Debate and Controversy as SBA Postpones Blood Drive

Due to begin this week, the annual fall softball season was largely delayed by the onset of Hurricane Florence. The fringes of the hurricane left Copeley Field soggy and largely unplayable. That didn’t dampen the spirits of Section H 1Ls, who managed to complete one of their games at The Park. 2Ls and 3Ls were forced to reschedule their games, and with the ongoing humid gloom imposed by the tropical monster, increasingly glum about their ability to complete their schedule.

The Law School’s students can only hope their postponement of the semiannual blood drive and appoint a committee led by Toccara Nelson ‘19 and Tim Sensenig ‘20 to study how to proceed in light of the Food and Drug Administration’s (FDA) policy restricting blood donations from men who have had sex with men. Fourteen donating students voted for postponement, one senator voted against, and one abstained. The student government of the Law School began debating the issue immediately, with supporters bailing out the decision as a victory against discrimination and detractors criticizing halting the flow of blood to those in need.

At its heart, the dispute around this Law School’s continued participation in the blood drive lies with the policies of the FDA. For decades, the FDA completely prohibited the donation of blood from the category of “men who have had sex with men” (MSM) on the theory that blood from MSM was more likely to carry risk of HIV infection. In 2015, the FDA changed the MSM blood-donation policy from indefinite prohibition to a one-year deferred policy. That is, MSM may give blood one year after their last sexual contact with another man. For advocates of allowing MSM to give blood, that change, while welcome, retains what they call a scientifically unsound and unnecessary policy.

The decision to postpone the regularly scheduled blood drive was months in the making. As leaders of the Law Weekly will recall, Kyle O’Malley ‘19’s criticism of the FDA’s MSM policies and the University’s toleration of “the discrimination the FDA’s regulation engenders” in his guest column for this paper last spring. According to SBA officials who spoke with the Law Weekly, last year’s blood drive—held during Diversity Week—sparked calls to end the Law School’s participation in the blood drive, or at least couple participation with activism demanding an end to the FDA’s MSM policies. Nelson and Sensenig backed that version of events, writing in a statement to the Law Weekly that “students called on the SBA to discontinue its practice of hosting blood drives until the FDA policy becomes more inclusive and no longer stigmatizes men who have sex with men,” while other students called on the special committee to finish the work it was assigned than about ending the discourse and unnecessary policy.

The result of last spring’s controversy around the blood drive was the vote to create the Special Committee on Blood Drives. Nelson and Sensenig explained the special committee “did not obtain an adequate level of participation to properly represent the diversity of perspectives” on the blood drive issue and therefore “tabled discussions until Fall 2018 to seek more student representation.” Meanwhile, the SBA’s Health and Wellness Committee went forward with scheduling the semestery blood drive, apparently unaware that the Special Committee on Blood Drives had not yet produced a recommendation.

One student familiar with last year’s SBA deliberations, who spoke to the Law Weekly on condition of anonymity, told the paper that the Health and Wellness Committee, staffed primarily by 1Ls, did not know of the Blood Drive Committee’s existence or mandate, and so scheduled the blood drive as usual. That student, supportive of the blood drive but sympathetic to allowing the special committee to finish its work, stressed that the postponement of the drive was much more about allowing a duly appointed committee to finish the work it was assigned than about ending the Law School’s participation in the blood drive.

Nelson and Sensenig stressed the same point: “We are cognizant of and sensitive to the need for [blood donations] in the midst of Hurricane Florence,” they wrote, while emphasizing the need for the special committee to complete its work. The SBA is offering reimbursement of up to five dollars for those students who traveled to town to give blood September 17 and 18.

Reaction to the SBA’s postponement of the blood drive was mixed. Some students and student organizations called for the postponement of the blood drive. Students who traveled to town to give blood September 17 and 18.

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1L Softball Practice Off to Wet Start

Lily Teague ‘21 warms up with Section H.

