



VIRGINIA LAW WEEKLY

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

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Wednesday, 9 November 2022

The Newspaper of the University of Virginia School of Law Since 1948

Volume 75, Number 10

Letter to the Editor: On "Collegiality"

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Collegiality. What is it? Tl;dr, it's a nebulous concept at best and a tool to perpetuate discrimination against some of our Law School's most vulnerable people at worst. Everyone I have asked about what collegiality means gives a different answer. Is it waving at a peer in the hall with a smile? Is it sharing notes when someone misses class?

For my past three years at UVA Law, it's meant being tame and polite in the face of blatant homophobia and transphobia. It's being told to "bite my tongue" when someone shares a transphobic article on my Con Law class's Zoom chat justifying depriving trans children of medically-necessary gender-affirming care. It's being "placed on notice" by my peers on Reddit when we organize a protest against Dallin Oaks—a man who oversaw the enforcement of electroshock and vomiting aversion therapy and other means of intimidation against the queer community. It's not being able to share how I truly feel about a Scalia dissent in class because I would be just another triggered leftist snowflake. It's only getting barely a quarter of the Law School to sign onto a Lambda petition asking for people to support us.¹ It's been people campaigning for homophobic and transphobic politicians like Glenn Youngkin showing up to queer spaces like Halloqueen.

Now, it's an expectation to be "civil" when homophobic and transphobic speakers keep on getting invited to UVA Law with open arms. The Federalist Society at UVA has invited Erin Hawley, the senior counsel at the Alliance Defending Freedom (ADF), to speak on November 15. The Southern Poverty Law Center has designated the ADF as a hate group, and rightfully so in my opinion. ADF has pushed for recriminalizing queer peo-

¹ Spencer Haydary was the president of Lambda Law Alliance at UVA for the 2021-22 school year, and does not currently speak on behalf of the organization.

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Professor, Activist, and Student Leader Investigate Jackson, MS Water Crisis



Pictured: Jackson, Mississippi. Credit: Brookings Institution.

Ethan Brown '25
Staff Editor

On November 1, the Student Bar Association ("SBA"), the Black Law Students Association ("BLSA"), and Southeastern Wahoos welcomed three panelists to the Law School to discuss the ongoing water crisis in Jackson, Mississippi. In addition to delving into the specifics of Jackson's particular situation, panelists also discussed disrepair and infrastructural decay in cities across the country and emphasized the importance of local community activism.

The three panelists—Hope Cupit, Jordan Jefferson, and Professor Richard Schragger—were joined by moderator and BLSA President Keegan Hudson '24. All the panelists had expertise either with Jackson itself or with resource accessibility. Cupit leads the Southeastern Rural Community Assistance Project, an organization based in Roanoke that provides access to safe drinking water and other essential services in rural southwestern Virginia. Jefferson is from Jackson and attended college at Jackson State University, where he served as student government president. He now attends the Harvard Kennedy School and is a staffer for U.S. Representative Bennie Thompson, who represents Jackson. Finally, Professor Schragger specializes in urban policy and land use at the Law School.

Jackson's water crisis began in late August, when

heavy flooding contributed to the malfunctioning of the city's O.B. Curtis Water Treatment Plant.¹ Water pressure plummeted and purifying treatments stopped, causing brown, unfiltered water to come out of toilets and faucets throughout the city. In response, Mississippi Governor Tate Reeves issued an emergency order on August 30 that advised all Jackson residents to avoid consuming water from the city's water system. This order, which Governor Reeves has renewed until November 22, has left more than 150,000 Jackson residents without access to clean, safe drinking water.²

While this crisis officially began in August, some activists say it was a long time coming. Jackson's aging utilities infrastructure has been neglected by the state for decades; Mayor Chokwe Lumumba estimates that the city's water system is suffering from almost thirty years of delayed maintenance.³ Jefferson said that the water supply often becomes an issue twice a year, in response to severe weather: during the winter—when it gets cold

¹ <https://www.bet.com/article/2edrwp/jackson-water-crisis-state-of-emergency-extended-mississippi-governor>.

² <https://naacp.org/campaigns/jackson-water-crisis>.

³ <https://abcnews.go.com/US/jacksons-water-problems-deeper-pipes-experts/story?id=89973457>.

and pipes freeze—and during the summer.

Exacerbating the issues of infrastructural decay, Mississippi politicians have failed to direct adequate funding to Jackson to combat these issues. While Mississippi has received federal grant money to improve its water systems for the past twenty-five years, Jackson received funding in only *three* of those years.

As the only panelist who has recently lived in Jackson, Jefferson provided a unique perspective on these issues. Unfortunately, though perhaps unsurprisingly, his upbringing in Jackson was shaped by multiple resource scarcities. In grade school, he had to share books with several other students because his school could not afford copies for each student. In college at Jackson State, one of his football teammates had to be treated for lead poisoning. Even now, Jackson does not have a formal garbage disposal service, following disputes between its mayor and city council.⁴


Jefferson said that these calamities do not occur in the whiter and more affluent suburban areas outside Jackson.


"The more affluent areas in the state have been getting access to water. Their pipes aren't bursting. When


⁴ <https://mississippitoday.org/2022/10/06/jackson-garbage-pickup-halted-contract-dispute/>.


Jackson page 6


around north grounds


 Thumbs up to the Houston Astros. ANG is a diehard Astros fan, not because they are objectively the best team in the league, but because of the massive cheating scandal.


 Thumbs sideways to Election Day. ANG appreciates the ability to participate and the day off, but honestly had no idea who half the names on the ballot were.


 Thumbs up to soup. You've always had ANG's back, and ANG is grateful.


 Thumbs down to the week before Black Friday. ANG appreciates the attempts to switch us all to an earlier shopping day that we don't get off, and would take a principled stand, but also really needs a new set of AirPods.

 Thumbs down to the Law School cafe charging \$4.56 [sic] for a cup of plain coffee. That is literally twice the cost of a venti americano at a Starbucks. Doesn't ANG pay enough in tuition to not be gouged like this???

 Thumbs down to the free library coffee. ANG acknowledges that it is free, but refuses to recognize Peet's as a real coffee blend.

