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

Virginia Law Weekly

A Look Inside:

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Deans Convene Political Dialogue Panel

Michael Schmid '21
Staff Reporter

On Thursday, September 20, a group of law students attended a panel discussion in Caplin Pavilion featuring Dean Risa Goluboff, Vice Dean Leslie Kendrick '06, and University Dean of Students Allen Groves '90.[1] The event, entitled "A Panel Conversation about Talking, Listening and Engaging across Perspectives," dealt with the right to free speech, particularly its outer limits, and the complicated issues that can arise regarding controversial speech in a university setting.

Dean Kendrick began the discussion with an overview of free-speech law in this country. The United States protects free speech more stringently than anywhere else in the world, and Dean Kendrick highlighted that this expansive right means speech that is controversial, provocative, and even reprehensible should be protected, often on the bases of liberty and equality. However, this does not mean just because an idea is free to be expressed that it ought to be accepted. Dean Kendrick noted that America's free-speech regime not only welcomes debate and refutation of unmeritorious arguments, but thrives on it.

Dean Goluboff offers a listening ear to Tyler Miko '21. Photo Kolleen Gladden '21 / *The Virginia Law Weekly*

Turning to the specific issue of controversial speakers being invited to universities, Dean Kendrick urged students to personally reflect whether the speaker has ideas with which they can reasonably disagree, and whether they are morally bound to tolerate the ideas in question or if they are beyond the pale. Free speech, Dean Kendrick concedes, is a complicated doctrine and, on the margins, there are few easy answers to the difficult issues debated in university settings and in society.

Dean Goluboff pointed out that, as a historian of the 1960s, she knows the battles that raged over free speech on campus then in many ways parallel the battles we see now. Today, as in the '60s, Dean Goluboff sees a "real moment of generational tension," as well as a moment of potential legal change. That generational tension in both time periods is exemplified by the conflict between student protestors and administrators who do not understand the substance or tactics of the student demonstrations. As some of those student protests of the '60s helped lead to changes in the law regarding who is protected by free speech and what action is taken against controversial speech, Dean Goluboff noted that today there is potential for changes in the law pertaining to the extent to which hate speech should be protected.

Dean Goluboff also noted the disparate effects of speech on

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1 Dean Groves was observed reading a copy of *Virginia Law Weekly* before the event began. We hope he liked what he read.

Brandeis in Brief: The First Public Confirmation Hearing

Part Two of Confirmation Stories, *a continuing Law Weekly series*

William Fassuliotis '19
Guest Columnist

If you can remember back to the confirmation hearings for Judge Kavanaugh, before the accusations were made against him, you likely had one of two sets of thoughts. If you were sympathetic to those opposing Judge Kavanaugh, you may have seen Senate Democrats as engaging in principled opposition, seeking as much information as possible about his time with the Starr investigation, the Bush Administration, and as a judge in order to make the case to the American people, like Ted Kennedy and other Democrats did in 1987. If you were sympathetic to those in support of Judge Kavanaugh, you might have been appalled at the histrionics and tantrums by a bunch of Senators trying to enhance their presidential prospects. Both sides weep for the future of the republic. One can be forgiven for thinking that confirmation hearings have a principled history, dating back to the founding, and only recently become debased political spectacles. This thought, however, is mistaken.

The expectations surrounding Supreme Court nominees would change forever on January 2, 1916, when Justice Joseph Rucker Lamar passed away.[1] On January 28, President Woodrow Wilson, after much deliberation and lobbying (including by *The New York Times* and others to appoint former President and 1912 electoral opponent William Howard Taft), nominated a close advisor, Louis Dembitz Brandeis.

By that time, Brandeis had acquired the epithet of "The People's Lawyer." The controversy surrounding his nomination can easily be understood by what others wrote about him. To his opponents he was, as Taft wrote to a friend, "a muckraker, an emotionalist for his own purposes, a socialist, prompted by jealousy, a hypocrite, a man who has certain high ideals in his imagination, but who is utterly unscrupulous in method in reaching them...." His supporters would agree with Justice William Douglas (who would replace Justice Brandeis when he retired), that "the image of Brandeis ... was one that frightened the Establishment. Brandeis was a militant crusader for social justice whoever his oppo-

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1 Justice Lamar, a Taft appointee and a deservedly obscure Justice who served only five years, should only be remembered as one of three pairs of relatives to sit on the Court. He was the cousin of undoubtedly the best-named Justice to ever don the robe: Lucius Quintus Cincinnatus Lamar II, a Grover Cleveland appointee who also served only five years.

around north grounds

Thumbs down to SBA President Frances Fuqua for failing to make the requisite seasonal offering of Duck Donuts in order to appease the Basilisk of WB. May she do better this Autumn, and may she remain safe in the meantime.

Thumbs sideways to the cancellation of the Justice Kennedy event. While ANG thinks it probably would have been pretty interesting to hear from Kennedy, ANG also thinks exactly the opposite with no readily apparent distinguishing factors.

Thumbs down to plea bargaining exercises in the hallway. The only one shouting "YOU HAVE NO EVIDENCE" around here should be ANG.

Thumbs up to the British diver suing Elon Musk for defamation. ANG's suing Musk over Musk's assertion that "ANG is a drunken mess," but Professor Abraham told ANG, "It has to actually be false," and "Stop coming to my house in the middle of the night for legal advice." #bestfriends

Thumbs up to the 1L ANG overheard doubting that Fed Soc actually serves Chick-fil-A at its events. ANG hadn't heard of Chick-fil-A trutherism but ANG's on board if it means more free food for ANG.

Thumbs up to the administrator who told ANG that this year's 1Ls are "abnormally geeky." ANG concurs; ANG hasn't even been able to complete ANG's ritual 11 p.m. streaking through the library because it's always full of gunners.

Thumbs down to softball being continually canceled. Without the excuse to black out at 2 p.m. on a Tuesday, ANG is questioning whether ANG should have just attended another school.