4. Nelson and Sensenig’s full statement to the Law Weekly as well as the other statements made on the record to the paper may be found at lawweekly.org.
acted positively. Lamba Law Alliance President Eleanoral Kaloyoropoulou ’20 wrote to the Law School that SBA supported the special committee’s mission “of planning for future, inclusive elections.” She went on to add that “Lamba supports the use of the committee’s platform to handle the planning of future blood drives.”

South Florida burner MacLane Taggart ’19 described the postponement as “purely a reflection on the Senate Republicans’ want to follow through with the promise made last spring to avoid a protracted dialogue regarding how best to address the discrimination inherent in the FDA’s policy to not allow donations by men who have sex with other men.” Taggart added that he personally support[s] blood drives at the Law School “because of the inability to donate blood as a gay man.” He also supports the decision to postpone the drive “until the special committee has the opportunity to make a recommendation.”

Kyle O’Malley ’19 expressed support for the SBA’s decision, noting that according to the information from the special committee, “But indicated frustration at the FDA’s continued exclusion of men who donate blood.”

Editor’s Note: Mr. Rudebusch submitted his column prior to the allegations of sexual assault against Judge Kavanaugh that emerged at the end of last week. For that reason, his column deals only with Kavanaugh’s judicial temperament and ideology.

The confirmation process of Brett Kavanaugh, Judge of the Court of Appeals for the D.C. Circuit, represents the current process of confirmation. It might be inconvenient to travel off-Grounds to donate, but it can be done. And they are—what we are seriously committed to non-inclusivity.

Other students expressed frustration and disappointment that the SBA sought to protect LGBTQ students and allies’ righteous anger on the whole. Wade Ford ’19, a former Lamba board member studying abroad in Australia, wrote to Senninger and Sensenig in a message shared with the Law Weekly that “The blood drive is not going to change FDA policy. It is only going to deprive the Albermarle County area of much needed blood at a time when Virginia is in a critical blood shortage.”

In comments provided to the Law Weekly, 10 individuals who are not subject to the FDA’s policies and 14 individuals who are not subject to the FDA’s policies echoed the same idea: “We embrace the diversity of perspectives from students . . . All members of the Law School community who are interested in this issue are welcome to join or send comments to the special committee.” Fuqua ’19 told the Law Weekly, “Is it any wonder that President Trump is hellbent on steamrolling the Deep State?”

Kavanaugh’s nomination with associates has continued to flout democratic processes to confirm his candidate of choice. As the Senate proceeds with the confirmation process of Judge Kavanaugh, Republicans continue to flout democratic norms. They have withheld hundreds of thousands of Kavanaugh documents from their Democratic colleagues in the Senate. And they have bullied on steamrolling the circuit judge through the confirmation process before the midterm elections this November. How is the Senate to advise citizens that Judge Kavanaugh’s nomination with an incomplete documentary record and without consultation time for due process? And what about waiting until after the midterms to remove the rights of people to “give the people a voice in the filling of this vacancy?”

Mitch McConnell, Majority Leader of the Senate, made this very argument in 2016 during the confirmation battle for Alber- gick Garland, Chief Judge of the D.C. Circuit Court of Appeals. For a party that extols the values of responsibility, Republicans have been anything but taking power in 2020 in the Senate because of their unpopular policy positions by degrading our democracy.

And if they should succeed in appointing Judge Kavanaugh, it is clear that any judicial nominee could experience a profound reworking of our society. In his confirmation hearing, Judge Kavanaugh has expressed cagery, contradictory, and misleading testimony about his views on reproductive rights and whether Roe v. Wade is settled law.

He also has revealed that he perjured himself in 2006 when he testified for nomina- tion of Judge William H. Pryor, Jr. to the Eleventh Circuit. Evidence of perjury for any judicial nominee should raise serious issues during the confirmation process. But in these times when the line between truth and lie has become so blurred, this is what should automatically disqualify Judge Kavanaugh—and forms of plates, cups, utensils, for his impeachment from the D.C. Circuit.