 Thumbs up to the free library coffee. ANG loves bitter things, waiting in long lines for things, and being disappointed. But ANG loves free things above all else.

 Thumbs up to the weather. ANG loves summertime and is looking forward to climate change allowing summer all year long.

 Thumbs up to the 3L bonfire. ANG enjoyed stowing away on the boulder bus and watching from the shadows at the edge of the fire-lit clearing as the 3L class had some fun together.

Judge Daniel Bress '05 Reflects on Legal Career

Andrew Allard '25
Staff Editor



Judge Daniel Bress '05 returned to Charlottesville last Wednesday for an interview with Professor Aditya Bamzai organized by the Federalist Society at the University of Virginia School of Law. Judge Bress's long list of accomplishments include serving as Editor-in-Chief of the Virginia Law Review, clerking for the late Justice Antonin Scalia, and, in 2019, becoming a judge for the U.S. Court of Appeals for the Ninth Circuit. Continuing along this path of greatness, Judge Bress now accomplishes his crowning achievement, one which he may never even know for himself: a feature in the Virginia Law Weekly.

Judge Bress's journey to these auspicious pages has indeed been a circuitous one. Originally from the far-off Garlic Capital of the World—Gilroy, California—he arrived on the East Coast in 1997, when he began his undergraduate education at Harvard. Arriving by a road oft traveled to this Law School, Judge Bress worked as a paralegal in D.C. before beginning as a 1L in Charlottesville in 2002. As he puts it, “I didn't have great plans for anything; things sort of just unfolded.”

Indeed, Judge Bress's story reveals the gravity Charlottesville seems to exert on the legal

world. After graduating, Judge Bress remained in Charlottesville for another year to clerk for Judge J. Harvie Wilkinson III on the Fourth Circuit. In 2006, he began clerking for Justice Scalia, where he met Professor Aditya Bamzai, when the latter was interviewing for a clerkship position. Judge Bress also later returned to Charlottesville on several occasions to teach as an adjunct professor at the Law School.

So, the interview at times felt more like a reunion between two friends. Judge Bress and Professor Bamzai offered stories and praise for the late Justice. Professor Bamzai recalled a time when he, along with three other clerks, convinced Justice Scalia to change his position on a case, though not before the Justice remarked, “I should never have hired all four of you.” Judge Bress, concurring on the important work of clerks, offered an insightful statement on the Justice's legendary stature: “There was this mystique that he knew all the answers, and that wasn't true.” Judge Bress nonetheless praised Justice Scalia's “monumental contribution to law,” particularly in statutory interpretation and his insight into separation of powers. Fondly reminiscing on his time as a clerk, Judge Bress humorously remarked, “If I hadn't clerked for [Justice Scalia], I'd probably have no friends.”

Turning to his own appointment to the federal bench in 2019, Judge Bress spoke on



Pictured: Professor Bamzai and Judge Bress. Credit: Andrew Allard '25.

the challenges and rewards of the position. If you are like me, then you are undoubtedly interested in knowing what the Ninth Circuit tea is. Thankfully, Judge Bress poured us a hot cup—in the reserved and respectful way that one would expect from a federal judge. Unsurprisingly, Judge Bress emphasized the difficulties of the sheer size of the Ninth Circuit, estimating that its immigration docket alone is bigger than the First and Tenth Circuits combined. With such a large docket comes a large and varied group of judges. Said Judge Bress, “We have different personalities, different views of the law.” The judge lamented that a lack of collegiality in the Ninth Circuit—and in the country—is an obstacle to the proper functioning of the judiciary. “There's a general divisiveness in America right now that we would do best to try to tone down. . . . It's important to stick to your principles,

but some of the conversations get shriller than they need to be.” Judge Bress expressed his hope that returning to in-person work would improve collegiality and restore public confidence in the judiciary.

For those readers that look to the twenty-nine-judge court that is more circus than circuit and think, “Yeah, I could do that,” you are in luck. Judge Bress kindly offered his reflections and advice based on his time as a law student. “You have to constantly challenge yourself. . . . The classes that scare you are typically the ones you should take,” he said, naming Tax Law as an example. For students that received the short end of this semester's course lottery, this should hopefully come as a good sign that you are destined for greatness—maybe even a clerkship with Judge Bress himself. It is for this reason, as the judge tells it, that he encourages his clerks to work on the cases that

they find to be the “gnarliest.”

For the 1Ls fed up with negligence, promissory estoppel, personal jurisdiction, or whatever your doctrinal demon is, Judge Bress had the following wisdom: “There are certain staple classes that, in hindsight, make more sense. . . . Torts, contracts, [and] corporations are foundational elements of American law, particularly for a generalist.” There it is. The kick in the pants you needed to get back to outlining. And while I'm reminding you of the things you want to forget, Judge Bress also had some legal writing advice: Focus on your transitions. “Every one of them is an opportunity to lose somebody, or confuse somebody, or anger somebody.”

That may sound like a lot of pressure. Hell, I spent hours on this article, and that was the best transition I could come up with. But I'll close with a final bit of wisdom from Judge Bress, a reminder to us all that it is okay to not have all the answers. Speaking about the challenges of transitioning to his judgeship, Judge Bress said, “Unlike in private practice, I can't call [Professor Bamzai] and ask, ‘What do you think of this?’ I have to ask someone who is twenty-five years old and just graduated law school. So, what could go wrong?” As a twenty-five-year-old myself, what indeed?

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Massive Chess Lawsuit Analysis: Defamation

Jacob Smith '23
Professor Liason Editor



Welcome back to the biggest chess legal battle of all time: grandmaster Hans Niemann's defamation suit against current chess world champion Magnus Carlsen, streamer and grandmaster Hikaru Nakamura, the website Chess.com, and others—a suit that was instigated by Magnus's accusation that Hans cheated at the Sinquefeld Cup. Last week's article introduced the bare bones of the dispute and analyzed whether the defendants would be dismissed for lack of personal jurisdiction. To recap, my opinion is that the Missouri court has jurisdiction over Magnus and possibly Chess.com, but probably not the other defendants. This week's article digs deeper into the allegedly defamatory statements.¹

Choice of Law

Missouri choice-of-law considers four factors: the place of the injury, the place of the conduct causing the injury, the location of the parties, and where the relationship between the parties is centered. The state with the most significant relationship is presumed to be the state where the injury occurred.² In a case involving

¹ I am not a lawyer, so do not rely on the claims made in this article.