Thumbs down to the 2L who personally emailed the VP of the 1L FYC about located Bar Review "all the way" at the Downtown Mall. Even ANG can't go to Bilt more than 5 days a week.

LISTENING SESSION

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minority groups and marginalized populations, and asked the students in attendance whether they thought that the law should account for the unequal effects of certain types of speech. She cautioned against the use of free speech to insulate speakers from repercussions. It would be incorrect, she contended, to presuppose that once something is said that, in the name of free speech, no response or critique can be leveled. Instead, the right to exercise free speech invites response and engagement, something the dean noted is part of UVA's institutional culture.

Dean Groves chose to highlight a few examples of controversial speech on Grounds, and how those events can serve as a model for balancing free speech with the rights to dissent and disagree. One of those incidents involved the invitation of a highly controversial speaker on Grounds about a decade ago; another involved an incendiary tweet by a university lecturer. Dean Groves stated his belief that the takeaway from those incidents is that the best way to engage with ideas that are unsavory—or even morally troubling—are for students to use their minds and their voices to win the intellectual battle and challenge people to try to defend indefensible positions. The instance regarding the tweet from the lecturer, Dean Groves noted, also serves as a reminder that just because something can be said does not always mean that it should be said, especially in light of the disparate effects of speech noted by Dean Goluboff.

After the trio of deans spoke, they asked students to discuss in small groups the issues of free speech, engagement, and protest as each of the panelists spent time joining the conversations with the students. Specifically, students were asked to discuss what they thought were appropriate guidelines for protest and dissent in a university setting.

One theme resonated with each of the panelists: that the doctrine of free speech can be thorny and no easy answers exist for the complicated issues that arise. Dean Goluboff addressed this tension by indicating that, while we have the right to free speech, there is little guidance for the correct exercise of and responsibilities pursuant to that right. Dean Goluboff concluded her segment by noting that UVA perhaps has the most diversity of thought and background of any peer school, and that her hope is that UVA Law can serve as a model of an institution where real engagement can thrive in a community of trust.

Dean Allen Groves '90, Dean Goluboff, and Dean Kendrick '06 at the Panel. Photo Kolleen Gladden '21 / *The Virginia Law Weekly*

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BRANDEIS

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nent might be. ... He was dangerous because he was incorruptible."[2]

Brandeis invented what would become known as the "Brandeis Brief," or as he would call it, "What every fool knows." Instead of relying solely on arguments based on legal precedence and logic, a Brandeis Brief would be filled with facts, statistics, and data explaining why a particular regulation should be upheld as constitutional. This was, for its time, simply radical. He was also successful, even at the height of the Lochner era.[3]

At a time when the legal profession in general, and the judiciary in particular, was small-c conservative—valuing tradition, ordered liberty, and the rights of property—the above would have been enough to create a firestorm of opposition. There was another "complicating" factor: Brandeis would be the first Jewish member of the Court. Though raised in a secular household, he would embrace his Jewish faith as he became older, and would be one of the pioneers of Zionism. Few, if any, publicly opposed him on openly anti-Semitic grounds, although in private a number definitely did. Some accused Wilson of nominating Brandeis to bolster Jewish support for the upcoming election and to appease political constituencies. Sometimes subtext, sometimes text, the controversy over his nomination cannot be understood without his religion.

And so, this set the stage for the first public confirmation hearing. I should note the emphasis is on first *public* confirmation hearing—the Senate had at least one hearing on a nominee before 1916,[4] and nominees were regularly referred to a committee since 1868.[5] These were, however, private and closed to the public, short in duration, and, with one exception, without witness testimony. The modern confirmation hearing—public, extensive, and with testimony by proponent and opponents—was pioneered in response to Brandeis' nomination.[6] Both proponents and opponents were unsure whether the nomination would succeed, and both hoped to use the hearing to persuade undecided Senators.

The first hearing was called to order on February 9, 1916, the first of 19 days of hearings, by far the most of any justice. A subcommittee consisting of five members of the Senate Judiciary Committee heard testimony from 43 witnesses. Opponents testified that his conduct was unprofessional and unethical, his character unfit, and an advocate who would not—nay, could not—be impartial as a Justice. His supporters rebutted those allegations as unfounded attacks by the "privileged interests." The hearing discussed years of Brandeis' cases, litigation, activities, and other matters important at the time but footnotes to contemporary historians. Conspicuously absent was Brandeis himself—a nominee would not testify at his own hearing until Harlan Stone in 1925.[7] On April 1, the Subcommittee voted in favor 3–2. On May 24, the Judiciary Committee would report favorably on the nomination, 10–8, on a party line. Finally, on June 1, 1916, the Senate voted to confirm Brandeis 47–22.[8] Those 125 days remain the longest amount of time between a nominee's nomination and confirmation or rejection by the Senate. Justice Brandeis would stay on the court until 1939.

As a judge, Brandeis would be exactly what his supporters hoped for and critics dreaded. He would continue to be an "advocate for the people," forcefully writing for or joining opinions or dissents in favor of freedom of speech,[9] a right of privacy,[10] and other decisions that helped, in his view, put the "small man" on a level playing field. He was not, however, a doctrinaire liberal. He decried "the curse of bigness," and the twin evils of both big business and big government. He was perhaps the biggest proponent of Jeffersonianism since Jefferson himself. He popularized the description of states as "laboratories of democracy,"[11] and joined decisions striking down parts of the New Deal he thought centralized too much power in the hands of the federal government. He believed that business and government needed to be small enough that the common man and his neighbors could join together and have control over their own destinies.

If you have any questions, comments, ideas for future articles, please do email me. I am always interested in them. Sources used, in addition to those in the footnotes, include Jeffrey Rosen's Louis D. Brandeis: American Prophet, and A.L. Todd's Justice on Trial: The Case of Louis Brandeis.

Next time: Eisenhower, Nixon, and the Warren Court.

