the coming year, due to the numerous failing amenities and inability to supply basic utilities in the building. Cert is denied because the law does not accommodate the eggshell plaintiff, and any reasonable person would have expected this outcome after reading a single review of the property.

The Public Interest Law Association (PILA) v. People Who Snuck Alcohol into The Silent Auction, 23-CV-0154. The Public Interest Law Association seeks compensatory and punitive damages from law students who, allegedly, snuck their own alcohol into the PILA silent auction on November 4, 2023. Cert is denied. PILA chose to charge law students, most of whom are jobless and swimming in student loans, $40 a ticket to attend an event that then charges $8 for a Bud Light. This court supports the fiscal responsibility displayed by putting Fireball shooters in your socks.

Brown, J., dissenting. Justice Foss rightly identifies the logic at play in this case, but reaches the wrong conclusion. PILA had every reason to expect that people would bring their own drinks to the Silent Auction. It is a tradition as old as the PILA Ball itself. For them to now seek relief against a problem entirely of their own design is *unbelievably* petty. What jurisdiction is this Court left with, if not over this, the most trivial of disputes? Accordingly, I would grant certiorari.

Students of the Night v. Dugas, 23-CV-0444. The Students of the Night allege that the Flex Exam rules unconstitutionally discriminate against the nocturnal. Cert is denied because law firms also require work during the day.

Foss, J., dissenting. I would grant certiorari in this case because law firms require work during all hours of every day. Students should be required to take at least one Flex Exam during the window of 2 a.m. to 4 a.m.

The People v. Restroom Stall Manufacturers Everywhere, 23-CV-0451. A group of disgruntled restroom users, collectively "The People," bring this action seeking to enjoin Restroom Stall Manufacturers Everywhere from placing the slit in a public bathroom stall door to line up perfectly with the toilet within the stall. Plaintiffs allege that the slit is not necessary to the structural integrity of the door, and alternatively if the slit is necessary, the slit does not need to be directly in front of the toilet where The People are then left exposed to those on the other side of the door to peer through, albeit, unintentionally. Cert is denied not because we disagree with this action, but because this court lacks proper jurisdiction over this matter, shitty as it may be.

In re Reykjanes Peninsula Volcano, 23-CV-0102. A certain Features Editor was supposed to travel to Iceland last week until an incredibly pesky earthquake swarm broke out on the Reykjanes Peninsula in the country's southwest.

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Faculty Quotes

J. Duffy: "The Pirate Code did not go through notice and comment rulemaking, so it really is more like guidelines."

F. Schauer: "...I break the law with some frequency."

C. Nicoletti: "That's his whole job: Get up in the morning, brush his teeth, levy war."

J. Monahan: "American Tourister luggage is so well-built that dogs can't smell the drugs. In case...that information may come in handy someday."

B. Sachs: "Pick a side so I can argue with you."

F. Schauer: "I don't really like to do this, but lets be relevant for a moment."

B. Sachs: "The reason we do pro bono work is because we expect our just rewards."

J. Monahan: "Having lived in Berkeley for a while, being kissed in the afternoon there doesn't mean anything for that evening, much less one's life."

J. Duffy: "If you pick the wrong stocks, you could spend your retirement living in a Winnebago...that does not even drive."

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

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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.

COPA

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This prompted said anxious Features Editor to cancel his impulsive trip out of fears that a volcano would erupt, he'd get stuck on the island, and fail out of 2L. The volcano here seeks eruptive relief so that it can actually explode and make said Features Editor feel justified in canceling his trip. Cert is denied because it's much funnier for Ethan to have missed his trip for no good reason at all.

Virginia Law Review and Virginia Journal of International Law v. Pool Hall Junkies, 23-CV-0253. The student-run journal, the *Virginia Law Review* (VLR) and *Virginia Journal of International Law* (VJIL) seek an injunction against a class of self-described "pool sharks" who have refused to do any cite checks while continuing to use the pool tables in the journals' combined office. We deny the journals' petition for certiorari because Journals are almost entirely populated by gunners, and gunners always lose. Also, pool is tight.