² *Winter v. Novartis Pharms. Corp.*, 739 F.3d 405,

“widespread dissemination” of the defamation, “the most important consideration in choosing the applicable law is the residence of the party allegedly defamed,”³ under the theory that reputational harm hits you hardest where you live. Hans resides in Connecticut, so Connecticut law may apply. Missouri law is an alternative possibility, given that the St. Louis Sinquefeld Cup and Magnus's withdrawal from the tournament remain at the center of the lawsuit.

The defendants might argue for Connecticut law so they can invoke Connecticut's anti-SLAPP (strategic lawsuit against public participation) statute. In certain defamation cases, the anti-SLAPP statute allows for a “special motion to dismiss” where the court conducts an expedited hearing, can consider affidavits, and awards attorney's fees if the case is dismissed.⁴ But even if Connecticut law were to apply, there is a circuit split about whether anti-SLAPP statutes are procedural or substantive. If the court thinks they are procedural, they will not apply to cases, like this one, brought in

410 (8th Cir. 2014).

³ *Fuqua Homes, Inc. v. Beattie*, 388 F.3d 618, 622 (8th Cir. 2004) (citing *Elmore v. Owens-Illinois, Inc.*, 673 S.W.2d 434, 436–37 (Mo. 1984)).

⁴ Conn. Gen. Stat. § 52-196a.

federal court.

Defamation Elements

Hans's complaint included other claims, but this article will just discuss defamation. The elements of defamation under Missouri law are “(1) publication (2) of a defamatory statement (3) that identifies the plaintiff, (4) that is false, (5) that is published with the requisite degree of fault, and (6) that damages the plaintiff's reputation.”⁵ Connecticut has a similar test.⁶ Commentators seem to think the degree of fault is likely reckless disregard because Hans is a limited public figure for purposes of chess.

Most of the elements are not seriously contestable. Those in dispute should be first, whether the statements were false, and second, whether the defendants recklessly disregarded the possibility of falsity. The defendants can also raise defenses. In particular, they may argue that a defamatory statement was a statement of opinion, although such a statement is still actionable if it “could reasonably be interpreted as implying objective facts provable as false.”⁷ The opinion

⁵ *Turntine v. Peterson*, 959 F.3d 873, 882 (8th Cir. 2020) (citing *Overcast v. Billings Mut. Ins.*, 11 S.W.3d 62, 70 (Mo. 2000) (en banc)).

⁶ *Gleason v. Smolinski*, 125 A.3d 920, 947–48 (Conn. 2015).

⁷ *Smith v. Humane Soc'y of U.S.*, 519 S.W.3d 789, 800

defense will likely be a major focus at the motion-to-dismiss stage, since you can't very easily prove truth or falsity on the pleadings.

Accusations of Cheating

Magnus's allegations of cheating may well survive a motion to dismiss. Magnus withdrew from the Sinquefeld Cup—a very unusual step—and posted a video of a soccer manager saying, “If I speak, I am in big trouble.” These steps, combined with the heightened tournament security measures that Magnus allegedly requested, clearly conveyed the claim that Hans had cheated. Magnus did not explain at the time why he thought Hans cheated, but he later asserted that Hans's progress as a chess player “has been unusual” and that he “wasn't tense or even fully concentrating on the game in critical positions” in beating Magnus.

A defamation claim based on Magnus's allegations of cheating is likely to survive a motion to dismiss, as David French and Sarah Isgur have argued on the podcast *Advisory Opinions*. Magnus could be seen as stating an objective fact, and even as recklessly disregarding the possibility that he was wrong, given the scanty proof he has made public and Hans's allegations that he had good reason to resent losing.

Accusations of Lying

Magnus, Chess.com, and Hikaru also all accused Hans of lying. After Hans admitted to a limited amount of online chess

cheating, Chess.com stated on Twitter that it had shared evidence with Hans that “contradicts his statements regarding the amount and seriousness of his cheating on Chess.com.” Chess.com later doubled down on the accusation in their seventy-two-page report. Hikaru agreed with Chess.com that Hans was not being fully transparent about his prior cheating. Hikaru also called Hans's analysis of his game against Magnus “complete nonsense,” in essence calling Hans a liar. Similarly, Magnus tweeted, “I believe that Niemann has cheated more – and more recently – than he has publicly admitted.” All those statements involve assertions of objective fact that could get past a motion to dismiss if a judge finds it plausible that the defendants could have acted with the “actual malice” required for speech involving a public figure.

Conclusion

It looks like Missouri or Connecticut law will apply. Further, there is a good chance that defamation claims against Magnus, Chess.com, and Hikaru survive a Rule 12(b)(6) motion to dismiss, assuming personal jurisdiction over the defendants exists. I believe motions to dismiss are due next Monday, so, soon, you will be able to weigh the defendants' legal arguments yourselves.

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(Mo. 2017) (en banc).

Dragonflies: Blue Skies and Dead Bugs

Jonathan Peterson '23
Co-Executive Editor



You've likely encountered the subject of this article. Perhaps it was in your garden, perhaps it was while fishing, perhaps it was just on a walk. What you likely did not realize is that you encountered the most efficient and successful predator on Planet Earth.¹

Hunting Success

When dragonflies choose to hunt, they are unparalleled in the animal kingdom. Birds of prey, like peregrine falcons, are typically what we think of as the peak of aerial hunting. Their success rate, or the percent chance that they catch their target, sits at roughly 25 percent. Lions, one of the most formidable land predators, sit pretty at about 30 percent. And African painted dogs are at the peak of land predators when it comes to efficiency, blowing their competition out of the water with a staggering 67-percent success rate.