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2 https://www.nytimes.com/1964/07/05/archives/louis-brandeis-dangerous-because-incorruptible-justice-on-trial-the.html

3 In *Muller v. Oregon*, the Court unanimously upheld an Oregon law limiting the work day for women in factories to 10 hours.

4 http://www.scotusblog.com/2016/03/legal-scholarship-highlight-the-evolution-of-supreme-court-confirmation-hearings/ ("Legal scholarship highlight: The evolution of Supreme Court confirmation hearings")

5 https://fas.org/sgp/crs/misc/RL33225.pdf ("Supreme Court Nominations, 1789 to 2017: Actions by the Senate, the Judiciary Committee, and the President")

6 To be clear, not every nominee had a hearing after Brandeis. The next six nominees did not. But when there were hearings, this was the first and the precedent. Sources disagree on when hearings became standard procedure. Felix Frankfurter in 1939 or John Harlan II in 1955 are commonly listed.

7 Harlan F. Stone would be the first to do so, primarily to answer questions about his actions as attorney general. The practice would not become regular until the mid-20th century. As well, there were six nominees between Brandeis and Stone who either did not have a hearing, or had one in private.

8 One of those who voted against confirmation was Senator George Sutherland of Utah, who would in 1922 join Justice Brandeis on the bench.

9 *Whitney v. California*, 274 U.S. 357 (1927) (Brandeis, J., concurring).

10 *Olmstead v. United States*, 277 U.S. 438 (1928) (Brandeis, J., dissenting).

11 *New State Ice Co. v. Liebmann*, 285 U.S. 262 (1932) (Brandeis, J., dissenting).

LAW WEEKLY FEATURE: Organization Spotlight—Virginia Law Women

Each week, the Law Weekly *showcases a Law School affinity group in a feature we call "Spotlight." Our goal is to give leaders a regular platform to inform readers about their goals and to educate the UVa Law community about their diverse perspectives. If you or your organization would like to be featured, please send an email to editor@lawweekly.org.*

Manal Cheema '20
Guest Columnist

I became involved with Virginia Law Women (VLW, not to be confused with *Virginia Law Weekly*) because I wanted to help strengthen this incredible organization and further integrate women into the Law School and the legal profession. As Vice President, I am working on improving our institutional knowledge and reinforcing our organizational structure. I appreciate how VLW empowers its members with academic resources, mentorship, and professional development opportunities while bringing light to gender equality issues within the legal field. Our board is made up of nineteen fantastic women, including our three newly elected 1L representatives. (Shout out to Jacqueline Foley '21, Nicole Pidala '21, and Grace Hauser '21 who will serve as this year's 1L reps!) We are excited to welcome them to the board.

Our organization works hard to be representative of our members. We seek to make our events accessible and interesting to the law school. As former VLW President Mary Hughes stated in a 1978 *Virginia Law Weekly* article, "the range of views among the women at the Law School is broad. It is difficult for one organization, which represents a single stance, to appeal to such a wide spectrum." But we certainly do our best. Facing the board in 1978 were conversations on the Equal Rights Amendment, two-career marriages, and images of women in the media. While women still face these issues today, we continue to innovate with what VLW offers through content and programming.

This year, we have revitalized our website to make it more user-friendly and helpful to our members. We have added guides covering professional development, academic resources, course selection, fun activities in Charlottesville, and more. Our website also features our newly-organized outline bank, managed by Judy Baho, our Scholarship Chair. She has been wonderful in supporting our members academically and assisting with our programming. VLW's presence does not end merely with our website. Darcy Whelan, our Secretary, is a champion of social media and I highly recommend you visit our Facebook and Twitter pages for some fun content she's curated.

VLW hosts many events throughout the year, thanks largely to our incredible Events Co-Chairs Caitlin Ditto '20, Jane Riddle '20, and Hannah Blazek '19. Through the popular Student–Faculty Dinner Series and the Faculty Wine and Cheese Night, VLW promotes professor–student connections. Our Wine and Cheese Night was a huge success, thanks to Caitlin Ditto. One of her many feats was managing two Costco shopping carts possessing thirty-four bottles of wine and an untold amount of cheese, crackers, and cookies. Launching with sign-ups this week is our Student–Faculty Dinner Series, organized by Jane Riddle. It will feature fourteen-to-fifteen dinners graciously led by faculty members. Additionally, thanks to the wonderful drive of Hannah Blazek, we also offer golf lessons and sponsor a softball team. This year, our name is Pitch, Please!

We also host the widely-attended Women in Public Service (Nov. 7) and Women in Big Law (Spring) events, headed by our dedicated Alumni Relations Co-Chairs Taylor Elicegui '20 and Rachel Staub '20. These are informational and networking opportunities, bringing accomplished women lawyers to UVA from around the country. In support of these events, VLW is planning a Clothing Swap for students to update their professional wardrobe (mid-October). We will also be offering an opportunity for our members to have their headshots taken at the event. Alexis Wallace '20, our Community Outreach Chair, is doing a phenomenal job laying groundwork. Needless to say, VLW's programming would be far lesser without our finances, and I am sure Sydney Mark '20, our illustrious Treasurer, can affirm that.

In addition to our own events, we have also instituted a co-sponsorship committee to ensure that VLW works with the many organizations at the Law School to put on events appealing to our membership. We are also organizing our VLW Mentorship Program to pair 2Ls and 3Ls with 1Ls. Ali Goldman '19 and Brooke Bean '20, our fantastic Admissions Co-Chairs, are working hard to gauge whether students want a mentor for academic, professional, or social purposes and then pairing them accordingly. Don't forget to look out for programming by our phenomenal members-at-large, Amanda Lineberry '19, Katherine Mann '19, and Kellye Quirk '20, who are actively working to ensure VLW is supporting all of our members and contributing to the law school community.

Finally, and certainly not least, Virginia Law Women would be nothing without our brilliant President, Kendall Burchard '19. I cannot emphasize how much her leadership, vision, and dedication has already improved this organization (and it's only September!). She is the epitome of what VLW seeks to be: supportive, ambitious, and a promoter of women in the legal profession.