UVA Law Students v. Dean Goluboff, 23-CV-2004. The student body of the University of Virginia School of Law again seeks an injunction against Dean Risa Golubuff to prevent her from stepping down as Dean of the Law School. The students correctly note that Dean Golubough has presided over a period of stability, happiness, and growth in UVA Law's prestige. While it is of course true that Dean Gabblehuff has done an excellent job and is widely-loved, we are eager to see what kind of shenanigans Dean Gobblebuff gets up to. We expect we could run across her in a high-stakes backroom card game in Tokyo, surfing big ones in Waimea Bay, apprenticing as a cobbler in Florence, or teaching Francis Ngannou how to improve his boxing game on a mountainside in the Himalayas. We eagerly await her next epic adventure. Any of which, we are sure, will be way more fun than responding to angsty law students' emails about why their favorite snacks are not in the Snack Office. Also didn't Petitioners already bring this case? And win? Cert is accordingly denied.

Blue Lot Permit Holders v. The Giant Sports Van That Takes Up Ten Spaces, 23-CV-1984. The Blue Lot permit holders bring this suit against that Giant Van from Hoo Sports that takes up a frankly absurd number of parking spaces and leaves all students—especially 3Ls with only afternoon classes—fighting over the last crumbs of space like a high-stakes game of musical chairs.

While this Court considered granting cert, we found the amicus brief from D3 permit holders persuasive in our denial. Their brief argues that you get what you pay for. There can be nothing more petty than paying over $300 extra to avoid walking up a single flight of stairs. Furthermore, the proper defendant for this suit is not the van itself, but rather UVA Parking Services, UVA Athletics, or both. Those are the proper decision making bodies. For these reasons, we must deny cert and request that parties refile their suit against the proper defendants. Go big or go home.

Counsel's Counsel

Counsel's Counsel is the world's preeminent advice column for law students. Written by recent UVA Law graduate, Jane Doe, J.D.

Dear Jane: I write to you in the midst of one of my most challenging days as a student here at UVA Law. No, I didn't bomb a cold call. I didn't get turned down for an appellate clerkship either. I've had many days where I've questioned whether I belong here. None of those days were as bad as this Monday is turning out to be. What could rival those feelings of disappointment, rejection, and imposter syndrome, you ask? The answer is hanger and my missing Roots bowl.

It all started first thing this morning. The SBA president sent an email regarding changes to the Roots delivery program. At first, I was excited to hear that the Roots delivery time was now at 12:00 p.m. instead of 1:00 p.m. I have class at 1:00 p.m., so I haven't been able to order my El Jefe bowl yet this semester. I figured I would celebrate the new delivery time by ordering a bowl for lunch (I also haven't been to the grocery store in over three weeks).

I walked to ScoCo a few minutes before noon. I was getting hungry and couldn't wait to dig into my bowl. A crowd started to gather near the delivery spot. Our bowls are nowhere to be found. Then, thirty minutes after the scheduled delivery time, one of my classmates posted in our class GroupMe, "They messed up so bowls aren't coming until 1pm." Both my hunger and my anger grow with each minute. I realize I won't have lunch before my class starts. My stomach is starting to hurt.

I have a few questions. Can we impeach the SBA president for this? Should the CEO of Roots step down for this mistake? Can I show up to class a few minutes late to wait for my bowl? Can I eat my bowl during class? - Rooting for Myself.

Rooting: What a horrible start to your week! While breakfast is the most important meal of the day, lunch is either the second or third most important. While I'm not Dr. Henry Louis Gates, Jr., I hope my response will

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HOT BENCH

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the termite infestation and everything else. The other two, not everybody would care either about a multiple murder having occurred at the house or reputed haunting. But if you have a termite infestation, you have to care about it because it can literally physically destroy the house. So that's gonna have a monster impact on market value.

That makes a good point. But one could argue that it would be easier to get rid of the termites than the ghosts. You know, because you have to find, like, a priest. You may have to, like, get one in from the Vatican if the local ones don't cut it.

Yeah. I personally don't know anything about how you get rid of ghosts.

That's fair. If you were not a law professor, what do you think you'd be doing?

I would probably be a partner at a law firm, and I might have been in and out of government.

Makes sense. Why did you decide not to?

That's a great question. Because I went back to finish my Ph.D. after having

Pictured: Jason Johnston
Photo Credit: UVA Law

worked two summers in law firms. But after the second summer I went back and was just pretty much doing economics. I'd already graduated law school. And I said,"You know, if I've got a lot of ideas for interesting projects, and I like this, I'm gonna continue with this." And I was able to pass my prelims and get a good dissertation committee and get a dissertation subject and topic that people thought was interesting, and I liked doing that kind of work. Even though you get paid a lot less money. There are other features of being an academic I like—mainly not that you work less hard, but you have more flexibility in your schedule. So that's kind of how I ended up being an academic, and I did do a clerkship before I got into academia. So, that was the trade off.