Perhaps most concerning, however, is Judge Kavanaugh’s beliefs in expansive exe- cutive authority. His extensive writings on the subject range from the notion that Judge Kavanaugh will shield Presi- dent Trump from criminal and civil law suits stemming from Robert Mueller’s investigation. His views on Presidential control of the executive branch have even caused some to question whether President Trump nominated Judge Kavanaugh specifically to insulate himself from the special counsel’s eventual findings. Chuck Schumer, Senate Minority Leader, argued that best way to do this, if it’s true, “is to pass an act that would say, ‘Is it any wonder that Presi- dent Trump chose Kavanaugh from the list of 25 [can- didates] when we know he’s obsessed with this investiga- tion?’”

For these reasons, and despite his qualifications, Judge Kavanaugh should not be confirmed to replace his for- mer boss, Anthony Kennedy, on the Supreme Court. In our modern government, partisan tensions and it is important to note that the Senate Republicans will be willing to “sell off the bins and wares and come back to it at the end of the day.”

It is essential to successfully make sure that all bins are present, but also, that the result will be a lot of unnecessary work for Victor and his team.

For this reason, SBA’s Building and Environmental Services Committee will be hosting an information session about what is compostable and recyclable. The event organizers will suggest what a zero-waste event looks like with serving food and tableware. Students are encouraged to look at the event organizers’ best practices.

Additionally, if non-recyclables are placed in the recycling bin, the result will be a lot of unnecessary work for Victor and his team.

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The Virginia Law Chapter of the Black Law Students Association was founded in 1970 and formally chartered in 1979. UVA BLSA is designed to provide holistic support for our members and to address the diverse needs of our community. It strikes me that the concerns about his temperament should be investigated, but the particular moment, his record and his views—indicated in his writings and in his approach to the law. Judge Kavanaugh has become a political game of points. Sadly, the theatrics of the earlier hearings may have vicariously tainted those stepping forward to accus- e Kavanaugh of real misconduct. Democrats have been crying wolf for a long time with precious little to support these accusations. Now that there may in fact be a wolf, it is uncertain whether there is anything to be feared. Should an honest investigation determine either of these allegations to be credible, I will be the first to admit that Judge Kavanaugh does not possess the temperament to serve on the Supreme Court. However, as of this moment I do not think we are there yet. Monday’s hear- ing with Judge Kavanaugh and Dr. Ford should be clarifying. My wish is that Senator Brett Kavanaugh would be a senator in a judge’s robe. It has proven to be especially true among our alumni. My personal goal as a leader in the Black Law Students Association is to increase the number of culturally competent attorneys who excel academically, succeed professionally and positively impact the community. Both locally and nationally. If you or your organization would like to be featured, please send an email to editor@lawweekly.org.

rbj@virginia.edu

Confirm Kavanaugh (If the Allegations are False)

When the news broke that President Trump nominated Judge Brett Kavanaugh to fill Justice Kennedy’s seat, I was very unsure of my decision. Kavanaugh’s nomination to the Supreme Court is a mi- crocosm of the broader issues facing our politics more generally. In some ways, the Court has become more significant as a political institution in our government, and as a result, choosing the individu- al to serve in that institution has become a political game of procedural litmus tests. The hearings have been marked with morally conten- tious, often hysterical episodes. Kavanaugh himself has been criticized for his more recent hearings. september 19, 2018

The National Black Law Students Association (NBLSA) was founded in 1968 by Algernon Johnson Coop- er, the former mayor of Pritchard, Alabama, at the New York University Law School. Today, NBLSA is one of the largest student-run or- ganizations in the United States, comprising over 130 chapters. NBLSA chap- ters represent over 6,000 students inspired me and many impressive black law students among our alumni. My personal goal as a leader in the Black Law Students Association is to increase the number of culturally competent attorneys who excel academically, succeed professionally and positively impact the community. Both locally and nationally. If you or your organization would like to be featured, please send an email to editor@lawweekly.org.

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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 four associate justices and one Chief Justice. Opinions shall be released periodically and only in the official court reporter: the Virginia Law Weekly. Please email a brief summary of any and all conflicts to jmsa@virginia.edu.

