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DICTA: *Tyler v. Hennepin County, MN*: History, Tradition, & the Meaning of Property

Julia D. Mahoney
Professor of Law

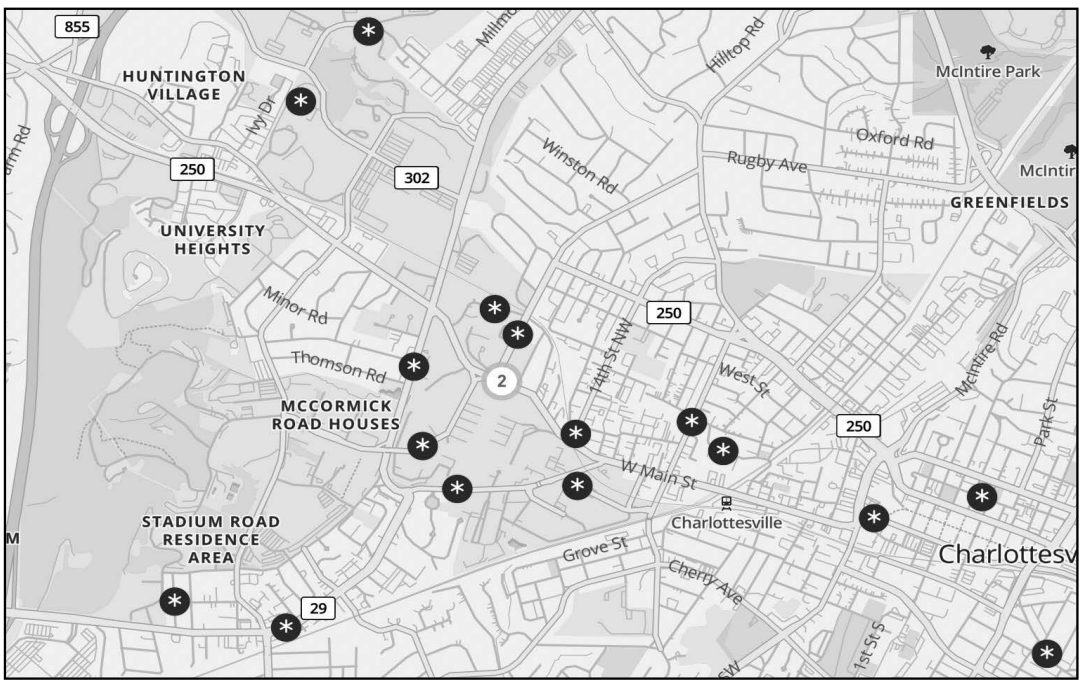
The United States Supreme Court is scheduled to hear oral argument on April 26 in *Tyler v. Hennepin County, Minnesota*, a major property rights case that concerns the constitutionality of a government's retention of the surplus when selling a home in satisfaction of a homeowner's debt. The latest in a series of high-profile property rights cases adjudicated by the Roberts Court, *Tyler* promises to shed light on an important—and contentious—question: What are the limits of the powers of the individual states to define "property" for purposes of the Takings Clause of the Fifth Amendment? *Tyler* may also furnish valuable clues about the Court's use of "history and tradition" in constitutional analysis.

The facts of the dispute are heart-rending. In 2010, then-octogenarian (and now, nonagenarian) Geraldine Tyler, concerned for her health and safety, moved out of a condominium she owned and into a senior living facility. Starting the next year, Tyler neglected to pay property taxes on her former home. By 2015, Tyler owed Hennepin County, Minnesota a total of $15,000 in back taxes, penalties, interest, and other costs. That year, the county government took "absolute title" to the condominium, which under Minnesota law had the effect of extinguishing all Tyler's interests in the property. The following year, the county government auctioned the property for $40,000. In accordance with state law, Tyler received none of the proceeds.

Tyler sued, arguing that the government had taken her property, which she identifies as the difference between the $15,000 she owed for her non-payment of taxes (plus follow-on charges) and the $40,000 sale price. This taking of her "home equity," according to Tyler, contravenes the Fifth Amendment to the United States Constitution, which provides: "[N] or shall private property be taken for public use, without just compensation." Tyler also argued that the

PROPERTY page 2

The Gun Violence Epidemic in Charlottesville



Pictured: Incidents of Shooting, Shots Fired, or Armed Robbery in the 2022-23 Academic Year
Photo Credit:Citizen Connect Application under Crime Data from the Charlottesville PD.

Garrett Coleman '25
Managing Editor

Jordan Allen '25
Professor Liason Editor

It is of no surprise to anyone in our community that gun violence has marred this academic year at the University of Virginia. Beyond the horrific and targeted shooting in November,[1] there has been a marked rise in gun violence in 2023. In just the first few months of this year, there have been five homicides in Charlottesville. To put that into perspective, there were *zero* homicides as recently as 2021.[2] The Chief of Police at UVA, Timothy Longo, said that he had never seen so many killings *in a calendar year*, let alone in the first three months of one. Before heading the University's police department, Longo had served as Chief of Police for the City of Charlottesville for *nearly sixteen years*. To better understand this issue, we sat down with Chief Longo and delved into some of the faculty research on gun violence.

The most recent homicide, which occurred on the Corner while students were celebrating St. Patrick's Day,[3] is indicative of the type of crime that Chief Longo is seeing in the community. The two suspects knew one another, but "the underlying reasons don't have much rhyme or reason." It seems that these are incidents of personal squabbles resolved by shooting. This is a departure from what Chief Longo has historically seen, in which "almost all of [Charlottesville's] homicides that were not domestic-related . . . were attached to some underlying criminal conduct." And that conduct was either drug-related or stemming from organized criminal gangs. But Chief Longo did also note that he was unaware of the existence of gangs on Grounds. When asked, Chief Longo opined that the rise in violence experienced by Charlottesville is consistent with national trends.

Before getting into the initiatives that Chief Longo has proposed and their respective merits, it is necessary to understand the role of the University's police department. Chief Longo explained that the UVAPD operates under a concurrent jurisdiction agreement with the city, granting its officers authority to enforce the laws of the Commonwealth in and around the community. This legal document, which is "much like a contract," has covered a large parcel of real estate around the University since 2005. And it does serve as a limit beyond which the University cannot address criminal activity. Even small distances can make for litigation on this issue, as was the case in *Boatwright v. Commonwealth*.[4]

To address the growing risk of gun violence, the University police have increased their supplemental presence in hotspot areas. Thursday through Saturday, University police officers are on special assignment around the Corner from 7 p.m. to 3 a.m. These officers are a part of the Community-Oriented Squad, which will be expanded. Chief Longo is also looking to expand the Ambassador program, which is contracted to a third party, who sends trained responders. They can be identified by their yellow jackets, but are not armed. Their primary duty is to be a "force multiplier" for the UVAPD, reporting back suspicious activity. Their area of coverage has grown since the November shooting, now including the Downtown Mall. Chief Longo also addressed

GUN VIOLENCE page 5

1 Justen Jouvenal & Lisa Grace Lednicer, *Timeline: How the U-Va. Shooting Unfolded*, Wash. Post (Dec. 26, 2022), https://www.washingtonpost.com/dc-md-va/2022/12/26/uva-shooting-timeline-what-happened/.