So what makes someone successful in life?

I think the most important thing is perseverance. And you have to also pursue what you really love, and it sometimes takes a while to figure out what you really like and what you really want to do. But then you have to have perseverance, grit, toughness, and maybe most important—this is related to all the others—resiliency. Because bad things happen. This is part of my Christian faith, but our life here is not supposed to be happy or fun. It is difficult and you have to have—whatever the source of your faith—you have to have faith that you can get through those difficult periods, and they're inevitable, and you have to bounce back and keep, keep pursuing. I'll say this, keep pursuing your dreams. I look at law school classmates who have succeeded on their own terms—they all have those characteristics. And the students I've taught over the years who've really been successful—again on their terms, not necessarily somebody else in the world's terms—they all have those characteristics, and they have got a dream, they have a goal. And they have that kind of resiliency and faith that has allowed them to endure some really difficult times and get through them.

That's a good answer. I like that. It's also—the Christianity thing—it reminds of me C.S. Lewis' *Surprised by Joy*. I think he talks about resiliency.

I'm a big C.S. Lewis fan, yeah, definitely an influence.

I'm a big fan as well. Ok, easy one: Do you believe in ghosts?

Not really.

That's less equivocating than I expe—

That means no.

Ah, there it is. Which day do you think the start of the week is, Sunday or Monday?

Sunday. Because that's when it starts.

Ok. What's your zodiac sign?

I don't know. Oh, wait, I know! Taurus. That's one of the ones that looks like an animal. I'm not a fan—I'm not really an astrology person at all. Not at all.

Yeah, apparently that's not enough anymore. You have to know, like, exactly what time you were born and then there's like a whole placement and then your sun and your moon—it's actually a very elaborate thing.

I do not doubt it. During the latter days of Ronald Reagan's presidency when he was incapacitated by Alzheimer's, his wife was helping to run the country and she made many decisions based on what, um, the astrologer told her.

Wow, something to make me dislike the Reagans even more. Or less? I don't know.

I don't think that was a good thing.

Oh, by the way, did you hear about the drink specials I ran at my bar for our Contracts mixer?

Oh yes! UCC 2-207. Very clever. The Johnston or whatever it's called?

Yeah, PBR and a shot of Old Crow.

I'll tell you the real Johnston Special. If you want to do the basic Johnston, it would be PBR and Johnnie Walker Black.

Nice, Johnnie Walker was a teetotaller.

Really?

Yeah, teetotaller with a very successful liquor business, which is funny. Ok, so you mentioned *Everything Everywhere, All At Once* in class.

Great movie.

Do you have a favorite movie?

I don't like that many

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LILE

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Indeed, Lile President Kathryn Kenny '24 emphasized the efforts of the many students involved in administering the prestigious competition. "The Lile competition is fairly unique since it is entirely student run; students organize the rounds, research and write the problems for each round, serve as preliminary round judges, and invite judges for the semifinal and final rounds." From the initial rounds, where students serve as judges and brief graders, up through the process of facilitating later rounds, Kenny affirmed that running the Lile competition had been among the most rewarding experiences in her law school career.

When asked how they decided to partner, Gray responded that "Aquila and I became friends on the first day of law school and never looked back. During 1L, after we both made the Extramural Moot Court team and once we heard about Lile, we decided that we'd team up." Maliyekkal echoed Gray's comments, noting also that while they are "very different people—our backgrounds, politics, and legal philosophies couldn't be further apart," he had "improved tremendously as a thinker and writer just by being Sean's partner. I've improved as a person by being Sean's friend."

Gray described the intensive writing process he and Maliyekkal followed: "We'd each write our portions, then come together and meticulously edit the brief as a whole. Highlights of our writing process included: debating whether the article 'a' needed to proceed every item in a list; arguing about the use of the past perfect tense; deleting most of the em-dashed phrases that we both litter throughout our writing; and workshopping way too many metaphors and one-liners. Sounds fun, right? Harmonizing our styles was one of the more demanding parts of the process, but it was also quite rewarding." Maliyekkal agreed, noting that their "[writing] styles aren't vastly different, but we each certainly had our literary peccadilloes and hang-ups we had to negotiate with the other about. Some of the most fun we had came from competing with each other to come up with pithy lines we could pepper through the brief to make it an engaging read (or the closest a brief on copyright and statutes of limitations could get to it)."