Section B v. Section A (In re: KOWSKI, J.)

September 2018

Wednesday, 19 September 2018

Section B v. Section A (In re: KOWSKI, J.)

Section B countered that its designations were clever and co-opted the University-assigned generic name of another section—“Section B”—for their section softball team name. Section B protested the purloining of this designation, which they are recognized throughout the University community, the only name they are likely to be appropriate to mention whilst schmoozing still-wet-behind-the-ears, jargon-laden UVa alums at firm receptions, the name that not one member of the section ever objected to, unlike the seventeen others considered for their softball team name. In short, Section B claimed trademark infringement on grounds of likelihood of confusion and similar marks. The practice is cephalic and/or fraudulent trade practices. In response, Section A moved for declaratory judgment, seeking to establish that no valid trademark could attach to “like” Section 21, another name as “Section B.” In the alternative, Section A countered that its desire to be known as “Section B” is intended as the highest common, to boot, to support the aforementioned albeit somewhat lackluster softball team and instead is suffering deepest emotional distress. This Court shall set aside any action taken by Section A that in any way appears ingenuously to contravene the will of the University. This Court will not comment on the related allegations that Dean Paulk and his office have breached their duty to the existing student body not to admit only utter and absolute bores, except to say that allegations alone don’t make for a lawsuit—in this school, we very carefully consider claims relating to the putative trademark “Section B.” Trademark infringement describes the scenario when some genius who can’t think of his own trademark marks the name starts using a trademark or name belonging to someone else, who did not give permission for such use, in commerce. As a threshold matter, a valid trademark exists for the purpose of infringing to occur, so we’ll deal with that first. It is not contested that Section B has used, as assigned by prior years’ Section B from one Section A per the next since, 1859. Similarly, it is acknowledged that Section B has been using the trademark as part of its section in commerce, with goods in the form of section T-shirts and services ranging from “team-building” (i.e., forcing non-athletes to relive the painful experience of middle school gym and forcing non-theater people everyone to suffer through Dandelion) to procure—

1. Lid but only until the financial dehumanizing existence of 1L reality sets in. We hear Memo #2 is due right around now.

2. This Court suggests is designated driving as your do- nation, reader. Why? Because we need a drink or six after work has been had, and it’ll probably be cheaper to pay you than an Uber to take you winetasting.

3. Technically not copyright infringement, since no copy-

While it is unclear that Section A would be able to catch the traditional Section B reputation for drama at the end of the school year, at this point in time we find that a likelihood of confusion does exist. After all, none of us can tell the 1Ls apart and honestly probably won’t be able to until they emerge from their first 1L bubbles, and if any of said 1Ls don’t suck at softball, it’s probably on an individual basis, not the team.

Because all 1Ls are kind of interchangeable to the world at large, in which they don’t even fully exist, see above, we find that dilution at this point in time is impossible without some evidence of intent to act in such a manner that “Sec-

tion B” acquires a reputation worse than that of the average 1L section, namely, being kind of goofy and kind of a bunch of gunners and complacent individuals who think they have no business being here other than rather than at Georgetown, and, in sum, just a stressed-out bunch of people who really aren’t cool.

right vests in government-authored works, BOOM. And if I’m misremembering? Sue me, we’ll get into judicial sov-

ereignty and it’ll be fun.

4. And so the wrath of Dean Donovan shall pour down on ye who think the hard part has passed. Kordana 3:14.


With regard to Section B’s allegations of deceptive and/or fraudulent trade practices, we think that’s going too far. Much as a rose is a rose by any other name, with that signature floral fragrance, Sec-

A is Section A in Section B by any other name, and there isn’t no escaping that stink.6 In other words, if you feel com-

pelled to pretend to be a whole different section because you’re so bad at softball, the situation is probably dire enough no one will be fooled by the ruse, and attempted deception that is so far from succeeding is what passes for humor here on North Grounds.