Dragonflies, however, are

¹ All the information presented here has been pulled from the video below. Their channel is an excellent resource:

The Insane Biology of: The Dragonfly https://www.youtube.com/watch?v=iJi61NAIsjs&t=951s&ab_channel=RealScience.

another story altogether. When a dragonfly takes wing, its success rate is as high as 95 percent. So, what enables these tiny death machines to be the cold-blooded killers that they are?

Physical Traits

Dragonflies have remained relatively unchanged for the last 300 million years. In terms of their physical traits, the only one that has changed substantially is their size—they used to be much larger.²

The first key to dragonflies' success is their direct flight muscles. Unlike many other insects, which have indirect flight muscles, dragonflies can independently control each of their four wings. This enables them to beat their wings in multiple different patterns, or "phases." Different phases allow for different forms of flight. In fact, not only can dragonflies fly over thirty miles per hour, depending on the phase, but they can also fly in all six directions.³ This makes them both one of the most maneuverable animals in the world,⁴ and the fastest fly-

² I'm talking meter-long dragonflies here. Absolute units.

³ Up, down, left, right, forwards, and backwards. I'm unsure whether dragonflies can reach equivalent speeds in all directions.

⁴ Only a few other types of flies and hummingbirds can fly backwards.

ing insect on the planet.

They can reach these high speeds thanks to a special, pigmented section on the leading edge of their wings called a *pterostigma*. This pigmented section of the wing is heavier than other, similar segments of the wing. This acts as a counterweight and, at high speeds, provides stability. Essentially, it prevents the leading edge of the wing from fluttering.⁵ This small feature enables dragonflies to fly somewhere between 10 and 20 percent faster than they would otherwise be capable of.

Dragonflies also have the largest compound eyes of any insect, giving them full 360-degree vision. Their eyes are made up of over 30,000 *ommatidia*, or smaller, hexagonal eyes. These 30,000 smaller eyes make up the larger compound eyes they are a part of. Further, different parts of the dragonflies' compound eyes are sensitive to different wavelengths of light. For example, the top of a dragonflies' eyes—the part that faces the sky while they fly—is more sensitive to shorter wavelengths like blues and ultraviolet light. The middle and lower

⁵ If you hold onto the edge of a piece of paper and try to swing the entire piece through the air, it will flutter at the leading edge. The *pterostigma* essentially enables the wing to slice through the air, as opposed to fluttering, like that piece of paper.

portions of the dragonflies' eyes are sensitive to a wider spectrum, giving them a better sense of overall color when looking at something beneath or in front of them. There is a very real reason for this—when flying, their prey often appears above them. By being sensitive to shorter wavelengths of light, like blues, the top of their eye is better able to see prey items contrasted against the blue sky—the prey stands out more because the dragonfly is better at seeing blue. And dragonflies typically encounter predators, mates, and other cannibalistic dragonflies either directly ahead of them or beneath them. Being able to see a broader spectrum of colors in those ranges allows them to identify friends and foes much more quickly, while maintaining the ability to see prey items above them easily.

Maybe She's Born with It

All these physical traits are not the deciding factors in what makes dragonflies such successful hunters—they are merely constituent factors. Dragonflies bring these lethal skills together in such an effective way thanks to how they process the world.

There are two methods of aerial hunting: tracking and interception. Of the two, interception is the far more complicated and rare method. Tracking involves chasing down a target and using speed and agility to overwhelm them. It is incredibly physically taxing. Dragonflies, with their speed and agility, would certainly be incredible

trackers.

Interception, on the other hand, is a predictive method of hunting. Interception involves seeing an animal's path, predicting where the animal will be at a given time, and meeting the target there. In humans, interception is a learned trait. Try intercepting a softball in the outfield and you'll realize just how hard it is. Or watch a three-year-old chase a soccer ball—it's comical how poor we are at it. However, in dragonflies, interception is hardwired into their nervous system. This means that their motor system (how dragonflies move their body) and nervous system are wired together, allowing dragonflies to, essentially, do geometry instinctively. Not only this, but their heads independently and synchronously move with their body as they fly to keep their target within the appropriate range of vision.⁶ This head movement has also been shown to be what I refer to as instinctual geometry.

Conclusion

I hope this article will give you a newfound appreciation for dragonflies—they are beautiful animals with a complex and intriguing physiology. And perhaps I've also given you something else to be thankful for this November: the fact that meter-long dragonflies no longer exist.

⁶ Top, middle, or bottom.

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The Hora: Living History Through Dance

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The term "*hora*," along with its variants, "*horu*" and "*oro*," comes from the Greek "*χορός*" (*choros*), meaning "dance."¹ It is a category of folk dance found throughout the Balkans and in many Jewish communities.² While each culture has its own version, the *hora* is generally an up-tempo dance where the dancers link arms and dance in a circle. In Romanian, this is referred to as "playing the *hora*," describing the dance's joyful nature. *Hora* also refers to a large social gathering where, fittingly, the *hora* is danced. It was the heart of a village's social life and became known as the occasion where young people would go to hopefully find their future spouse.³

A typical Romanian *hora* begins with a couple of beats of instrumentals, allowing for all the participants to get a sense of the music and pace. The dancers form a circle and either join hands or put their hands on each other's shoulders. They begin by moving counterclockwise, taking three alternating steps forward, starting with

their left foot (left-right-left).⁴ Some dances continue this pattern around continuously, while others have the dancers pause, stomp their feet, and go back the other way. Often, dancers will raise their arms and contract the circle, then lower their arms and enlarge the circle while spinning around. The pace and steps can be varied to land on the beat, in double time, or even in quadruple time for the very adventurous. There can be an unofficial leader whose movements direct the changes in size and/or direction of the circle, but oftentimes, changes arise spontaneously out of the group feeling the music and improvising. Because everyone typically knows all the constituent steps, they can be combined in endless ways. Some toes may get stepped on and shoulders bumped together, but it's all part of the fun!

While a *hora* can be danced to most any music, there are also many songs specifically composed to be a *hora*. For Romania, perhaps the most famous and historically significant of these is *Hora Unirii* ("The Hora of Unification"). It was composed to commemorate the 1859 unification of the principalities of Wallachia and Moldova, which together would form the start of modern-day Romania.⁵ Its lyrics are taken

⁴ <https://ro.wikipedia.org/wiki/Hora>.

