

# VIRGINIA LAW WEEKLY



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## Sunshine State Swamps UVA Softball

M. Eleanor Schmalzl '20  
Editor-in-Chief

As most UVA Law students have begun outlining for finals, drafting final papers, and preparing for busy summers, several of them also attended and participated in the 36th Annual UVA Law Softball Invitational held this past weekend. This year's Tournament Directors, Ali Goldman '19 and Janie O'Connor '19, have been preparing all year for this big weekend, working to make the event incredible for the ninety-six teams that traveled to play softball and enjoy a fantastic weekend in Charlottesville. And this year, the tournament came at a particularly special time as the UVA men's basketball team advanced to the final round of the NCAA tournament for the first time in the UVA's history.

After a day of rain (as seems to be the norm this year for Fridays in Charlottesville), the tournament kicked off on a turf field Friday at 5 p.m. with two UVA teams facing each other in a first-round matchup that kicked off a wild first round. UVA Co-rec Beach Bums played UVA Denim. The two so-called "fun" squads played a raucous and tight game. By the bottom of the last inning, Denim led 8-5. Beach loaded the bases with nobody out, with team captain Charles Condro '19 batting and representing the winning run. What followed next was a literal comedy of errors worthy of SportsCenter (or a Little League blooper reel): Condro hit a fly ball to right field that David Rubin '19 caught (one out). Rubin, embarrassedly nursing a sore elbow resulting from normal physical activity, lofted a rainbow to Martin at first base. Martin stepped on first base to force out the runner, Clay Davis '19, who had run off first before tagging up thanks to a derelict first base coach (two outs). Derek Keaton '19, on third base when the pitch was thrown, also ran off the base without tagging up. When he tried to go back to third, he found his base occupied by a smiling John Hale '19, who had properly tagged up from second base and advanced to third. Keaton was caught in a

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# Lile Semifinals

Thornhill and Whisenhunt Will Face Dickman and Mers in Lile Final in September



From left to right: Megan Mers '20, Henry Dickman '20, Abbey Thornhill '20, and Katherine Whisenhunt '20. Photo Courtesy of University of Virginia School of Law.

Lena Welch, '20  
New Media Editor

Two teams of 2Ls squared off in the 2019 Lile Moot Court competition semifinal round Tuesday, April 2. Abbey Thornhill '20 and Katherine Whisenhunt '20, who represented appellee Janet Davis, prevailed over Billy Hupp '20 and Dana Raphael '20, who argued for the federal government. In the other bracket, Henry Dickman '20 and Megan Mers '20, for appellee Davis, defeated Anna Bobrow '20 and Jay McHugh '20, who represented the appellant U.S. The winning teams, Thornhill and Whisenhunt and Dickman and Mers, advance to the Lile Moot Court final in the fall.

The four teams of competitors argued in front of a panel composed of Judge Vince Chhabria of the U.S. District Court for the Northern District of California, Chief Judge Mark Hornack of the U.S. District Court for the Western District of Pennsylvania, and U.S. Deputy Solicitor General Ed Kneedler '74.

The problem, *Davis v. United States*, posed two issues for the participants. Whisenhunt and Raphael in the first argument and Dickman and Bobrow in the second addressed the question of whether, without a warrant, a law enforcement officer with probable cause violates the Fourth Amendment by arresting a suspect with a

verbal command across the threshold of the suspect's home. Thornhill and Hupp as well as Mers and McHugh tackled whether "exceeds authorized access" in the Computer Fraud and Abuse Act statute at issue penalizes a person's misuse of information that he or she could otherwise access lawfully.

In both arguments, the panel reversed the district court, ruling in favor of the appellee, Davis. The judges had high praise for the competitors across the board.

Chhabria and Hornack noted that they wished they had lawyers like the eight students appearing in their courts. The judges said they were impressed by the poise of the competitors, even under rapid-fire questioning from the bench. In particular, Chhabria remarked that he liked that the advocates were not afraid to say yes to the questions before pivoting to support their positions.

Hornack highlighted the highly-integrated thinking of the participants, which, he said, made clear that they had thought about the problem as a complete whole. He added that he hoped the students would keep the sharp edge and skills they have developed by finding opportunities to get in the courtroom after graduation. Kneedler focused on the importance of knowing the ins and outs of the logic and limits of the argument. He added that it is important to be prepared with the aspects of

one's argument that can be conceded and the legal rule that each side wants to be applied, because judges seek a rule to be applied across all cases. Additionally, each of the judges noted the importance of being yourself in an argument. A comfortable conversation, according to the judges, helps provide effective advocacy because it allows all sides to focus on the substance.

Darcy Whelan '19, the person in charge of organizing the Lile Semi-Finals, commented to the *Law Weekly* about the success of the event: "The event went very well, with faculty including Dean Goluboff in attendance. All four teams did such an amazing job that I truly don't envy the judges who had to pick the advancing teams. My advice to the current and future participants echoes something that Judge Chhabria said: hone your skill, but don't feel like you need to change your entire presentation style to fit some mold. Express yourself how you do naturally, even as you work on things like enunciation, volume, and posture."

Whisenhunt told the *Law Weekly* what she's most looking forward to come the fall: "I'm looking forward to continuing to work with Abbey. Our success was truly a collaborative effort. While the competition has required many hours of work, it has

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## around north grounds



Thumbs up to the true Cavs fans supporting Kyle Guy by sending him gifts off his registry. And thumbs up to Kyle Guy for getting together with his now-fiancée when they were in eighth grade. Nothing but true love for Kyle Guy and the basketball all-stars.