Maliyekkal and Gray were thrilled to have won and spoke highly of the demanding experience, which spanned more than a year. Maliyekkal described it as "an intense but rewarding experience . . . It pushed me to become a better writer and advocate and allowed Sean and I to test our skills against people we respect tremendously." Gray echoed these sentiments, calling it "one of my favorite experiences in law school . . . It honed skills that will serve me well for practice—I became a better writer, speaker, advocate, and teammate throughout. But most importantly, I had a great time working with my best friend."

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HOT BENCH

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movies, but I do like *Braveheart* and *The Patriot*.

Have you seen *Highlander*?

I haven't seen a *Highlander*.

Oh, it's like one of the best worst movies of all time! It's got Christopher Lambert playing an immortal Scottish Swordsman, and then Sean Connery—

Is it a sci-fi-ish sort of thing?

Maybe? In the sense that he's immortal, I guess. But that's it. Sean Connery is an Egyptian and also a Spaniard and is speaking with a FULL Scottish accent for the whole movie without even trying to cover it.

Oh no.

Oh yes. And meanwhile, Christopher Lambert is French trying to do a Scottish accent, and frankly, he always sounds like he doesn't speak a human dialect. He's got a really weird voice.

So it's sort of an action movie?

It's a great movie. It's one of my favorites.

I have to watch it.

PLAINTIFF

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only to survive a motion to dismiss and settle. In such cases, it is the defense bar that has the better claim to a righteous cause.

But at a fancy law school like ours, the defense perspective is omnipresent. All I hope to convey is that plaintiff's work can be exciting, morally gratifying, and lucrative. Even though I have chosen to take another route, I do so mindful of the fact that not everyone sitting on the right side in a courtroom will be a conman.

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FIRST-GEN

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is to highlight the differences between first-generation law students and those who have lawyers in their families. These differences are not "good" or "bad," they just are. There is nothing any student in this school can do about their family situation. I am just glad there is a student organization at UVA Law that recognizes us.

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DEMOCRACY

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can be frustratingly elusive. For that reason, we have the adversarial system, which searches for truth through zealous argumentation between parties with opposing interests. As Justice Kagan once eloquently put it, "No one has a monopoly on truth or wisdom. We make progress by listening to each other."[6] Landemore's open democracy ensures that we listen to each other, and not just those with the skills, capital, and connections necessary to win elections.

Of course, reasonable people can disagree with Landemore's proposals. But no American should reject them as too extreme. The United States *is* an experiment in self-government. To advocate for innovative and even radical approaches to self-government is deeply rooted in our nation's history. In the face of new challenges to our democracy, perhaps that history is the answer.

6 *Excerpts of Elena Kagan's Opening Statement Before the Senate Judiciary Committee*, The White House Off. of the Press Sec'y (June 28, 2010).

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help you with Finding Your Roots.

First, instead of demanding the CEO of Roots resign from his position, you should exploit this mistake. You should absolutely ask for your money back for the late bowl. I would also suggest demanding discount codes for future bowls. I've heard that HOTSPOT40 gets you 40 percent off your order. Ask for 50 percent off bowls for the rest of your law school career.

Impeaching the SBA president may also solve this problem, and many others at this school for that matter. But it sounds like, for once, the SBA president is not to blame for the Roots debacle. A leader with better foresight would not have had a delivery time that conflicted with many classes in the first place. To his credit though, the president did respond to complaints from students and tried to make a change.

I don't recommend showing up late to class to wait for your bowl. Arriving late to class with a Roots bowl is similar to coming to a morning class fifteen minutes late with a cup of Starbucks in hand. This is very troublesome behavior. While your classmates should be focusing on the law, they are instead judging you for being late. Professors really should just lock the classroom door to prevent anyone from coming in after class has started. Or they should at least glare at you.

Finally, please don't eat your Roots bowl during class. Or any food for that matter. This is inconsiderate to your classmates and the professor. There is nothing worse than hearing the crinkling of a Student Affairs snack wrapper or the pop of a soda can while you are trying to learn or teach. Have you ever seen someone answer a cold call with food in their mouth? Disgusting. Trust me, the kid next to you really doesn't want to smell your stinky lunch. (I suppose you should be able to eat in class if you have an accommodation, and we know Student Affairs hands those out like candy.)

If your El Jefe is ever late again, I would recommend grabbing a bite to eat from the Sidley Austin Café to hold you over during class. You can stick your late Roots bowl in one of the SBA fridges for later. I don't think you have to worry about SBA cleaning out those fridges anytime soon.