2 *City Homicides Down Compared to 2020*, CBS19 News (Dec. 10, 2021), https://www.cbs19news.com/story/45422883/city-homicides-down-compared-to-2020.

3 Dominga Murray, *Suspect Sought in Deadly UVA Corner Shooting*, NBC29 (Mar. 18, 2023), https://www.nbc29.com/2023/03/18/shooting-uvas-corner-leaves-one-seriously-injured/.

4 *See generally Boatwright v. Commonwealth*, 50 Va. App. 169 (2007).

around north grounds

Thumbs up to J. Thomas' baller lifestyle. ANG also loves flying around on PJ's and sippin' Mai Thai's in the Virgin Islands with his boy Harlan.

Thumbs up to the return of Dubu. ANG hates collegiality and would never help anyone, but can't deny that a lost dog coming home is heartwarming.

Thumbs up to Lambda's toga party last weekend. ANG admires Lambda's commitment to history and tradition and thanks them for the chance to finally use all the Latin ANG has learned in law school.

Thumbs sideways to the Student-Faculty charity basketball game. ANG hates seeing professors succeed but enjoys supporting public interest students.

Thumbs up to the latest issue of the *Virginia Law Review*. ANG hears they publish twice a year—that's cute!

Thumbs up to *Law Weekly* merch! For the low-low price of money and weekly articles, you too can own a sticker you put on your water bottle!

Thumbs down to the 3Ls graduating. Even ANG's cold, cold heart will miss our fellow classmates.

Thumbs down to finals. ANG doesn't plan on taking them, but there are too many people haunting the law school at odd hours "studying."

Thumbs sideways to events described as "dinner" and then as "cocktail event" that end up featuring neither dinner nor cocktails. ANG is hungry, but loves to see the chaos and dismay.

Students and Faculty Face Off in Court

Andrew Allard '25
Executive Editor

Last week, a team of students engaged members of the Law School faculty in an exciting, tense, and—at times—physical battle in court. During the fast-paced, hour-long exchange, students fought fiercely to outmaneuver their experienced adversaries. Spectators watched enthusiastically, straining to keep up with the twists and turns of the intense competition.

This was, of course, no court of law, but a court of ball—basketball, to be exact. In keeping with an annual tradition dating back to at least 2002,[1] a basketball match against Law School faculty was up for grabs at the PILA Auction back in November of last year. The lucky winner of the student/faculty game was Mike Ji '25.

Ji and his team of Ryeen Arzani '25, Zac Hayburn '25, Wesley Jung '25, Rachel Lia '24, Jonathan "JP" Price '25, Brad Subramaniam '25, Mary Triplett '24, and Kayla Walczyk '24 faced off against Professors Andrew Block, Josh Bowers, Joe Fore '11, Thomas Frampton, Andrew Hayashi, Chinh Le '00, Richard Schragger, Micah Schwartzman '05, and Senior Director of Development for the Law School Foundation, Joby Ryan '05.

In an exciting finish, with just five seconds left, the students, down by two points, called a timeout. Racing for a final shot at the basket, the student team boldly attempted a three-point throw to deny the faculty a chance at victory in overtime. Cheers—and groans—filled the room as the whistle blew. The students just missed their three, and the faculty team eked out a 45-43 win.

Pictured: Students and Faculty prepare for the opening center toss.
Photo Credit:Andrew Allard '25.

Professor Frampton, still catching his breath, reflected on the hard-fought victory. "All credit to the students . . . I'm glad I didn't hurt anyone. I'm glad I stayed on the bench long enough to avoid getting hurt. I'm glad it didn't break out into fighting. It was a little touch-and-go for a moment there."[2]

The game did have its moments of physical tension, no doubt a sign of cold-call-induced animosity between the students and their professors. The intense gameplay allowed the faculty to capitalize on several foul shots. After the game, I asked Ji if he thought his opponents had bribed the referees. "Well, actually, we paid the refs," he told me.

Enthusiastic defending aside, both teams exhibited a high degree of character and, yes, fitness. No sooner than they had started, the players worked up a sweat and their faces reddened, demonstrating the resounding athleticism that is so characteristic of the legal profession.

At halftime, the score had reached 32-26, with the faculty leading. "They're surprisingly athletic," said Ji.

I have no metric by which to measure anyone's performance, but as the reporter covering the event, I must assert the privilege of picking an MVP. That title clearly goes to Professor Fore's son for refering to the faculty team as the "old people" at the beginning of the game. Great job, kid.

The professors might be able to avoid this epithet if they invested in some uniforms. After all, some of them have been playing in the annual student-faculty basketball game for more than five years. Uniforms would add a serious intimidation factor to the faculty team and give them something other than their age to distinguish them from their student opponents. And what are sports about if not flair?

While I'm at it, one other piece of advice for the faculty team: Go co-ed! The women of the student team scored some sick baskets and generally kicked ass. I'm sure the UVA Law faculty is rife with women that could tear it up on the court. I'm looking at you, Professor Woolhandler.

These minor flaws kept the event just short of perfection. But all in all, the match was a great diversion from the April doom loop. The gameplay was thoroughly entertaining, and feelings of sportsmanship and camaraderie abounded. If that's not what it means to be a UVA Law student, I don't know what is.

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Pictured: Post Game Picture of Students and Faculty
Photo Credit:Andrew Allard '25.

1 https://www.law.virginia.edu/news/2002_fall/pila2.htm.

2 Professor Frampton later suggested that I could just "make something up" for his quote. I was naturally shocked by this egregious insult to the journalistic integrity of the *Law Weekly*.

PROPERTY

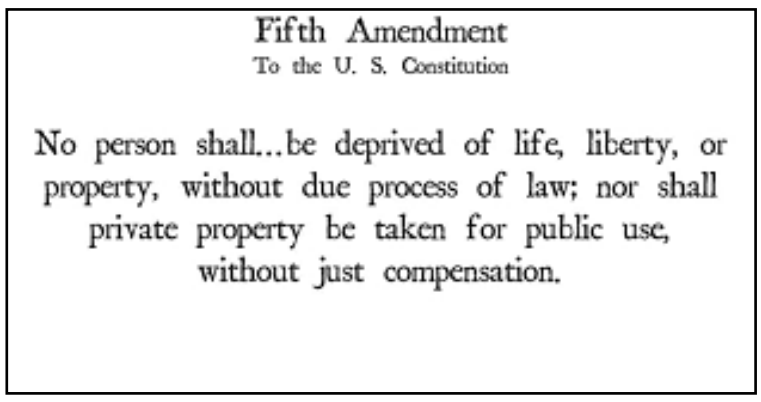
continued from page 1

government's retention of the "home equity" surplus constituted an "excessive fine" within the meaning of the Eighth Amendment.