⁵ <https://jurnalul.ro/special-jurnalul/cum-a-fost->



Pictured: Children in Moldovan folk costume dancing the *hora*.
Credit: https://noi.md/md/news_id/220979.

from a poem published three years earlier, the first stanza of which calls out: "Let us go hand in hand, those with a Romanian heart, to spin the *hora* of brotherhood, on Romanian soil."⁶ Music bolstered the rise of Romanian national identity in the nineteenth century by analogizing broad political changes to the *hora*, a symbol of community known in every village in the land.

The *hora*, in all its variants, continues to play a prominent role as a symbol of cultural identity. In the 1982 Eurovision Song Contest,⁷ for exam-

[hora-unirii-un-manifest-politic-muzical-602309.html](https://ro.wikipedia.org/wiki/Hora_Unirii).

⁶ https://ro.wikipedia.org/wiki/Hora_Unirii.

⁷ Eurovision is an international song contest that takes place every year in May. Countries who are members of the

ple, Israel placed second with the song "Hora," whose chorus proclaims: "And also the Hora, the one with the Hey, its voice still rises, its voice has not been silenced . . . Its song fills my heart forever!"⁸ When Serbia hosted Eurovision in 2008, following its win the previous year (which coincided with its debut as an independent country),⁹ it

European Broadcast Union send artists to represent them in one of Europe's biggest televised events. Think of it as a battle of the bands where countries, rather than just individual artists, compete for glory. The songs must not have been released prior to September of the previous year and must not have been previously performed outside of the Eurovision context.

⁸ <https://lyricstranslate.com/>.

⁹ Serbia had previously competed as part of both Yugoslavia and, later, Serbia and Montenegro.

chose the song "Oro" to represent it as the host entry, singing of a mother's lullaby.¹⁰ And in 2009, when the contest was hosted in Moscow, Moldova sent the hyper-energetic "Hora Din Moldova," which, despite being primarily in English in the studio version, was performed onstage entirely in Romanian.¹¹

The *hora* is a staple at weddings and on New Year's Eve. It is danced at festivals and whenever there is folk music playing. Its purpose is to get people moving, to make people feel good, and to get people to come together as a group. There is even a traditional Romanian embroidery pattern depicting *hora* dancers with joined hands.

If you're interested, come to Caplin Auditorium on Thursday, November 10 at 6 p.m. to learn the Romanian *hora* for yourself! We dance to celebrate. We dance to connect with our past, our present, and our future. *Hai la hora!*¹²

¹⁰ <https://lyricstranslate.com/en/oro-oro.html>.

¹¹ This was seen by many as a rejection of Russian influence in Moldova in favor of celebrating Moldovan culture and identity.

¹² Romanian: "Come dance the *hora*!"

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¹ [https://en.wikipedia.org/wiki/Hora_\(dance\)#Romania_and_Moldova](https://en.wikipedia.org/wiki/Hora_(dance)#Romania_and_Moldova).

² *Id.*

³ <https://folkdancefootnotes.org/begin/hora-romania/>.

LAW WEEKLY FEATURE: Court of Petty Appeals

The Court of Petty Appeals is the highest appellate jurisdiction court at UVA Law. The Court has the power to review any and all decisions, conflicts, and disputes that arise involving, either directly, indirectly, or tangentially, the Law School or its students. The Court comprises 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 dl9uh@virginia.edu

Students

v.

Empty Food Table 75 U.Va 10 (2022)

KULKARNI, J. delivers the opinion of the court, in which LAKE, C.J., BNINSKI, J., WALSH, J., GRUBBE, J., BROWN, J., PETERSON, J., and MORSE, J., join.

PAZHWAQ, J. concurred in part and dissented in part.

Kulkarni, J. delivered the opinion of the court.

Background

The case before us comes from a multitude of students, spearheaded by 3Ls. They complain of a lack of food on the so-called “Food Table” in front of the Law Library. This table is the same that is normally used for Cookie Fridays. On other days, this table serves as the host for leftover food from events hosted by student organizations on grounds. In years past, this table has been covered with tanks of coffee, boxes of pizza, and the occasional healthy meal. Whether through tradition or simply silent norms, this table has been a staple of the law school experience for at least as long as the members of this Court have been enrolled in this Law School. For many students, checking to see if there is any food available on the table is the only reason that they deign to open their class GroupMe.

Issue

The complaint before us is simple. Complainants state that the Food Table is far more barren than in past years—on most days, it lies empty, they argue. In these 3Ls’ minds, something they have come to expect is no longer available to them. They argue that, as law students, they are losing an essential source of nutrition each week. There were also

arguments by amici¹ that this source of easily accessible food is especially helpful to students who face mental health issues that make it hard to cook on top of everything else law students face each week. Moreover, both Complainants and amici noted that this table can be especially helpful to students facing financial difficulties.

In general, the overarching argument is that this Food Table is an effective source of nutrition that has been rendered less useful by an increasing lack of food. Respondents,

compelling. This Court, as we often state, is dominated by 3Ls. As such, any opportunity to call it a day and simply accept the arguments we are presented with is another chance to resume 3LOLing. However, it is important to bring in some legal analysis here. Primarily, the issue we are faced with is one of reliance. Law students have come to expect a table full of leftovers that they can peruse to their heart’s content. There is an expectation created by the norms and traditions of this Law School that, at least

available. They cannot produce more food if the amount they budgeted for is consumed. However, so long as the table lays bare, they bear a portion of the blame for the lack of free food. The fact is, however, that the real relief for Complainants comes from court action against the true culprits: 1Ls. As usual, this Court does not hesitate to strike down unruly members of the Class of 2025. 1Ls are invited to far more events. This year’s 1Ls are even presented with IN PERSON firm events—a luxury that pre-

ways lose.⁶ As such, this Court does not hesitate to levy an injunction against 1Ls from accessing the food at events or at the free food table unless they are actual members of the organizations hosting the events. No longer can these students be networking gunners and take away free food from other students under the guise of attending events regarding issues that they absolutely don’t care about. Free food belongs to all law students, and 1Ls—who are already spoiled with a litany of specialized in-person events—should not monopolize such a key resource. Especially since they haven’t even taken the final exam that tests on promissory estoppel yet.