Section A’s counterclaim of IPEV probed by Section B’s reaction to their so-called flat-

tered is dismissed. Stop being such smarmy little shits, guys. By the time the Court orders as follows. Section A is liable for trademark infringement and is hereby en-

joined from any further use of the name “Section B.” Acquires a reputation for the contrary specimen which itself has more drama than any 1L section, namely, being kind of goofy and kind of a bunch of gunners and complacent individuals who think they have no business being here other than rather than at Georgetown, and, in sum, just a stressed-out bunch of people who really aren’t cool.

Faculty Quotes

F. Schauer: “Obviously I’ve never done this, so lack of self-confidence. I can’t promise that the time.

K. Kordana: “I’m in favor of book burning. The problem is they usually burn the wrong books.”

G.E. White: “Describing a famous theory of torts: ‘Post- 
protesters... utterly worthless... not a contribution at all’

M. Gilbert: “I’m not a geologist, although I really liked the Rocks for Jocks class in college. For me, it was just Rocks.”

A. Vollmer: “Does this sound like fancy tap dancing or what?”

A. Woolhandler: “You see, this isn’t really ever gonna be heard...”

A professor’s quote

Email editor@lawweekly.org!
**VIrginiA law weekLy**

**Law WEekLy Feature:**

It has come to the attention of the Court of Petty Appeals that the law firm being once again distributed the hats discussed below. Some of their offers posed a picture with the caption, “Thimson bitches.” Thank you for proving our point. Their damages are therefore trebled and their donuts need to have chocOlate on them. It is so ordered.

Student Body of UVA’s Thompson Sacher 713 U. Va. 897 (2019)

Zablocki, J., delivered the opinion of a unanimous Court. [(Summary of facts: The law firm “Thompson Sacher” gave out branded UVA hats at their office dinner. Their offers wore them to Bilt. It was gross.tesque. Justice Zablocki found the firm in violation of UVA’s trademark laws.)] She proceeded to ana lysze the plaintiffs’ claim under Intentional Infliction of Douchebaggery. Her analysis followed.]

1 Evaluating offers and current/future employees of Thompson Sacher.

2 A pseudonym to protect against the names of parties in commerce of douchebaggery. Her analysis follows.

3 The tort of incited douchebaggery extends from the tort of douchebaggery, in some jurisdictions known as hurt feelings. UVA Law Class of 2021 v. UVA Law Faculty, 883 U. Va. 994 (2017)” (This Court acknowledges, even the slightest of special little snowflakes may suffer on the hot seat of professional colleagues, and thus such outcomes of such at may result in liability for the tort known as douchebaggery.)

4 Regular incited douchebaggery typically involves pain and suffering (mental, emotional, or otherwise) of a group of three or more people.

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

**HISTORICAL COPA page 6**

**Looking Back:** 70 Years of the Law Weekly

*An Old But Relatable Missed Connection*

“I Saw You… In the library. You: emerging from the magazine room with sleep marks on your face and drool on your shirt. Me: coming out of the Lesa lab where I spent the last three days testing for metals in my journal. ‘I’m the one you almost threw up on in the library.’ Ben Block, ‘Looking for Love in All the Wrong Places,’ Virginia Law Weekly, Friday, September 3, 1990.

1 Really ’Ros Complaint From When Dandelion Was a Drunk Driving Pariah*

“Question of the week: Why are the parties on Rugby Road able to run and drive out of control, while the ‘animals’ of the law school have their outings raed or obstructed by the police? There is always a cop at Graduate Happy Hours and last Thursday night during Bar Review, firemen invaded Sloan’s and gave a citation to our beloved haimn for being overcrowded.” ANG, Virginia Law Weekly, September 9, 1988.

UVA’s Law: teaching students how to effectively fight for their right to party since 98.

**HOT Bench**

**Jill Rubinger ’19**

1. What are you most excited for during your first year in D.C.?
   Trying out new restaurants.

2. What is your favorite word?
   "Oh!"

3. Where did you grow up?
   I grew up in Atlanta, Georgia.

4. What’s your favorite meal?
   Breakfast tacos and lots of salsa.

5. What’s your most interesting two-word-and-a-lie? (And what’s the lie?)
   I’m amazing at beer pong. I’ve thrown a (fake) bat-mitzvah and wedding during law school, and my name is misspelled on the UVA internal people search. Lie: I’m dreadful at beer pong.