A federal district court soundly rejected Tyler's claims. "A litigant does not plead a viable takings claim," wrote Judge Patrick J. Schiltz, "unless the litigant plausibly pleads that the government took something that belonged to her."[1] Tyler, in the district court's assessment, failed to do so, for nothing in state law, the most common source of property rights, "gives the former owner of a piece of property that has been lawfully forfeited to the state and then sold to pay delinquent taxes a right to any surplus."[2] Nor could Tyler point to any other source of property rights, such as federal law, in the surplus. As for the excessive fines claim, the district court concluded that "Minnesota's tax-forfeiture scheme bears none of the hallmarks of punishment," and thus, the confiscation of Tyler's "home equity" did not constitute a "fine."[3]

The U.S. Court of Appeals for the Eighth Circuit affirmed the district court's judgment. Writing for a unanimous panel, Judge Steven M. Colloton stated that whatever common law rights to surplus equity after a tax forfeiture sale a former owner might once have enjoyed under Minnesota law, those rights were long ago "abrogated by statute."[4] Because state law recognizes no property interest in surplus proceeds from sales "conducted after adequate notice to the owner," there could be no unconstitutional taking.[5] On the excessive fines question, the appellate court expressed full agreement with the district court's "well-reasoned" order.[6]

In her efforts to convince the Supreme Court to reverse the Eighth Circuit and remand the case for further proceedings on her takings and excessive fines claims, Tyler is represented by the Pacific Legal Foundation (PLF). A powerhouse public interest law firm, PLF has racked up an impressive record of victories before the Court, including one in *Cedar Point Nursery v. Hassid*, a significant takings case, in 2021.[7] In opposition, Hennepin County has enlisted some heavy duty legal talent of its own in the form of a team of Hogan Lovells lawyers led by former Acting Solicitor General Neal Katyal.



PLF's merits brief acknowledges that state law is a "common source" of constitutionally recognized property interests while emphasizing that it cannot be the "exclusive" source, for that would enable the states to evade the Constitution by "legislatively redefining" property.[8] Hogan Lovells directs the Court's attention to the fact that the forfeiture at issue is the result of a failure to pay taxes. As its brief details, the taxing power is a "core attribute" of state sovereignty, and the Court has traditionally accorded states "substantial deference" in evaluating the constitutionality of exercises of that power.[9]

Both PLF and Hogan Lovells contend that "history and tradition" should weigh heavily in the Court's analysis. But they agree on little else. On the takings issue, PLF points to numerous Anglo-American legal sources, including the Magna Carta, that stand for the principle that tax collectors can only seize property to satisfy the actual debt to the government and must return any excess proceeds in the event of a sale. Hogan Lovells, on the other hand, draws on an extensive historical record to argue that forfeiture to the government of an owner's entire interest in a property for failure to pay taxes is deeply rooted in history and tradition. Similar forfeiture provisions have existed throughout American history, its brief points out, although admittedly, such practices "have largely represented a minority rule."[10] The two briefs also diverge on "history and tradition" with respect to the Eighth Amendment. Relying in part on recent scholarship indicating the "Founding generation had a more expansive understanding of 'fines' than" the Court's precedents to date "have yet explored," PLF advances the claim that the forfeiture of Tyler's home equity merits treatment as a fine "subject to scrutiny under the Excessive Fines Clause."[11] In response, Hogan Lovells argues that there are no Founding era sources directly on point that support the application of the Excessive Fines Clause to tax forfeitures.

It is not clear how the Court will rule on the questions presented. But one thing is certain: Next week's oral argument promises to be interesting.

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1 *Tyler v. Hennepin Cnty.*, 505 F. Supp. 3d 879, 890 (D. Minn. 2020).

2 *Id.* at 894.

3 *Id.* at 897.

4 *Tyler v. Hennepin Cnty.*, 26 F.4th 789, 793 (8th Cir. 2022).

5 *Id.*

6 *Id.* at 794.

7 210 L. Ed. 2d 369, 141 S. Ct. 2063 (2021).

8 Brief for Petitioner, *Tyler v. Hennepin Cnty.*, 2023 WL 2339362 (U.S.), 9.

9 Brief for Respondents, *Tyler v. Hennepin Cnty.*, 2023 WL 2759804 (U.S.), 15.

10 *Id.* at 16.

11 Brief for Petitioner at 34.

Law Weekly's Favorite Finals Food

We received a *flood* of emails last week from readers who tried "Pickles an' Cheese" and are now threatening us with law suits. We spoke with our attorneys, and, after careful consideration, they have advised us to double down. That's right—we're publishing a second week of recipes, and there's nothing you can do about it. Except try making them, which you should totally do, you litigious bastards.

Darius's Chickpea Stirfry

This meal is vegan, high in protein and vitamins, and really filling. I tried to simplify this dish as much as possible to keep things simple. Add it on top of some rice if you wanna get fancy, or eat it out of the pan. I don't use measurements, and I don't think you should, either. Learning techniques instead of blindly following recipes is what will make you a competent cook. Swap out ingredients you don't have, and taste as you cook.

- 1 can of chickpeas
- Couple of splashes of oil
- Some chopped onion
- Frozen vegetables
- Squeeze of tomato paste or a few tablespoons of pasta sauce
- A few dashes of ground cumin
- Hefty amount of ground black pepper
- Lots of garlic (in any form)
- Some chili flakes
- Soy sauce (to taste) or salt

Set your burner to medium high, and heat up enough oil to cover your pan. While you are waiting, drain your chickpeas, and chop your onions however you want. When the oil is hot, add your chili flakes, tomato, pepper, and onion. Stir that up until the onions soften. Add in the drained chickpeas, and let them fry in the oil mixture for a bit. Add in the garlic, and let it cook until it's fragrant. Add the frozen vegetables, and let them defrost and cook through. Add soy sauce or salt to taste.

Rachel's Family Chili Recipe

My family made this a lot growing up, and it's always been a fan-favorite comfort food. It may take a little more work than some of the other entries here, but it's still relatively simple and makes about six (freezable) quarts, so that small amount of effort will go a long way. It's healthy, filling, and works well as a complete meal.