“As usual, this Court does not hesitate to strike down unruly members of the Class of 2025.”

represented by student organizations that frequently place food on said table, argue that 1Ls as a class should be impleaded into this case. They have chosen to assert an affirmative defense: Although they admit guilt for not placing as many food items on the table, they argue that this is not their fault. Respondents state clearly and boldly that the current crop of 1Ls is the most gunnery class they have ever had the misfortune of interacting with in recent memory. These student organizations are formed and exist for the purpose of promoting camaraderie and supporting students. They argue that they have a desire to share their leftovers—but how can they do so when the gunner 1Ls don’t allow any leftovers to exist?

Analysis

The arguments from Complainants and Respondents are

1 An amicus brief authored by 2Ls was, in fact, the most eloquent statement of the facts and legal issues. This proves, once again, that 3Ls can’t be bothered to even argue in their own favor without 3LOLing.

a few times a week, students can expect a message warning them to “hurry or miss out” on free food. While there was no written agreement between student organizations and non-member students to this point, there is a clear argument for promissory estoppel based upon the students’ reliance on the expectations of free food.² So, two questions remain. Did the complainants rely on this unspoken promise to their detriment, and, if so, what relief should they be given? It is clear to this Court that Complainants have lost a source of weekly nutrition. They have lost, at times, an entire free meal (if they can get to the table quickly). There is no doubt that losing a source of free food is an absolute detriment to anyone who has a reasonable expectation of said food.

The tougher question is the relief. It is clear to this Court that the student organizations have made a full-faith effort to make their leftovers

2 Much to the surprise of Justice Walsh, I can indeed include real legal concepts when writing for the Court.

vious classes were not given. Such events come with their own free food. Rather than appreciating this unique treatment, these 1Ls continue to grasp at that which belongs to all. As such, the Court only has to reiterate the case that plays the same role in the Court of Petty Appeals as *Twombly*³ and *Iqbal*⁴ play in other courts: *1L Gunners v. Everyone Else*.⁵ The rule provided by that case is simple and absolute. 1Ls al-

³ *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

⁴ *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

⁵ 324 U.Va. 22, 24 (2019).

Pazhwak, J., concurring in part and dissenting in part.

My esteemed colleagues once again deal with a disturbing and disruptive issue at the University of Virginia School of Law: the overconsumption of event food by an overactive 1L class, to the minor detriment of 2Ls and major detriment of 3Ls.⁷ The majority here picks up where the majority in *1Ls v. 2Ls and 3Ls* left off by recognizing that 1L overconsumption at events, in addition to depriving

⁶ *Id.*

⁷ See *Class of 2025 v. Classes of 2023 and 2024 (1Ls v. 2Ls and 3Ls)*, 75 U.Va. 6 (2022).

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Faculty Quotes

M. Gulati: “I don’t know anything about bonds, so I’m just gonna lie down and die.”

A. Woolhandler: “Yay! Nobody recovers!”

R. Ballenger: “Plagiarism is a virtue.”

R. Harmon: “I’m a big fan of Monica Lewinsky. Well, for reasons. I think it’s an important life skill to know how to take a punch.”

A. Grossi: “Nobody cares about the French.”

C. Barzun: “He goes into his pocket and retrieves the gun that he uses to shoot the guy who insulted his girl-wife.”

M. Riley: “Yeah, I’m looking for more drugs!”

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

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Created by Monica Sandu '24



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COPA

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2Ls and 3Ls of event food at the time of the event itself, creates the subsequent problem of a dearth of food at that most hallowed of Law School sites, the “Food Table” or “Free Food Table.” The majority in the previous case issued an injunction “limiting 1L consumption to 33.3% of event food, regardless of the number of them present at an event,” thereby ensuring that “66.7% of all food will be reserved for 2Ls and 3Ls.”⁸ In the instant case, the majority issues a further injunction requiring that 1Ls be members of the organizations from which they take food. This must be read alongside the previous injunction, meaning that only 1Ls with organization membership—as opposed to all 1Ls—can consume, at maximum, 33.3% of available event food.

This raises the question of whether the 33.3% limitation on 1L consumption of event food set in *1Ls v. 2Ls and 3Ls* extends to 1Ls taking food from the Free Food Table.⁹ Given the well-established principle that “1Ls always lose,” it is only logical that this former injunction be read to cover both situations where food is available, thereby creating a comprehensive regulatory regime.¹⁰

However, the majority’s ruling must be read narrowly. In

8 *Id.*

9 *Id.*

10 *1L Gunners v. Everyone Else*, 324 U.Va. 22 (2019).

no way should it be understood to constrain 2L and 3L non-members of an organization from taking event food or Free Food Table food.

In addition, the majority errs in several of its assumptions. It claims that the 1Ls taking event food are “networking gunners” who “take away free food from other students under the guise of attending events regarding issues that they absolutely don’t care about.” While the latter part of this might be true in some cases, it suggests an unhelpful binary of 1Ls caring or not caring about an event’s subject matter. In reality, many 1Ls might have different levels of interest that inform their decision to attend. This leads to the issue with the former part of the Court’s assumption, that the 1Ls attending are “networking gunners.” This, too, misconstrues the motivation to attend, with some 1Ls simply desiring to feed themselves at low cost, and so put a dent in their mountains of loan debt. They might listen, grab their food, and get out without anything approaching gunner activity or networking. Thus, the Court ought not to focus on an analysis of the subjective intent of student event attendees.

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Letter to the Editor: On Protests & Social Change

Letters of interest to the Law School community may be sent to editor@lawweekly.org. Letters may be published at the discretion of the Editorial Board and are subject to editing for grammar, style, and clarity, but not content or viewpoint. The Law Weekly does not necessarily endorse the content or viewpoint of any letter herein published.

The United States is far from equal. Its institutions are not just or fair. But many of the atrocities of the past are in the past because of the actions of protestors.