6. If you could meet one celebrity, who would it be?
   Ben Block.

7. What is your favorite hobby or activity to avoid stress of law school?
   Impractical discipline parties.

8. Where is your favorite place to eat when?
   Deer Valley.

9. What is your favorite thing to do in Civille?
   Villa breakfasts on Sunday mornings.

10. If you could make one rule that everyone had to follow, what would it be?
    If I send you a meme, it will be the first time you’ve seen it.

11. What’s your spirit animal?
    Backyard.

12. What are your least favorite sound?
    Salsa.

13. What’s the best gift you’ve ever received?
    The b*tch rabbit.

14. Blueberries or strawberries?
    Both. I am f*cking Gang til i die.

15. What is the best concert you have ever been to?
    All of Austin City Limits in 2016.

16. What’s your favorite thing to do in Civille?
    Sleep in.

**Law WEEKLY Feature:**

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given reasonable knowledge both the group constituting of offenses—to get drunk and dance on tables and one group constituting non-offenses—the majority of whom are generally nice, not obnoxious and would be appalled by the conduct incited. Parading around your offices of Big Law jobs with full knowledge there are people nearby who neither know nor, more importantly, care to know about your success is the very definition of doachegagery. While We hesitate to call classmates doachegagery and We are ashamed at sharing Grounds with them. Having determined Thimspson Sacher’s liability on both counts, this Court now turns to the matter of damages. This Court will solely award punitive damages, which it acknowledges will do little to assuage the Student Body but tough shit. It is henceforth decreed that Thimspson Sacher shall leave their hats behind and bring not only Bodo’s, but also donuts. And not just any donuts, DUCK DONUTS.

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amaze@virginia.edu

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Unfortunately, charges have not been formally brought against these individuals, so we can only hope that shame at being the source of the Student Body’s shame is sufficient punishment. And karma. She’s a bitch, in case you haven’t heard.

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FOR KAVANAUGH continued from page 3

Kavanaugh’s nomination. There is little question he has the ability to do the job well. His resume is littered with sterling credentials and his tenure as a judge has shown him to be thoughtful, consistent, and competent. His record assures me he will not act like a politician while on the bench. Viewed in the light of his judicial record, Judge Kavanaugh is exceptionally well qualified for the position to which he is nominated. While we can be free to dispute whether Judge Kavanaugh reaches the right conclusions, we may be confident that Judge Kavanaugh’s hearings exposed is whether he has the character to be a judge. Unfortunately, the Senate may lack individuals with the unimpeachable character to credibly make that determination. Alas, that is our system, but I have hope that the honest truth will emerge soon. Should the accusations levied against Judge Kavanaugh turn out to be untrue, the only other arguments raised against confirmation come from a concern over ideology. Judge Kavanaugh has shown himself to not be an ideologue but instead a judge. His record demands he be confirmed as such.

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AGAINST KAVANAUGH continued from page 3

should seize it as an opportunity to help heal our ailing body politic. Toward that end, Republicans should join their Democratic colleagues and block the confirmation of Judge Kavanaugh. And President Trump should heed Senator Schumer’s advice and nominate Judge Garland to replace Kennedy. Doing so would not only replace a moderate justice with a moderate circuit judge. It would also bridge the partisan gap between Democrats and Republicans. Indeed, nominating Judge Garland to the Supreme Court is precisely the olive branch that our nation needs. It would help President Trump to appear reasonable. It would help the Republican party make the case that it can effectively govern. And it would help reorient our politics in a more bipartisan direction, where the national interest is put before the party.

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gierzaj@virginia.edu

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"I ALWAYS CARRY MY BLUEBOOK ON ME, JUST IN CASE I NEED IT"

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THE DOCKET

SUDOKU

Solution

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