It is an honor and privilege to work with such an incredible group of women. I am excited to see how VLW achieves its goals of supporting our membership and law school community throughout this year.

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Letters To The Editor

A Proposal to Give Diversity Its Full Meaning at UVA Law

Jacob William Roth '19

Diversity has two parts. The first is getting people of diverse backgrounds, beliefs, and values in through the door. The second is learning from the beliefs, values, and practices that result from backgrounds different from our own. This does not mean we must agree or refuse to acknowledge our differences. It means understanding differing views so that we disagree with them well.

UVA Law has focused on the community's ability to accept diverse people. But diverse people bring with them diverse ideas, and the community's ability to understand and learn from those ideas is what gives diversity its meaning. The promise and premise of diversity is not only that opportunities are available to those who have not had them previously, it is also that opportunities are available to all people within the community to learn from disagreements and challenges they never would encounter otherwise.

My experience provides an illustration of the difference between the two parts of diversity. I am an increasingly observant Jew who entered 1L year with a Jewish identity that was only ethnic. My views and values have changed from 1L year as I have studied the faith and become more observant. I was accepted by the entire community for the idea of being a Jew. I still am now, but when my views and values changed due to my study in Judaism, those views and values were mischaracterized, mocked, or dismissed. The same people who welcomed me into the community and valued the diversity of my Judaism pushed back against that same Judaism in practice when the values I took from it diverged from their own. This was not caused by anti-Semitism or bigotry. Instead, it was because these people could not understand how a person could be both moral and disagree with them on the issues where we diverged.

The issue is not that my values and beliefs have been contested. I do not want mere agreement or meek avoidance of differences. I already know what I think and how I think it. What I want—and what we all should want (and need)—is disagreement: disagreement that is strong and serious, while in good faith and convincing; disagreement that forces us to be better in how we hold our beliefs or else be forced to change our minds if we cannot meet the challenge.

We all already have the skill set to have these disagreements. We came here to develop them and have been doing so each day in class. The skills we develop and use in the classroom we often refuse to use outside of it. The tools are in our hands, but we need the instinct and habit to use them.

It is ironic that we consider the standards and methods that we employ for pursuing truth and persuading our peers—e.g., good faith debate, honest evaluation of evidence, understanding the full strength and accuracy of the other side even as we oppose it—important enough for a case of theft or fraud but not for what we declare to be really important, like abortion, war, racism, or inequality.

We can only honor and benefit from diversity in its full meaning when we work through our disagreements by first understanding the other's views as they do, on their terms and as they see them—not as they first appear to us. No lawyer could avoid getting laughed out of court if he did not understand the other side's brief in its full strength prior to disputing it. So too do real diversity, acceptance, and respect for the humanity of others mean learning to see other's values and beliefs as they see them. Disagreement will and must happen, but after understanding, for it is prejudice and bigotry if it happens before.

We are UVA Law. We have a tradition of collegiality and excellence in the craft of principled, fruitful disagreement. We should honor our institution and give credit to our education by bringing our skills out of the classroom and into the halls; for if we brought what we too often practice in the halls into the classrooms instead, we would realize how farcical it is.

Our natural instinct is to eschew reason, good faith, and understanding when what is right is embattled, but it is precisely for that battle that our craft was developed. The skills and standards we are taught are for finding the truth in things that emotional, moral, and determine the justness of society.

Tuesday, a vote will be held on a proposal to add a Cultural and Intellectual Diversity subcommittee to SBA's Diversity Committee. Its purpose will be to help us practice applying our skills outside the classroom, in the emotional, moral cases we dispute in our community. The Cultural and Intellectual Diversity subcommittee will look at the state of diversity at UVA Law. It will find ways to repair dialogue, continuing and expanding the work of programs like Common Law Grounds, so that when we disagree, we do so well and learn from it, just as a diverse community has the power and duty to do.

Go to the SBA website and contact a representative for SBA to express your interest in "YES" for the Cultural and Intellectual Diversity Subcommittee and honor the promise and meaning of diversity.

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Staff Spotlight: Kimberly N. Hopkin '19

Kimberly N. Hopkin

Law Weekly Position: Development Editor

Hometown: Orlando, Fla. (Although I have lived in Phoenix, Ariz., Fairbanks, Alaska, Honolulu, Haw., Colorado Springs, Colo., and Anchorage, Alaska as well)

Undergrad: United States Air Force Academy (so some would say this is my first "college experience")

Favorite Law School Activity: LIBEL! It's so much fun to be a little silly and make fun of ourselves

Favorite Wine: It goes by the season: Summer: rosé, Fall: red blends, Winter: champagne, Spring: dry Riesling

Spirit Animal: Sometimes I'm a Raccoon, sometimes I'm a Golden Retriever; there is no in-between.

Greatest Achievement: I have spent years and hundreds of dollars to create and maintain the perfect bed. Reasons I don't go out late at night: Goose down comforter, 800 thread count sheets, six pillows of differing firmness, and a linen duvet comforter.

Favorite Movie: It's a tie between Butch Cassidy and the Sundance Kid and While You Were Sleeping.

Why I Joined the Law Weekly: A section-mate invited me to a student org that gave me free pizza in exchange for building a social media presence. Alex Haden '17 was one of my favorite PAs, so I kept going to gain some magical mentorship from him.

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 en banc *Court comprises nine 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 jmv5af@virginia.edu.*

Coalition Against Tacky Spelling (CATS) v. Law Weekly

892 U.Va. 150 (2018)

VanderMeulen, C. J., delivered the opinion of the *en banc* Court, in which Mann, Zablocki, Malkowski, Schmalzl, Elicegui, and Ranzini, JJ., joined. Hopkin, J., filed a dissenting opinion, in which Lamberth, J., joined and Jani, J., joined in part.

Chief Justice VanderMeulen delivered the opinion of the Court.