Protestors played central roles in achieving the 40-hour work week, earning women’s right to vote, and in the civil rights movement. Protestors will play central roles in achieving equality for our queer community, the liberation of Palestine, and the abolition of prisons and the police.

A few weeks ago, I helped organize a protest of an event in which Bob Good spoke to the UVA Law community. Jonathan Peterson wrote in this publication on the protest; he did a good job summarizing Bob Good’s ideology, so readers can look there if they want to know more.

Yet by aiming for objectivity, the article failed to capture the nuance of my stance on protest, the role of protest in our community and in society at large, and the relationship between protest and free speech. I worry that Jon misinterpreted my position; his article may be read to suggest that I want to stop some speakers from coming.

I want to first clarify my position on speakers at UVA Law.

I will defend free speech with the best (and worst) of them. The use of power to silence an opponent is a tool of fascism. Those in power at the Law School—administrators and professors—have no right to stop someone from speaking.

When I protest speakers who advocate for oppression, like Bob Good, I am not protesting the Law School for letting him speak. I am protesting the students who invited him and I am protesting Bob Good himself.

Every member of the Law Republicans who did not actively disagree with the organization’s decision to host Bob Good should reflect on how they have harmed their community. By filling the room with these students’ peers and then abruptly leaving, our protest intentionally ostracized them. Hopefully this led members of the Law Republicans to question why they platformed someone so harmful to so many of their peers. Perhaps their reflections will lead them to a different conclusion the next time someone like Bob Good asks to speak at the Law School.

The protest also intentionally disrespected Bob Good. For some reason, Bob Good thought he had an audience at our Law School. My hope is

that when 40 or 50 students at an elite Law School went out of their way to disrespect him, Bob Good felt a little bad. We wanted to make clear to Bob Good that we don’t like him, that we don’t like his views, that we don’t respect him, despite his role as our representative. We wanted to make clear to Bob Good that, if he wants our respect, he must change.

A central purpose of protest is social change. Even a small protest—just a few dozen students on a weeknight in a law school classroom—can lead to a better world. Protests find power in collectivity. Protests invite others to join in that collective power, strengthening it. Protests unravel the assumptions institutions like law schools depend on—that change can only come about via pre-set avenues, through debate, through education, through voting.

Social change happens when enough people fight to make it happen. It happens when individuals and groups labor for something they cannot see, that does not seem possible, but on which their lives depend.

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HOT BENCH



Cooper Lewis '24

Interviewed by Sarah Walsh '23 and Jack Brown '23

Hi, Cooper! Give us a little background on yourself. Where are you from, where did you go for undergrad, and how did you end up coming to law school?

I’m from South Pittsburg, Tennessee, which is a small town on the Alabama state line.¹ I first started thinking about law school when I was in high school. I had an interesting relationship with a juvenile court judge—he was a football ref for the region, and I’m a chatty guy, so we started cutting up. Later, he ended up

1 A fun fact for readers that we discovered while Googling South Pittsburg to make sure that we were spelling it correctly: South Pittsburg is home to the National Cornbread Festival.

interviewing me for a scholarship. I didn’t get the scholarship, but after that interview, he said, “I think you should consider going to law school at some point.” So, it’s always kind of been sitting in the back of my mind.

Then, I went to Sewanee—The University of the South—for undergrad and majored in politics. After leaving Sewanee, I hopped on the campaign trail and did some interesting campaign work for a few years, and I ended up running a campaign in Tennessee, which was really satisfying. But I knew that law school was the end game, so that’s how I ended up here.

Tell us more about your campaign work and what you enjoyed the most from it.

My campaign experience was unique because I got to do something cool called political advance. I was working for a firm out in D.C. that was hired by Democratic candidates across the country to come out and set up big events, essentially. I got to travel the country and work with high-profile candidates, and I got to be the busy twenty-two-year-old in the airport, somehow getting first class while wearing sweatpants. But I found that I really enjoyed plugging in to each individual community as much as I enjoyed that big exposure to the high-profile politicians. So, I left that to knock on doors in Northern Virginia for the 2020 elections, which was exactly where I wanted to be.

After that, I had the option of going back to the political

advance world or just trying something new, and I sent a text to a woman that I had interned for after graduating, back in Tennessee, and asked if she wanted me to come volunteer. Fortunately for me, her campaign staff wasn’t performing as she had hoped at that moment, and she asked me to come run the campaign.

How much of that experience has transferred to law school?

Getting that job—getting trusted with something that important to a candidate—gave me confidence where I was like, “Wait a second, I can really continue to climb in whatever direction I choose.” Learning how to communicate with people and sort of punch above my weight, and just being confident in my own abilities, are the two things that I think ended up being the most relevant to law school.

What has been your favorite experience so far in law school?

Easily softball. I think the reason that I enjoy that is part of something bigger at UVA, just the culture. This is the right place to go to law school, I think.

Speaking of softball, you’re a co-captain for Co-Rec Blue, one of UVA’s teams in the annual UVA Law Softball Invitational. What was it like last year, playing for the team as a 1L?

Oh, it was super exciting! I got to do it with my good friend, Andrew Becker '24,

who’s also my co-captain this year. We were not the victors, of course—congratulations again to Co-Rec Gold; I’m sure someone from that team is talking about the run differentials as we speak—but it was fun just to see students from other law schools appreciate what we’re doing here and enjoy it as much as I feel like we enjoy it.

Final question for this section (and the most important): Tell us about your cat.

My cat, Joe, is twelve years old or so—but not if you check the vet records, because I’ve told them all that he’s between eight and ten, since apparently prices go up around eleven or twelve. He’s a tuxedo cat that I got from a funny rescue place in Maryland; I couldn’t tell you what they were doing up there. He is a monster, he is my best friend, and he wakes me up at four o’clock every morning. If I look tired, it’s because I am—it’s because my cat keeps me up all night. But, hey, I love having a furball to go home to every day.

Okay, time for the Lightning Round.

Favorite punctuation?
I love an em-dash. I’m not totally convinced that anyone really knows exactly when to use it.

Favorite word?
I think the German word for butterfly, “schmetterling,” is funny.