Ingredients

- 1 large onion
- 2+ bell peppers
- 2+ lbs meat (e.g., stew meat, ground beef, sausage, literally whatever you have on hand and like)
- 1 tablespoon olive oil
- 1–3 habanero peppers and/or jalapenos, very finely diced (Keep it to one habanero unless you want it noticeably spicy)
- 4–5 regular-sized cans' worth of beans, drained and rinsed (I normally use kidney and black beans)
- One 7 oz. or two 4 oz. can mild green chili peppers (undrained)
- Three 14.5 oz. cans diced tomatoes
- Two 6 oz. cans tomato paste (adjust upward to make thicker)
- 2 tablespoons sugar
- 2 teaspoons marjoram
- 1–4 cloves garlic diced/crushed (lower if you used heavily seasoned meat)
- 2 bay leaves
- For serving: cheese, chips, salsa, guacamole, lettuce, or whatever you like

Steps

1. Cook onion, bell pepper, and meat together in olive oil. Drain excess water/juice.
2. Add the cooked ingredients and the rest of the ingredients together in a Crockpot (or similar dedicated slow-cooker) (preferred) or Instant Pot and stir.
3. Add extra tomatoes, tomato paste, and beans as necessary to balance the mix.
4. Set to cook. It's better the longer you cook it. Crockpots cook more efficiently than Instant Pots, and my family's has options for 4–10 hours, but I'd recommend starting the chili in the morning for it to be ready by dinner. For an Instant Pot, put it on the high slow-cook setting, set the knob to vent (or use a well-fitted tempered glass lid with a vent), and cook for about twelve hours (ideally stirring once or twice part-way through).

Rachel's Loaded Potatoes

Need something quicker than chili? Use an Instant Pot to steam potatoes. Recipe originally from the Pressure Cook Recipes by Amy + Jacky blog.[1]

1. Add a cup of water to the Instant Pot.
2. Rinse potatoes, use a fork to poke holes in them, then place them on the included wire rack. Pro tip: Make extra potatoes. They refrigerate and reheat in the microwave well. But don't stack them on top of each other.
3. Measure the circumference of the largest potato, then cook on high pressure according to the following chart:
   - **7" Potatoes** (~17.8 cm): 25 minutes
   - **7.5" Potatoes** (~19.1 cm): 28 minutes
   - **8" Potatoes** (~20.3 cm): 31 minutes
   - **Etc.** (+3 minutes for each additional ½ inch)
4. Natural release for ten minutes, then quick release the remainder of the steam.
5. Cut potato in half, then cut slits lengthwise for the butter to melt into.
6. Top with butter (I like the Kerrygold Garlic Herb Butter), shredded cheese, and chopped bacon.

NIKO's Buff Chick Dip

You might think that buff chick dip is only for game day, but shouldn't you treat every day like it's game day? Give yourself the fuel and fiery flavor you deserve—not to mention a dish which lasts for at least a week and a half in your fridge. Remember, food duration is much like law school: It's a marathon, not a sprint.

Ingredients:

- Pre-cooked chicken (either half of a Costco rotisserie chicken, shredded with a fork, or—for those of you without a Costco membership—6 cans of Swanson's canned chicken will do nicely)
- Frank's Red Hot™
- 2 blocks of cream cheese (if you're trying to be healthy, can mix and match with greek yogurt but I mean… blech)
- Kraft Three-Cheese shredded cheese
- Tortilla chips of your choosing
- Salt
- Pepper

Recipe:

1. Shred the chicken with a fork, and place in mixing bowl
2. Add in cream cheese and Frank's Red Hot, mix well with chicken. Add salt and pepper to taste.
3. Put dip into plexiglass baking dish
4. Sprinkle shredded cheese on top (do as much as you like, but keep in mind that there is a point of marginal decreasing returns where the thickness of the cheese is just going to break your tortilla chips)
5. Bake in oven at 375 degrees for fifteen minutes
6. Let sit for ten minutes, then enjoy!
7. Optional: Add jalapeno slices on top

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1 https://www.pressurecookrecipes.com/instant-pot-baked-potatoes/.

Ranking the FRCP by their Hotness

Ethan Brown '25
Features Editor

Here's a question for those of you out there who might be unfortunate enough to be dating a law student: When intimacy wanes, what book should you introduce into your relationship to spice things up? *Fifty Shades of Grey*? No.[1] *Red, White, and Royal Blue*?[2] Well, yes, actually, it's the perfect novel, but that's beside the point. The best book for reviving passion with your beloved is none other than the Federal Rules of Civil Procedure. Why, you might ask?[3] Look no further, for today I regale you with the Top Ten Hottest Federal Rules of Civil Procedure.[4] *People Magazine* could *never*.

#10: 28 U.S.C. § 452: "Courts always open…"

This section refers to the capacity of the United States federal courts to always be open for the purposes of accepting proper papers, issuing and returning process, and making motions and orders. Just like the federal courts, maybe you and your loved one should consider always being open. Maybe the thrill of non-monogamy[5] almost matches that of being able to file a notice of appearance at any time you want?

#9: Rule 66: Receivers

This saucy rule governs receivers in estate administration, in whom is placed the responsibility for the property of others, and states that the practice of their estate administrations must accord with historical practice in the federal courts or with local rules. While Rule 66 refers to historical times, "receiver" in modern parlance is often equated with something quite a bit different—earning it a respectable ninth place finish.

#8: Rule 53: Masters

Rule 53 articulates the role of masters—lawyers whom the court may appoint to serve as neutral parties to assist the court throughout the case—and describes rules for their disqualification, appointment, and reporting procedures. Let the raw power of appointing a master in the courtroom inspire you to similar pursuits in your romantic endeavors… by appointing a neutral third party to monitor and conduct expansive reportings of your relationship.

#7: Rule 9: Pleading Special Matters

Rule 9 walks litigants through pleading procedures for special matters, ranging from allegations of fraud or mistake to asserting admiralty or maritime claims. But what is the *most* special matter that we hold nearest and dearest to our hearts? Love. So, when you and your partner hit a rough patch, feel inspired by Rule 9, and remember to plead that love to them.

#6: Rule 4: Summons and Service

For anyone who's ever taken the Love Languages test, you should know that "acts of service" are a common way to validate and comfort your partner. And clearly, Rule 4(c)'s taken the Love Languages test too, because it spends a whopping five (!) pages describing how service can be effectively performed; how it can be waived; against whom it can be performed; and time restrictions on its performance. It's basically like the FRCP wrote a little manual on how to woo your partner with this bad boy.

#5: Rule 24(a): Intervention of Right

Rule 24(a) describes the expectation that the court permit any party to intervene who is (1) given an unconditional right to intervene by a federal statute or (2) claims an interest relating to the property or transaction that is the subject of the action which might be impaired by an inability to represent that interest. Let this rule be a wake-up call to you and your partner: There *aren't* any interveners of right in your relationship. It's just the two of you. No one will come and bail you out if things break down. Let that serve as an impetus—nay, a spark bursting into fire—to revive your love.

#4: Rule 36: Requests for Admission

This rule pertains to a party's ability to request that another party admit to the truth of any matters within the scope of discovery relating to the facts of the case—or the genuineness of described documents—for purposes of the pending actions. It doesn't look romantic at first, but I challenge you to look deeper. What is a relationship if not a request for admission into one's heart?

#3: Rule 17: Plaintiff and Defendant; Capacity; Public Officers

I'll admit it's another sleeper hit, but Rule 17(a) describes the expectation that actions be prosecuted only in the name of the real party in interest, with exceptions for executors, administrators, bailees, and the like. But when I think, "real party in interest," that's not what I think—I imagine glamor, intrigue, titillation. Calling someone hot? Boring, been done before. Calling someone a "real party in interest"? Bold, exquisite, exotic.