You wrote "UVA" wrong, they tell us. Since the Justices of this Petty Court took our oaths of office atop old, derelict boxes of Domino's Pizza in the *Law Weekly* offices, the good members of this Law School community have badgered and annoyed us with claims that we have incorrectly rendered the initials of this fine institution, which we write as "UVa." What's more, the Members of this Court moonlight as copy editors assigned the mind-numbing task of editing everyone's submissions from "UVA" to "UVa." The madness ends today.

This case comes to us on appeal from the Court of Petty Griping, where Judge Grace Tang, a spirited 1L just getting her petty training wheels, ordered judgment for appellee Coalition Against Tacky Spelling (CATS) after a three-day bench trial. Judge Tang found that CATS had standing despite the fact that the dispute is not really about spelling and issued an injunction ordering the *Law Weekly* (i.e., me) to change henceforth its rendering of this University's name from "UVa" to "UVA."

CATS is a coalition of groups that oppose silly spellings and abominable acronyms. The cases it has fought include *CATS v. SAB*, 415 U.Va. 212 (1985) ("'Student Association of Bars' makes no sense, idiots. Make it SBA."); *CATS v. KDon*, 715 U.Va. 300 (2010) ("'Fried,' 'Meagher,' 'Debevoise,' and—we can't believe we have to even try to spell this—'Cadwalader' are all hereby officially ordered to figure out their shit.") Don't even get us started on *CATS v. Exclusive Elitist Bros Who Occasionally Play Softball*, 630 U.Va. 719 (1998). It brought this case on the theory that the *Law Weekly*'s traditional rendering of this University's abbreviated name is "antiquated," "vestigial," and "really confusing." It contends in its brief before this Court that "no one else spells UVA like this" and "the *Law Weekly* should really catch up with the times and spell out the University's initials like everyone else in the world." Dean Kendrick is the head of CATS, and we really like her, so we're going to try our best to handle this one professionally.

First, a brief note on standing. It is of course a cardinal rule of petty law that complainants must be able to demonstrate "actual outrage" caused by the defendant's action and redressable by this Court. Of course, Petty Rule of Civil Procedure 1 pretty much sums up our feelings about standing. "We do what we want." Implicit in this statement is the power to do whatever we want. *See GOOGLLE v. Dugas*, 9 U.Va. 1 (2017) (opinion of Haden, C. J.). Therefore, we affirm Judge Tang's ruling below and hold that CATS' outrage at "UVa" suffices to grant them grounds to sue this paper.

> *"Spellings must be subject to . . . 'the evolving standards of orthographical decency that mark the progress of a maturing newspaper. . .'"*
> —VanderMeulen, C.J.

It would be informative here to conduct a broad survey of the history of abbreviations of the University of Virginia, but we're running up against a deadline here and tbh it's probs not that interesting. We do know this: For many years, the *Virginia Law Weekly* and other prominent sources (including local and national newspapers) referred to our University for short as "U.Va." When Professor John C. Jeffries, Jr. '73 (may he live forever) announced his plans for the Law School upon his selection as Dean, the *Law Weekly* ran the story under the headline "Jeffries Reveals Vision for U.Va. Law."[1] As far as we can tell, this was the tradition right up until about 2014 or so—except, weirdly, the 2009 edition I recently found with a picture of a young, mustachioed Joe Fore,[2] which used "UVA." At that point, we switched over to "UVa" which looks odd and unbalanced and which no one uses.

As the times change, so too must spellings. We hearken to the opinion of our Brother Warren in *Trop v. Dulles*, 356 U.S. 86 (1958), where he noted with his customary magnanimity that spellings must be subject to "the evolving standards of orthographical decency that mark the progress of a maturing newspaper." We take seriously the Supreme Court's mandate[3] and note that being asked to go to the theater is annoying enough without your pretentious friend spelling it "theatre." Where would we be if we still had to put the annoying "u" in "armor" and "favor"? Who would console us if we

1 Jonathan Riehl '02, "Jeffries Reveals Vision for U.Va. Law." *Virginia Law Weekly*, April 20, 2001.

2 See a future edition because you better believe we're runnin' that baby front and center.

3 When we feel like it. *See* Petty R. Civ. P. 1, *supra*.

Faculty Quotes

R. Harmon: "Client control is very important. Tell them to shut the hell up, don't say anything!"

F. Schauer: "Yes, this is stuff that would convince anyone to take their book, throw it against the wall, and ask if add/drop is really over."

A. Vollmer: "You know about Snapchat?"

K. Kordana: "No no no, sure sure sure sure sure sure."

J. Harrison: "Sai [Prakash] is an edgy kind of guy in general . . . and he's farther along in terms of when he's willing to eat a banana."

M. Gilbert: "I can't let the bandits in and say, like, you can only get that guy."

J. Setear "I have a theory about that, but I can't talk about it in class."

M. Brady: "I have also ended up accidentally a part of HOAs in my life, and I'm a freaking local government professor."

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

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still had to render "old" as "olde"? And, most importantly, I defy my dissenting colleagues to defend the use of that stupid symbol in the Constitution that looks like an "f" but is actually an "s." Changing how we spell words and abbreviate is as natural as the progression of society itself. Try looking at the abbreviations in the Blu*book[4] and telling the Court they're intuitive. "Ry." for "railway"? Rly? Come on!

Similarly, the standards of spelling for the University of Virginia have changed. It would require only a cursory look at University marketing materials and emails to know that the University calls itself "UVA." Our shirts say it, our emails say it. It's time for our newspaper to say it. A decision this grave and widely felt should not, of course, be taken lightly. We spent a whole hour-and-a-half on this opinion and looked at, like, six past editions. We daresay an examination this thorough is more than sufficient to grant us an understanding of the emanations and penumbra of the Founding Spirit of the *Law Weekly*. In those emanations can clearly be seen the justification for keeping up with the times. As Justice Douglas might say, "Out with the old, in with whatever we think makes sense at this precise moment in time!"