Favorite band?

Changes on a daily basis, but this is an opportunity to plug—I have great taste in music, I swear—Mo Lowda & the Humble.

Favorite animal?

A stray, friendly one. I can’t choose between cats and dogs because I grew up with both, but my favorite animals in my life are the ones that show up for a couple months and hang out, and then I never see them again.

City you want to visit but not live in?

Chicago. I’m a Cubs fan, but it’s just too cold in the winter.

What instruments do you play?

I can play somewhere between four and six songs on the banjo. They’re all in this genre called “old-timey” music.

What’s your hottest take?

Law school is a good time.

And finally, any shout-outs you want to make?

Shoutout to Section B, Class of 2024. They’re a great group of people who are really supportive of one another and who really avoided stress culture. I think most of my answers about UVA generally, like that law school is a good time, are just from my experience with my section. So, shoutout Section B, 2024.

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Jackson

continued from page 1

it gets cold, the pipes are not freezing there,” Jefferson said.

Cupit followed up Jefferson’s point by stating explicitly that Jackson’s water crisis is not a problem specific to Jackson or to Mississippi. She noted that low-income communities—which tend to be Black and Brown communities or communities of other marginalized backgrounds—often bear the brunt of environmental injustice. Sure enough, 83 percent of Jackson’s residents are Black.⁵ Cupit said that this pattern of intersectionality between racial and environmental justice is visible in her own work in Virginia.

“I’m very proud of the state of Virginia. We have an environmental justice council that’s been codified into law . . . when we look at environmental justice, we look at housing, water quality, poverty. And most of the time . . . people who are Black and Brown are highly impacted. We have to know what to do, what to say, and educate those communities to fight for themselves,” Cupit said.

Drawing on his background in urban law and land use, Professor Schragger pointed to several circumstances in Jackson that

⁵ https://naacp.org/sites/default/files/images/Jackson_Infographic-01.png.

have proved especially problematic in tackling water and other resource crises there. First, Jackson’s high poverty rate of almost 25 percent prevents many residents from paying their water utility bills.⁶ Second, 40 percent of the city’s property is under non-profit administration, which is non-taxable and thus cannot provide the city with any tax revenue. And third, Jackson has struggled to compete with its surrounding suburbs, which generally provide more favorable tax structures and better community services to retain their residents.

Facing these challenges, Jackson has tried to enforce what Schragger dubs “austerity urbanism”—a policy of weaponizing fines and fees against residents—to generate revenue instead. But Professor Schragger noted that these tactics are not new and have already been tried in other communities—like Ferguson, Missouri—and their effectiveness in resolving the issue of revenue generation is unclear.

During a question-and-answer period, one audience member asked Cupit for advice on how to remain hopeful in the face of despair, particularly when it comes to racial and environmental justice. Cupit said that

⁶ <https://www.pbs.org/newshour/nation/decades-of-systemic-racism-seen-as-root-of-jackson-mississippi-water-crisis>.

she tries to remember the people who inspire her when she feels fatigued; she also encouraged using data and facts to win people over. But she acknowledged that the work is tiresome.

“I get hopeless too. . . . When I was reading about Jackson over the last two weeks, getting ready to speak to you all, I was sick. I see what my mother went through, I see what my grandparents went through, and I don’t see a lot of the needle moving,” Cupit said.

SBA President Juhi Desai ’23 asked panelists how dissimilar communities across the country that face similar issues—like water insecurity—can collectivize and work together without waiting around for protection from the courts. Cupit said that the only way to tackle these issues is for someone to be brave enough to stick their neck out and get local communities mobilized.

“A lot of people stay away if it’s too political or too polarizing. They’ll stay away until they see other people coming along, so if you’re going to be a leader, you sometimes have to step out there, sometimes by yourself . . . and get people to come along with you,” Cupit said.

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Collegiality

continued from page 1

ple, defended sterilizing trans people, and has advocated for denying us participation in pretty much every aspect of society.² Fed Soc’s event is happening during an existential threat for queer people, trans people in particular. Every year during my time at UVA Law has been dubbed the worst year for queer people in terms of anti-LGBTQ+ legislation, which has largely been targeted at trans people and trans youth in particular.³

This is the context for Fed Soc’s event. I’m sure the justification is going to be about free speech if it hasn’t already been raised by the time of writing this op ed. If we’re really about free speech and having all viewpoints represented, why isn’t a pro-queer person at this event?

I’m not a spokesperson for all queer people, but I’m tired

² See, e.g., Southern Poverty Law Center, *Alliance Defending Freedom*, (<https://www.splcenter.org/fighting-hate/extremist-files/group/alliance-defending-freedom> (last visited Nov. 5, 2020, 10:11 PM)).

³ See, e.g., Matt Laviertes & Elliott Ramos, *Nearly 240 Anti-LGBTQ Bills Filed in 2022: So Far, Most of Them Targeting Trans People*, NBC News, Mar. 20, 2022, <https://www.nbcnews.com/nbc-out/out-politics-and-policy/nearly-240-anti-lgbtq-bills-filed-2022-far-targeting-trans-people-rcna20418>.

and so are the vast majority of my queer colleagues. Real @#\$%ing tired, if I’m being quite honest. I don’t know how I can put this into perspective for those who have not experienced the oppression queer people currently and historically have faced. That’s because there is no comparison. There is no queer equivalent of Dallin Oaks. There is no queer equivalent of the ADF. Conservatives in this country have not been subjected to having electrodes placed on their genitals or having fingers forced down their throats to stop being conservative. Conservatives as a class are not being called groomers and pedophiles on a national stage, don’t have entire groups dedicated to their sterilization, and don’t have their very existence up for debate. This is what we, as queer people, have experienced and continue to experience.

I’m all about free speech as the next person. I truly think it is essential for our democracy, which the past few years has shown is more fragile than any of us could ever have imagined. But we keep on inviting, platforming, welcoming, and celebrating the most vitriolic—and frankly evil—speakers to this Law School and expecting queer people to behave “collegially.” What does collegiality mean to me? Stop expecting queer people to be collegial if you can’t even do so in the first place.

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