#2: Rule 56: Summary Judgment

I'm not even going to explain this one because we all took Civ Pro and hopefully know what summary judgment is, but come on. There's something powerful about the lack of a genuine dispute as to any material fact in the record, a reality so overpowering that the court simply can't let a litigant move forward to trial. When something is that powerful and advocacy performed so zealously, it's hard not to feel stirred, earning the classic Rule 56 a respectable second place on the charts.

And finally…

#1: Rule 19: Required Joinder of Parties

The rule that inspired this ridiculous article to begin with… ah, Rule 19. There's so much to be said about you. Is it that "joinder" kind of reminded me of handcuffs? Or that it made me think about the institution of marriage, bringing two parties together to serve together as co-litigants?[6] I'm not exactly sure, but despite merely discussing when persons must be added as parties to an action, this rule has something special: It's spicy, it's intimate, it's cheeky. And it's my first-place winner as the Hottest Federal Rule of Civil Procedure.

Thanks all, for having to bear witness to this true horror. Godspeed, and I hope you enjoyed the Civ Pro review session. I'll anticipate your Venmo payments for my tutoring services shortly.

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1 I haven't read it, nor have I seen the film, but ew. Gives me the ick.

2 IF YOU HAVEN'T READ THIS BOOK YET, LEAVE EVERYTHING BEHIND AND START NOW. IT ISN'T TOO LATE.

3 Honestly, you should be asking this, because these are the musings of a stressed 1L on a healthy amount of fever medication.

4 I hope this article serves as my own personal love letter to Civil Procedure as I close out my first year, because it—without competition—was my favorite class of 1L.

5 *See also* Rule 14, Third-Party Practice.

6 Sooooo romantic.

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 editor@virginia.edu

Students Overwhelmingly Hungry from Undue Nullification of Granted Reward Yums (SOHUNGRY)
v.
LexisNexis Rewards
75 U.Va. 23 (2023)

Morse, C.J. delivered the opinion of the Court which JJ. Allard, Brown, Coleman, Kulkarni, Peterson, Sandu, Smith, and Walsh join.

Plaintiffs are Students Overwhelmingly Hungry from Undue Nullification of Granted Reward Yums (SOHUNGRY), an informal coalition of 1Ls who filed a complaint, published in last week's edition of the *Virginia Law Weekly*, on the present case. The defendant is LexisNexis ("Lexis"), a legal research services provider who has, from time to time, provided rewards points designed to encourage engagement with Lexis's platform. These points are redeemable for a variety of items, including food, which is the focus of the present case. The plaintiffs allege that they relied upon the Lexis rewards to their detriment when the points became less valuable, leading them and the broader Law School to suffer various harms. Despite the manifold deficiencies in Plaintiffs' basic understanding of contract theory, standing, and requested remedies, we will not dismiss this case as improvidently granted, though such a decision would be laudable and certainly simpler. Rather, because this case presents a question which cuts to the very heart of this Court's jurisprudence, we will resolve the question on which we granted certiorari: Is there **any** situation in which 1Ls can win? We answer—emphatically and decisively—no, and dismiss this case with prejudice.[1]

I.

Before delving into the heart of today's case, the cause of action and injuries by Plaintiffs bear some consideration. While the insufficiency of both the legal theories upon which Plaintiffs' case rests and the paucity of actual injuries might itself be grounds for dismissal, we will dispatch this 1L jiggery-pokery before addressing the more pressing constitutional question.

A.

While they do not explicitly state as much, Plaintiffs' claims appear to sound in contract. At first glance, the 1Ls' claim is reminiscent of *Leonard v. PepsiCo, Inc.*[2] In both cases, the plaintiffs were uppity students (in this case, hungry 1Ls; in *Leonard*, a college student with too much time and unearned confidence on his hands), and they brought suit on a specious legal theory. But assuming that even the most distracted of 1Ls have read to the end of their casebooks' *Leonard* opinion excerpt, this Court will politely decline to perform a full judicial smackdown a la Judge Kimba Wood.

The other legal theory which can plausibly be inferred from the complaint is that SOHUNGRY claims detrimental reliance on the availability and use of Lexis's rewards points. It should surprise no one that SOHUNGRY came before this Court with that most famous hobby horse of excitable 1Ls everywhere: promissory estoppel. Unfortunately for Plaintiffs, this Court is not as indulgent of 1Ls' legal fever dreams as their Contracts professor.[3] While it is not the basis for our decision today, it is worth our time to note that just because we are a Court of Petty Appeals, it does not mean these petty disputes can be brought without even the thinnest veneer of law.

B.

The plaintiffs' alleged injuries are, to quote the most sarcastic Supreme Court Justice,[4] "so transparently false that professing to believe [them] demeans this institution."[5] Which, for a Court that has upheld injunctions on Paw Review,[6] free fruit stands,[7] and any number of parking tickets, is really saying something. The primary injury that SOHUNGRY alleges is that they are now forced to pay for their own food, leaving them with the choice of going hungry or… paying for their own food. Like big kids. Even if Plaintiffs did not want to pay for food, the variety of other available sources of food renders their injuries speculative in the extreme. Plaintiffs could go to the Snack Office, the free food table, a journal office, or even the *Law Weekly* office, where free pizza is served (earned) every Monday at 5:30 p.m. While this Court is more than willing to entertain meritless claims, the flaccidity of this injury is beyond even our highly nebulous standards.

Yet Plaintiffs do not content themselves with sitting in a veritable ocean of free food and demanding that they be brought their food on a silver platter. In what must surely be the boldest mixture of sophistry and intimidation ever seen in this nation's courts, SOHUNGRY suggests, in their pursuit of other free food, that the 2L and 3L classes would suffer comparatively less food. With all the feigned casualness of a mafioso complimenting your family's store and noting, "What a shame it would be if anything happened to it," Plaintiffs attempt to turn a threat into an injury. Beyond the obvious standing issue presented, this Court will not be intimidated by anyone, least of all 1Ls.

II.

We come now to the crux of this case, the question which we granted certiorari on: whether there is ever a situation in which 1Ls can win, falls within our oldest and most-esteemed body jurisprudence. This Court has held that 1Ls, *inter alia*, have no due process rights to cookies,[8] may not take the seats of 2Ls or 3Ls,[9] have no rights generally,[10] face a higher pleading standard because of the common-sense presumption that 1Ls will misapply the law,[11] may sue even God for an injunction but still must always lose,[12] and (relevant here) are enjoined from consuming anything more than 33.33% of available food at public events.[13] Against the overwhelming weight of our Court's precedent, the plaintiffs armed themselves with scatterings of dicta and the plucky optimism that can only come from those who have not yet taken a Property final. First, Plaintiffs' reliance upon *Hungry People v. Law School Student Orgs*[14] is misplaced. There, the Court held merely that the quality of food at events open to 2Ls and 3Ls must meet the standard appropriate for 2Ls and 3Ls, notwithstanding the (regrettably unavoidable) presence of 1Ls. This is a far cry from what Plaintiffs appear to urge: that this Court bootstrap 1Ls' claims to the entirely hypothetical injuries of 2Ls and 3Ls. Needless to say, if this action had been brought by 2Ls, 3Ls, the administration, or even Darden students, we would be in a very different place.