My colleague Justice Hopkin notes that the *Cavalier Daily*, our sister paper on Main Grounds, uses "UVa." That's all fine and dandy and may be true. The Court wouldn't know; none of us has ever picked up a copy of the *Cavalier Daily*. But we don't really like the undergrads. *See, e.g., McGuire v. Annoying Vaping Sorority Women Back By The JAG School Windows*, 887 U.Va. 13 (2018) ("GET. THEM. OUT OF HERE.") In fact, the undergrad newspaper's continuing use of "UVa" persuades us that the change to "UVA" is even more overdue.

We hold that the standards of orthographical decency have evolved: This newspaper shall henceforth render the University of Virginia's nickname as "UVA."

It is so ordered.

Justice Hopkin, with whom Justice Lamberth joins and Justice Jani joins in part, dissenting.

When the Court received this complaint, there was some initial confusion. After all, people that I work with, love, cherish, my family away from home, suddenly wanted to capitalize the "a"? I didn't know so much of the Court could live with being so blatantly wrong.

Since I consider this Court to be the only people in a position of power, I dissent with full consideration of the importance of the outcome. The question is should the *Virginia Law Weekly* pander to unlearned masses who do not understand that "UVa" is the correct abbreviation for publications to use when referencing the University of Virginia? The answer is: "Never give up. Never surrender."

Before the Court answers the question on the merits, the Court recognizes the typical expectation is to review all that business about mootness and injury and "stuff." But as Rule 1 of the Petty Rules of Civil Procedure clearly states, "We do what we want," the Court will be skipping this part of the opinion no one wanted to read anyway. The Court assumes the Blu*book follows the full format with the periods. The Court is unable to check to confirm, because we all shredded our texts upon receiving that fabled "S-" in Professor Fore's class after not laughing at his PowerPoint jokes. The Court did task its clerks with researching the issue, but as it turns out we do not have clerks.

In response to Judge Tang, we are *not* the only ones who spell it "UVa." *The Roanoke Times* and *Daily Progress* refer to the University as "UVa." Although *The Washington Post* and *Richmond Times* both use the more complete abbreviation ("U. Va."), the sentiment is the same. UVA looks like an acronym in which the "a" should stand for something *when it stands for nothing*.

Yes, it is true that the University of Georgia, University of Maryland, and University of Vermont also use the full postal state designation in their abbreviation, resulting in non-acronym results. The Court is not against the use of the full postal code. The Court is only against mixing an abbreviation into an acronym and capitalizing all the letters—that most egregious abomination of hybrid language. For instance, the Court is fine with UNC as an abbreviation for the University of North Carolina. But where is the "A" here? VirginiA?

"But we're *not* those other universities!" says Tang. I agree with her sentiment and, therefore, did some research on what is happening on Main Grounds. *The Cavalier Daily*, the University of Virginia's undergraduate daily newspaper, does not capitalized the "a," either! The Court knows how important Thomas Jefferson's Original University ("TJOU," if you will) was to him. Therefore, the Court can only assume Thomas Jefferson wanted the "a" to be lowercase.

Ruling as I would rule does not mean every person wearing a sweatshirt in the hallway emblazoned with "UVA" would be ostracized. It simply means that serious publications with hard-hitting journalism containing the voice of the people would continue to use the abbreviation that former Chief Justice of this Court Alex Haden '17 so artfully left us. That's right, this Justice texted Haden, and he's very disappointed (that this dispute was the "hot gossip" he was promised).

I am technically correct: the best kind of correct, and the only kind of correct for a publication of our repute. I recommend Tang and her fellow "CATS" go bother Law Review.

I respectfully dissent.

Justice Jani, dissenting.

I join my colleague Justice Hopkin's dissent except as it pertains to my beloved University of Georgia (Go Dawgs). I write separately only to note the Court's impotence in this tumultuous age. The Court should know, in the din of this School, the *Law Weekly* is a whimper in an infirmary. Like all of us and everyone who ever lived, this misguided decision will soon be forgotten, merged into the endless mists of forgotten history. Good riddance.

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4 Like He-Who-Must-Not-Be-Named from that popular series of children's books, the name of the Most Hated Book should never be spelled out in its entirety.

HOT BENCH

Dominique Fenton '21

Interviewed by Christina Luk, 1L

Hello, Dominique! Thanks so much for coming to Hot Bench. Let's start things off easy – What kind of pastry do you prefer, croissants or éclair? I hate to get to be that guy, but a croissant is technically viennoiserie, not pâtisserie (pastry).

What a fascinating distinction. Are baked goods a passion of yours? Funny you should ask! I spent a few months as a baker's apprentice in my mom's hometown in France before moving to Charlottesville.

Did you grow up in France? I was born and raised in Southern California, but spent my summers in France as a kid.

Any aspirations to return to California or to France after law school? Maybe to California, though I haven't lived there in twelve years!

Where have you wandered these twelve long years?? Four years in Connecticut, four years in New York, three years in South Dakota, and one in Texas/France!

If you could take a week off right now, which of those places would you revisit? South Dakota, without a doubt.

Dark horse, South Dakota! What did you do there? I lived and worked on the Pine Ridge Indian Reservation, home of the Oglala Lakota Nation, first in education but primarily in criminal and family justice.

Did you bring anything with you from there when you moved to Charlottesville? A number of things, including my dope dog Mato!

Now that you're here, what's one thing you're most looking forward to at UVA? Convincing as many people as possible of the immeasurable value of a career in public service! The bonus is paid out in your hearts, people.

Okay, Lightning Round:

Favorite food? Mom's cooking.

Favorite sound? The sound of #NOGI in late summer.

Favorite place in Charlottesville? My bedroom in the woods.

Anti-stress hobby? Long walks. The most I've done in a day is 40 miles.

Motto to live by? Tread lightly and deliberately.

Pet peeve? Overcooked pasta.

Deepest, darkest fear? Disappointing my immigrant mother.

If you could ask yourself a question 10 years in the future, what would you ask? How is America's experiment with democracy going?

If you could tell yourself something on the first day of law school that you know now, what would it be? You will meet kind, wonderful people.

What is your beverage of choice in the morning? Tea or a smoothie.

What's something meaningful you want to do with your J.D.? If I can help move the needle in at least a few people's lives, I'll be happy.

If you were reincarnated as an animal, which animal would it be? A leatherback turtle.

Does your dog snore? No, but I allegedly do.

What's one movie that left an impression on you? Wong Kar-wai's *In the Mood for Love*.

What's one question you came to law school to answer? What, like it's hard?

And lastly, a reader favorite: What are the 7 wonders of the law school? The Public Service Center, Sandy Harris in Financial Aid, §C, Dean Cordel Faulk, gunner pit stops, Professor Albert Choi, and the $25 worth of free printing (but is it really free?)

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LOOKING BACK: 70 Years of the *Law Weekly*

An Unwelcome Reminder of Our Unpreparedness

"Know anything about local rules? Electronic filing? Chambers procedures? Vendor-neutral citation format? Compiling an appendix to the briefs? If not, you will soon. Clinical experience is probably the best way to become acquainted with the nuts and bolts the law firm will likely assume you already know." Library News, "Reality Check," *Virginia Law Weekly*, Friday, September 30, 2005. *I'm confused—you mean to tell me that my law practice will not revolve around assessing Fourteenth Amendment claims and the implied warranty of habitability?*

Which Do You Prefer: #JoeForesBeard or #JoeForesStache?

"For the gentlemen of the law school, start a mustache growing competition. The men from Section H engaged in such a facial challenge last year with a wide array of results. The proliferation of Inigo Montoyas, musketeers, and Harley Davidson joyriders around the law school will bring welcome smiles to all." Lauren Kapsky '10, "Winter Blues: A Preparedness Guide," *Virginia Law Weekly*, Friday, November 20, 2009. *This is a plea to Professor Fore and the Law School community at-large: please bring back the Inigo Montoya inspired moustaches.*

Some Things Never Change

"In general, the Administration has taken a much

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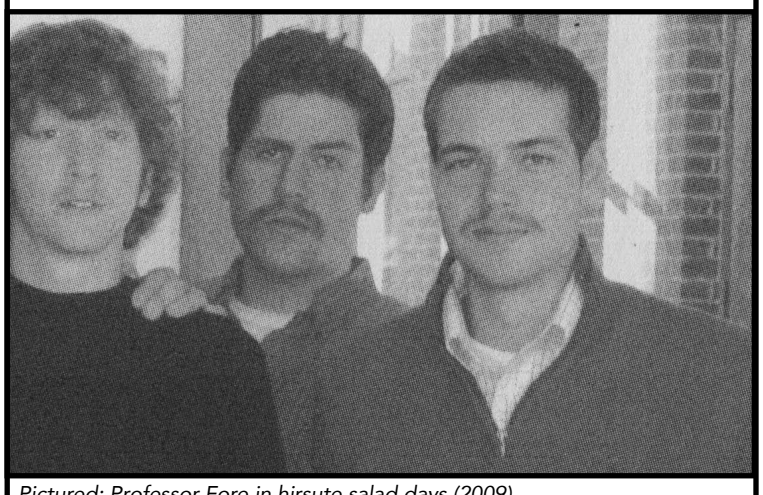

Pictured: Professor Fore in hirsute salad days (2009)

LOOKING BACK

continued from page 5

more active role in both selecting and scheduling the activities for the [Admitted Students] weekend... The Administration has justified this shift in control by openly stating that they are concerned with improving the school's prime recruiting experience, despite all objective criteria indicating the overwhelming success of U.Va.'s Admitted Students Weekend. In particular, responses by some prospective students who have turned down U.Va. because they were turned off by the 'fraternity' or 'old-boy' atmosphere of U.Va. Law have prompted the administration to add more balance to what some perceive as a weekend of events heavy with drinking and socialization." Alex Benjamin '03, "Admitted Students Weekend: A Case of False Light Defamation?" *Virginia Law Weekly*, Friday, September 27, 2002. *I was amazed to learn that SBA used to plan ASW and wanted to share that little tidbit. I think it's for the best that we now have to hide our frat-boy tendencies until softball season rolls around, though.*

A Blast from the Political Past

"VLW will continue its support for the Equal Rights Amendment. Unless there is an extension of the ratification deadline by Congress, 'our efforts will be redoubled this year in pushing for ratification,' Hughes says. VLW also intends to recruit top undergraduate women from Virginia colleges for the Law School. The organization is planning a panel discussion by professionals in October on the subject of two-career marriages." Jon Hauser, "VLW Seeks New Members; Plans Conference for Spring," *Virginia Law Weekly*, Friday, September 29, 1978.

RIP Foxfield

"To paraphrase the old adage: Some Law School events are born great, some become great over time, and some have greatness thrust upon them. This Sunday is Foxfield, a Law School event which is truly great for all three of those reasons." Vanguard of Democracy, *Virginia Law Weekly*, Friday, September 27, 1996. *I'm very sorry to the 1Ls, who will not get to experience this great event. I'm even sorrier for my fellow 2Ls, who will not get to benefit from the food and drinks the 1Ls provide. This new Fauxfield event has a lot to live up to, but the name gives me hope—really a great pun and bonus points to whoever came up with it.*

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Softball Scores:

Week 1:

Habeas Porpoise/Section H '21 over Bam's I's/Section I '21: 5-4

Rip's RAngers/Section A '21 over Docket Like It's Hot/Section D '21: 10-9

F Bombers/Section F '21 over Justice RBIs/Section J '21: 8-7

Week 2

Habeas Porpoise/Section H over Justice RBI/Section J 18-1

Section I '19 over DDD 16-3

CRG over VLW 9-1

Rip's RAngers/Section A over Good Not Great/Section G 8-6

Docket Like It's Hot/Section D over F Bombers/Section F 7-4

Bam's I's/Section I over C's and Desist/Section C 6-4

Inglawrious Batters/Section I '20 over Nerd Herd/Law Review 15-14

Legal E's/Section E over Good Not Great/Section G 10-5

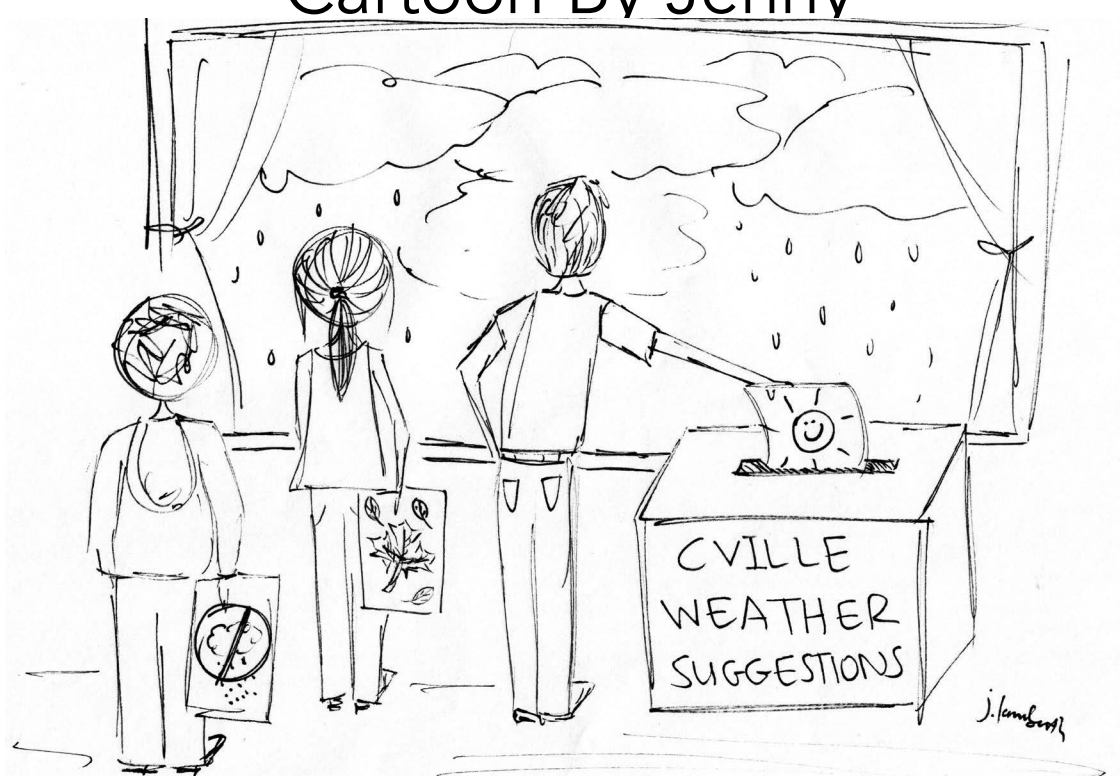
C's and Desist/Section C over Beyond a Reasonable Out/Section B 10-5

Well Hung Jurors over 3L Six Mafia 16-13

A'Notha One/Section A '20 over Fed Sox/Federalist Society 17-7

Fairly Odd Patents/Section F '19 over Fed Sox/Federalist Society 15-7

Cartoon By Jenny



THE DOCKET

Time	Event	Location	Cost	Food?
		Wednesday – September 26		
11:30 – 12:30	Lambda: What I Wish I'd Known As a 1L: Tips for Academic Success	Purcell	Free	Wish *we* knew.
12:30 – 13:30	Common Law Grounds: Norms and Standards Behind Judicial Confirmations	Caplin Pavilion	Free	Lunch provided
17:15	Leading the State: UVA's Attorneys General	Caplin Pavilion	Free	Reception eats
		Thursday – September 27		
11:30 – 12:30	FedSoc: Justice Kennedy: Distinguished, Destructive, or Disjointed?	Caplin Pavilion	Free	Chik-fil-A, Chik-fil-A, or Chik-fil-A
12:00 – 13:00	Law & Public Service Pizza Social	Purcell	Free	It's right there in the name!
12:00 – 13:00	What Every Lawyer Should Know About Client Relationships	WB 152	Free	*This message is confidential and may be covered by the attorney-client privilege, work-product doctrine or…*
13:00 – 13:45	Va. Emply't. & Lab. L. Assoc.(VELLA) General Body Meeting	WB 101	Free	"Lunch"
16:00 – 18:00	One Year After Charlottesville ft. James Forman Jr.	Paramount Theater	Free w/ pre-registration	----
		Friday – September 28		
07:30 – 19:30	One Year After Charlottesville Symposium	Caplin Pavilion	Free w/ pre-registration	----
		Saturday – September 29		
11:00 – 12:00	Emancipation in History and Memory	Rotunda, North Oval Rm.	Free	----
18:30 – 10:00	Dark Skies, Bright Kids Star Party	Albemarle Ciderworks, North Garden VA	Free	For purchase onsite
20:00	Charlottesville Symphony: Sibelius's 2d	Old Cabell Hall	Free w/ pre-registration	----
		Sunday – September 30		
14:00	Film: Como nossos pais	Nau Hall 101	Free	----
		Monday – October 1		
12:30	Sidley Austin & Private Equity Work	WB 126	Free	Lunch + flyers and a S|A branded hand sanitizer
13:00	Landing a Judicial Clerkship	Purcell	Free	----
16:00 – 17:00	VELLA Professor Meet-and-Greet	Purcell	Free	Heavy appetizers
		Tuesday – October 2		
15:45	Budgeting for Life	WB154	Costs only time	----
		Wednesday – October 3		
18:30	Lambda: Ele(Q)t Project for LGBTQ+ Leadership ft. Danica Roem	Caplin Pavilion	Free	----

SUDOKU

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Solution

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