Seemingly recognizing that the guns in their hands had turned to sausages, the 1Ls attempt to come for this Court with love.[15] The plaintiffs phrase the question presented so as to appeal to this Court's abundant sympathy and soft spot for beleaguered law students. Try as they might, no amount of syntactic alchemy can change this

1 Because of the unique ultra-pettiness of this case, the Court of Petty Appeals has deigned to exercise its original jurisdiction over this matter.

2 88 F. Supp. 2d 116 (S.D.N.Y. 1999).

3 Unless you had Professor Gulati, in which this judicial shellacking should be familiar from your cold calls.

4 See Richard L. Hasen, *Essay: The Most Sarcastic Justice* 215 (U.C. Irvine Sch. L., Rsch. Paper No. 2015-11, 2015), https://ssrn.com/abstract=2550923.

5 Erwin Chemerinsky, *A Failure to Communicate*, 2012 BYU L. Rev. 1705, 1715 (2012) (citations omitted).

6 See *Coughlin v. Virginia Animal Law Society*, 912 U.Va. 16 (2019) (*Coughlin II*); *Coughlin v. Virginia Animal Law Society*, 90 U.Va. 403 (2017) (*Coughlin I*).

7 *City of Charlottesville v. Student Affairs*, 74 U.Va 20 (2022).

8 *Class of 2021 v. Davies,* 918 U.Va. 34 (2019).

9 *1L Gunners and Her Majesty the Queen*, 614 P.J.C.P.C. 913, 50 Am. P. Apps. 344 (2019).

10 *Snowman v. Student Admin.*, 73 U.Va. 15 (2021).

11 *1L Gunners v. Everyone Else*, 324 U.Va. 22 (2019).

12 *1Ls v. God*, 73 U.Va. 16 (2021).

13 *1Ls v. 2Ls and 3Ls*, 75 U.Va. 6 (2022).

14 75 U.Va. 12 (2022).

15 See *Succession*, Episode 9, Season 3 (Dec. 12, 2021).

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Faculty Quotes

J. Mahoney: "Epic fail."

J. Duffy: "I was accused of being atextualist, which for an ex-Scalia clerk…them's fightin' words."

J. Harrison: "What would you do if you're from New Jersey and you have a mind like John Duffy's? You'd count cards of course."

C. Nicoletti: "I want to get those bums out and vote new bums in who will do what I want!"

T. Nachbar: "There's no constitutional right to keep or bear cars."

M. Livermore: "I want people in Nebraska to live long and healthy lives, why not, you know."

K. Kordana: "The loser circus companies have a dog and pony show which is a piss poor event."

B. Armacost: "These senior moments are really terrible. I've been told that you all have senior moments. But you're not seniors."

A. Woolhandler: "Do we really want deference as to some customs guy—oh sorry I don't mean to—some customs person…"

T. Frampton: (*Right after saying that he's not math-inclined*) "Let's say you flip a coin 100 times, and you get heads 53 times and tails 48 times."

M. Collins: "You can imagine Justice Holmes smiling from the grave at the idea that proposition B would be interred along with him."

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

GUN VIOLENCE
continued from page 1

the security system implemented by the University, which maintains over 2,000 cameras on and around Grounds that are linked to a central location. "Everything that we build now has security requirements," so that particular areas can be immediately locked down remotely.

In a town hall addressing the issue of gun violence,[5] President Jim Ryan '92 addressed the University's support for a proposed law that would make "carrying a firearm on school grounds a Class 1 misdemeanor and allow law enforcement to obtain a search warrant when it believes firearms are possessed illegally in university buildings."[6] As of now, the possession of firearms is prohibited in all public buildings owned by the Commonwealth *except for University buildings*. President Ryan said that the loophole "limits our law enforcement capability." This is true even though there are administrative prohibitions against possessing a firearm on school grounds, since, as Chief Longo explained, "typically, police departments don't engage in the enforcement of administrative rules." Rather obviously, it is problematic to put the burden on untrained University officials when there may be weapons involved. The bill, sponsored by Virginia State Senator Creigh Deeds and Delegate Sally Hudson, failed in the House of Delegates this past term. President Ryan said that the University will continue to push for its adoption.

Chief Longo did offer resources for students concerned about the growing danger in our communities. First, he strongly recommended that everyone watch the Active Attacker Training and Response Video, which outlines how to react when there is an active shooter on Grounds.[7] Second, to help the University's security system operate effectively, students should honor the access control points (i.e., don't let people standing by locked doors into the building). And finally, Chief Longo repeatedly stressed the need to plan ahead, considering what you would do were a violent incident to break out. He concluded by advising, "Let's not make it comfortable for people to victimize us."

But all of this must leave the general reader somewhat unsatisfied. I appreciate that the University is covered in cameras and armed with a centralized security system, that ambassadors and police officers roam our community, and that people like Chief Longo and President Ryan are at the helm. But that does not change the disquieting nature of the map featured above this article, which shows reported incidents of shots fired, shootings, and armed robberies. Or the fact that the discussion before my Property class was about who was still at the bar when the shooting started. I do not know the answer to this, nor do I pretend like our local officials can serve as ballasts when faced with regional and national crime trends. University police cannot be blamed every time a pistol is stolen near Richmond and finds its way to Charlottesville. But I think I speak for the community when I say that something more needs to be done.

Issues of gun violence and regulation have an obvious connection to the legal field, with various avenues and angles for considering the question. Accordingly, members of the Law School community have turned their eye to the issue of gun violence in their scholarship.

One faculty-member who has focused on the policy side is Professor Richard Bonnie '69, who has advocated for policies which reach "common ground" in a highly polarizing area.[8] One such area in which Professor Bonnie has been at the forefront is in advocating for red-flag laws. Such laws enable the use of "extreme risk protection orders" (ERPOs), wherein a court (at the request of friends or family) removes firearms temporarily from those concerned to present a risk of harm to themselves or others. A hearing is then held, and if found to present a substantial risk, the weapons are removed for a certain period of time. Nineteen states (and the District of Columbia) currently have versions of such laws on the books, including Virginia.[9] However, while these laws may allow for early intervention, preventing violence against the public or an individual, they rely on those near the at-risk person to report worrying behavior—something people are often reluctant to do. Even when people have concerns, there is a "general disinclination that many of us usually have about interfering in other people's lives."[10] In order to be effective, the public must know about the process and be willing to intervene. Accordingly, states enacting such laws need to engage in public education campaigns to inform citizens how and why they should use such laws.

Professor Bonnie has also highlighted the minimum age requirements for obtaining firearms as an area for change. Though not necessarily advocating for a one-size-fits-all approach, Bonnie believes the Second Amendment should not be interpreted as barring the increase of age limits beyond eighteen to twenty-one years old. Instead, Congress and state legislatures should

5 Bryan McKenzie, *UVA Leaders Address Gun Violence, Public Safety Issues in Virtual Town Hall*, UVA Today (Mar. 28, 2023), https://news.virginia.edu/content/uva-leaders-address-gun-violence-public-safety-issues-virtual-town-hall?utm_source=DailyReport&utm_medium=email&utm_campaign=news.

6 Sydney Shuler, *Republicans in Richmond Kill Deeds-UVa Gun Bill*, Daily Progress (Feb. 20, 2023), https://dailyprogress.com/news/local/republicans-in-richmond-kill-deeds-uva-gun-bill/article_254d70be-b16d-11ed-abb3-376859ab2efb.html.

7 Active Attack Prevention and Response Video, https://uvapolice.virginia.edu/active-attack-prevention-and-response-video.

8 Brian McNeill, *Richard Bonnie on Gun Control, Mental Health Policies in Aftermath of Deadly Shootings*, University of Virginia School of Law (Sept. 25, 2013), https://www.law.virginia.edu/news/2013_fall/bonnie_qa.htm.

9 They are referred to as "emergency substantial risk orders." https://law.lis.virginia.gov/vacode/title19.2/chapter9.2/section19.2-152.13/.

10 Mary Wood, *An Architect of Red-Flag Laws Reflects on Recent Shootings*, University of Virginia School of Law (May 26, 2022), https://www.law.virginia.edu/news/202205/architect-red-flag-laws-reflects-recent-shootings.

GUN VIOLENCE page 6

HOT BENCH

Jack Brown '23
Outgoing Sports Editor
Interviewed by Ryan Moore '25

Jack, good to see you again. Tell me a little bit about yourself. Where are you from?

I was born in Chicago, but I am originally from Alexandria, Virginia. I went to James Madison University for undergrad, where I studied political science and philosophy. From there, I came straight here to UVA, so I'm a straight-through KJD.

What brought you to UVA?

My dad is a lawyer, so law school was always in the back of my mind. I knew I'd do well in a small college town, with a mix of nature and city stuff. Growing up, UVA was *the* school to go to. When the pandemic hit, I felt the best chance for me to meet people and hang out wouldn't be at a city school. It would be somewhere where I could go hiking and play sports.

What's your favorite childhood memory?

I went to camp growing up, so I did a lot of hiking and caving, stuff like that. I played paintball for the first time. That was always really fun and helped me get out of my shell and become more of an outdoorsy kid.

Speaking of childhood, who was your first childhood crush?

Claire V. I remember her from elementary school. I had a huge crush on her, but then we went to different middle schools, and I never talked to her again.

What does she do now?

No idea. I just remember the name and that she was the only blonde in our class.

Is your current girlfriend blonde?

Yes. [Laughing] I didn't put that together until just now.

What is a conspiracy theory you actually believe?

I think the "flat earth" stuff is really funny. Also, the theory that one of the Congressional bunkers is built under the UVA Lawn.

Wait, seriously?

Yeah, [a fellow student] explained it to me. In the 1980s or 1990s, they expanded the Charlottesville airport so 747 airliners could land there. 747s never land at the Charlottesville airport. And then there was work on Grounds to expand the UVA Library. They dug about 500 feet underground, but the library is not allowed to use all the new development. Also, the Bodo's Bagels on the Corner was being renovated for about ten years. Charlottesville makes sense as a location for Congress to evacuate to, since it's so close to D.C.

I'm speechless. You might have actually convinced me.

Yeah, the theory is that the entrance to the bunker is in Bodo's. Because why else would it have taken ten years to build?

Changing subjects now. Can you fold a fitted sheet?

Probably? I haven't done it in a few years.

What we've learned here is that Jack doesn't wash his sheets.

I do wash my sheets! But I don't fold them up. I wash them, and I put them right back on. I don't have two things of sheets.

What are you proud of but never have an excuse to talk about?

Of all the softball stuff I've done, I'm the most proud that my section was able to host practices our first semester, during Covid-19. We did it with no support: NGSL was inactive, we didn't have access to the shed, we didn't have any PAs or organized games. But we really wanted to make softball happen. I was super proud we were able to hold bi-weekly practices and get people to meet. The vibe of the Law School during Covid-19 is so hard to explain to those who weren't here that 1L year.

What is the craziest thing you have seen happen during law school?

Uh...

Well, whatever you can publicly say.

It was my Criminal Law class 1L year. I won't name them, but they got cold called. Their camera was off. But we could hear "splashing" going on because they were answering the cold call from the bathtub. That was the exact way to do the Zoom School of Law. Just the image of having your big criminal law textbook and notes floating in the tub with you.

My class missed out on this, being in person.

The Zoom moments were always the best. If you didn't do the readings, you'd text in the GroupMe, "Help." Then you would stall the professor as you "pulled up" your "notes," but actually, your section mates would crowdsource the answer for you.

Lightning round!

What's an overrated superpower?

Mind reading. People think it would help them way more, but you don't need it a lot of the time. It's pretty obvious what people are thinking if you pay attention to them.

How do you feel about Daylight Savings Time?

Oof. I was really against it, but then I did some more reading about it. In the 1970s, we did go away from it, but it led to a lot of people being more sad. It is annoying to switch, but there are emotional benefits we don't talk about.

What do you think the world needs the most right now?

Desalination. Water will be a huge point of conflict in the future. Think of the Middle East, think of Syria. Huge population booms that lead to resource conflicts.

Any parting messages for the 3Ls?

We did it, and we should be really grateful, despite our experience starting off strangely due to Covid-19. The whole world went through a tough period, but we still got to do a lot of really cool things. Be proud of what we did.

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The Case of the Mock Trial Elections

Ryan Moore '25
Historian

I've seen a lot in my five years as a private investigator,[1] but nothing quite like this. There was something fishy with this election, plain and simple. The numbers didn't add up, the results didn't make sense, and I had a gut feeling that something wasn't right. As I pored over the email, I could feel my investigator senses tingling. This wasn't just a matter of politics. This was a matter of justice.

On April 10, law students received an email from SBA. In it, SBA detailed how they had been made aware that "the Mock Trial elections were not conducted as outlined by the Mock Trial Constitution." The election was being "contested." The only remedy, after mediation with the SBA Executive Board, was for SBA to conduct and oversee a new election. The new election, which closed April 12, was wholly run by SBA.

I had been hired[2] by a small group of concerned citizens,[3] people who had seen the email[4] sent out by SBA. They didn't have the resources or the free time to investigate, and honestly, neither did I. But they had hired me to find it. It wouldn't be easy, it wouldn't be pretty, and it wouldn't be a good use of my time, but it was a fight worth fighting. And I was ready to take it on.

My investigation began like all good investigations do: asking people to do the hard work for you. I fired up my laptop,[5] logged into GroupMe, and asked my section, "Does anybody know what happened with mock trial elections?" A few memes began to pile up. Photos of United Nations peacekeepers conducting "free and fair elections" in sub-Saharan Africa. Jokes about how the only entity less powerful than the United Nations was SBA. Jokes about the irony of a team of Mock Trial law students losing their case against SBA. This case was going to be harder than I thought.

I was forced to resort to an old PI trick: legalized eavesdropping. I sat in ScoCo and listened in on conversations. I hoped someone would eventually reveal to me all the juicy details of this election. The students were certainly talkative. 1Ls were putting off their oral argument prep, and the 2Ls were planning the final semester events for their clubs. As usual, the 3Ls hadn't been seen on Grounds for weeks.

As I sat in ScoCo, drinking my overpriced iced mocha with oat milk,[6] I heard all sorts of juicy secrets. Some man named Connor Roy, presumably a UVA Law alum,[7] had ended his campaign for President. A wild bear was terrorizing the Mills Creek neighborhood. Pav was no longer locking its doors after 7 p.m. on the weekends. But over the course of my investigation, I discovered nothing about these elections.

It was only after conducting a deep investigation into my numerous unread emails that I discovered the next clue. There exists a little-known practice, detailed in some obscure writing called the "SBA Monday Mail," which indicates that SBA officers hold weekly "public" meetings.

I put "public" in quotes because when I tried to enter the meeting room, the door wouldn't open. "Ah, it must be a *push* door, not a *pull* door," I thought as I tried again. Nope. The door was locked. I turned to bail on the mission when I made eye contact with half the members of SBA. One member got up and let me in. "Thanks," I muttered as I found the only open seat in the room. As I later learned, absolutely no one goes to public SBA meetings. In fact, I think my *Law Weekly* editors hazed me when they suggested attending this meeting.[8]

After forty-five minutes of listening to SBA discuss updating school security policies, I realized that SBA meetings are a lot like Taco Bell: You couldn't get me to do either sober, but both would be a lot more fun while drunk. The meeting wasn't all bad, because it was here that I cracked the case. I finally solved the Case of the Mock Trial Election.

Basically, every Law School club has a club constitution that details the rules and procedures of that club. These constitutions are drafted when the club is founded. However, some organizations do not update their constitutions as practices change over time. All elections and decision making should be conducted in accordance with the club's constitution. Failure to do so can lead to a rerun of the election and monitoring by SBA.

If there is anything law students should take away from The Case of the Mock Trial Election, it is the importance of keeping your club constitutions up-to-date. That, and SBA should serve Taco Bell.[9]

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1 No joke, I was a licensed private investigator in Chicago and Phoenix.

2 Given pizza.

3 My editors at *Virginia Law Weekly*.

4 Which I sent the editors.

5 I never could solve The Case of the Phone I Lost at Barrister's.

6 $7.34 is ridiculous, and I can't even bill it to the *Law Weekly*.

7 Probably also in FedSoc?

8 I will be informing Dean Davies.

9 Seriously? No free food? The *Law Weekly* has pizza at every meeting.

Gun Violence

continued from page 5

be allowed to grapple with the question "based on a balancing of the liberty of maturing adolescents and the risks of possessing firearms to their own safety and the safety of others." Emphasizing the cognitive, emotional, and societal development people are still undergoing after the age of eighteen, Bonnie drew parallels to the reduction of motor vehicle crashes which followed raising the minimum drinking age. Even choosing to forego a blanket age restriction, an individualized inquiry assessing the maturity or stability of a youth seeking access to weapons may serve to prevent those likely to cause harm from accessing weapons in the first place, lowering rates of gun violence.

Beyond questions of *what* policies to enact, one must consider *who* gets to decide what regulations are in place. This issue of the appropriate level of lawmaking for gun policy brings state and local governments into direct conflict, as differing or adverse policy goals and approaches might be implemented or desired. Professor Richard Schragger, having written extensively on the conflict between city and state governments, highlighted the proliferation of state preemption of local firearm regulations. Such statutes are an attempt by state legislatures to prevent city governments from enacting ordinances or rules counter to their preferences, limiting the power of local officials and (in many instances) opening them up to civil liability.

With regard to firearm preemption statutes, which have proliferated throughout a majority of states, efforts have been "particularly successful in large part because the National Rifle Association has acted aggressively at the state level."[11] Virginia is one such state which prohibits localities from adopting or enforcing any ordinances or actions regulating firearms, except as expressly authorized by statute.[12] This is reinforced by the nature of Virginia as a Dillon's Rule state, as opposed to the more common home rule system—another aspect of the state-local relationship which Professor Schragger has advocated to change, both in Virginia and beyond.[13] Under Dillon's Rule regimes, local municipalities can only exercise those powers expressly granted or delegated by the state government—a further limitation on the ability of urban areas to enact policy at odds with the statehouse. Given that the majority of cities are more liberal than their state governments, especially in states wherein Republicans have a majority or supermajority, such preemption laws prevent cities from enacting policies to address gun violence. Add to this the issue of gerrymandering, including the Supreme Court's recent endorsement of partisan gerrymandering in *Rucho v. Common Cause*, and the struggle between cities and states for regulatory control only grows.

These research efforts represent only a portion of the interesting and varied work being undertaken by faculty at the University to address the issue of gun violence. As this problem continues to be felt by communities and areas throughout the nation, such scholarship will enable not only the legal and political spheres to better understand the situation, but the public as well. Such informed scholarship and debate represent an important step in actually dealing with the issue.

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11 Richard Schragger, *The Attack on American Cities*, 96 Tex. L. Rev. 1163, 1170 (2018).

12 https://law.lis.virginia.gov/vacode/title15.2/chapter9/section15.2-915/.

13 Richard Schragger et al., *Principles of Home Rule for the 21st Century*, National League of Cities (2020), https://www.nlc.org/resource/new-principles-of-home-rule/.

COPA

continued from page 4

illustrious Court's 1L jurisprudence. Our traditions, history, and common sense dictate that we rule against the 1Ls, no matter the parties, facts, or pettiness of the action.

III.

The combination of specious legal theories, threats disguised as injuries, and—most damning of all—a plaintiff class composed entirely of 1Ls renders the plaintiffs' complaint nothing short of ludicrous and thus it fails to pass even the most gullible standard of scrutiny. Today, we lay down a bright-line rule: 1Ls must always lose, no matter what. This obligation is undergirded by decades of CoPA jurisprudence, the best works of our brightest philosophers and ethicists, and the sagacity and wisdom of this Court. In so doing, we definitively overrule a stray piece of dicta from our decision in *1L Gunners v. Everyone Else*, suggesting that we "may rule for 1Ls." We may not. As surely as states have sovereign immunity from suits in law or equity under the Eleventh Amendment, 1Ls have an inverse and equally powerful constraint crucial to the rule of law. Since 1Ls must always lose, they lose today. The case is dismissed with prejudice.

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