Thumbs sideways to the Law Weekly Editorial Board having to be in the office finalizing this edition on the night of UVA Men's Basketball team's last game. On the one hand, dedication, but on the other hand, priorities?!



Thumbs up to the train that passed by Coupe's during the Final Four game. ANG isn't sure why, but a train passing by a bunch of law students cheering for a train after hearing all about them in torts is of the most ironic things ANG has witnessed.



Thumbs down to ANG's gunner classmates for getting in line for Boylan tickets 45 minutes before tickets went on sale. ANG wanted to go, but ANG had to sleep off Friday's bender until at least 12 PM. Smdh, people. Try-hards.



Thumbs up to the classes that ended early for the NCAA championship. ANG appreciates your priorities. ANG's "viewing party" is just ANG's liquor cabinet, but ANG still appreciates your priorities.



Thumbs down to finals approaching. ANG thinks it might finally be time for ANG to figure out what this "securities" thing is that ANG keeps hearing so much about.



Thumbs sideways to Game of Thrones finally coming back. ANG can't wait. But, ANG is nervous for the well-being of ANG's favorite characters—2,339 characters have died over the past seven seasons. Alas, valar morghulis.



Thumbs down to the small batch sale of SBA watch tickets. ANG loves exclusivity, but ANG expects ANG's gold-plated RSVP to be hand delivered next time.

# Impeachment Stories: Congressman Gerald Ford's Attempt to Remove Justice William O. Douglas

On November 12, 1975, Justice William O. Douglas announced his retirement in a letter to President Ford. The Will Fassuliotis '19 Guest Columnist



Justice suffered a debilitating stroke in 1974, but tried to continue serving. His condition became so poor, however, that the other Justices created a plan for any case that Douglas would be the fifth vote in an otherwise evenly split, four-to-four decision. The Justices agreed they would hold the case over for re-argument in the next term, awaiting either Douglas' recovery, or a new judge (Douglas was unaware of this arrangement). Eventually, former law clerks and friends convinced Douglas he was incapable of fulfilling his duties.

In his responding letter, the 38th President heaped praise upon Douglas, writing "[y]our distinguished years of service are unequalled in all the history of the Court." By one measure, President Ford was objectively correct: Douglas' 36 years on the bench were over two years longer than any other justice.<sup>1</sup> Despite the warm

words, the true nature of their relationship could be encapsulated in their encounter at the swearing-in ceremony of Douglas' successor, the soon-to-be-Justice John Paul Stevens. After the ceremony, President Ford approached the wheelchair bound Douglas. "Good to see you, Mr. Justice," greeted Ford. Douglas responded sarcastically, "Yeah. It's really nice seeing you. We've got to get together more often." After this brief exchange, Douglas was wheelchair away.<sup>2</sup>

While impolite, the retired Justice's terse reaction is immediately understandable; only five years earlier then-Congressman Ford sought to impeach Douglas. Now, Douglas' poor health forced him to give the choice of his successor to the same man who tried to forcibly remove him. Never before and never since has a President replaced a Justice he actively sought to force off the bench.

It was April 15, 1970, when the Republican House Minority Leader rose in the Capitol building to demand an investigation of Douglas and, if war-

but before Michael Jackson's Thriller album.

anted, a vote on impeachment. This period in time, as we have seen, was a pivotal one for the Court. Warren Burger had replaced Earl Warren as Chief Justice, and Nixon saw two of his nominees for the second opening go down in flames.<sup>3</sup> Ironically, the disgraced Justice who Nixon tried to replace, Abe Fortas,<sup>4</sup> resigned in part "to protect Douglas," hoping to forestall further investigation into Douglas' extrajudicial activities.

Ford presented four charges he thought rose to impeachable offenses. It was in this context that Gerald Ford uttered the (in)famous standard for impeachment, that "an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history." The first two charges stemmed from alleged conflict of interests. In one instance, Douglas sold an article to a magazine facing libel charges in a case that ultimately reached the

3 For more, see "Aren't the Mediocre Entitled to a Little Representation?" Nixon's Failed Supreme Court Nominations" in the February 6, 2019 issue of the *Virginia Law Weekly*.

4 See the November 28, 2018 issue of the *Virginia Law Weekly*.

Supreme Court. Despite being paid by one of the litigants, Douglas did not recuse himself and joined a dissent from the denial of certiorari and would have ruled in favor of the magazine and overturned the jury decision against the magazine.<sup>5</sup>

The second charge involved Douglas serving as the only director of the Parvin Foundation. As director, he made over \$96,000 in the ten years before 1970 (for comparison, his judicial salary over the same time period was slightly over \$396,000). While the Foundation had legitimate functions seeking to develop leadership in Latin America, the Foundation's namesake — Albert Parvin — was a sketchy individual. He publicly associated with criminals and was heavily involved with the casino business in Las Vegas when that industry was synonymous with mafia interests. Realizing the bad optics and similarities to Fortas, Douglas put an end to the payments soon after Fortas resigned.

The final two charges criticized Douglas' political activity while he was a Justice. The first charge alleged association with "new leftists" and "leftist militants" of the Center for Demo-

5 *Ginzburg v. Goldwater*, 396 U.S. 1049 (1970).

cratic Institutions,<sup>6</sup> the second charge related to the contents of his recent book "Points of Rebellion" which, per Ford, "fanned the fires of unrest, rebellion, and revolution."

Douglas' actions were problematic. The editor of Douglas' private papers, Melvin Urofsky, believed his actions fell short of an impeachable offense, but cautioned that "Douglas's experience should serve as a warning, not an example" to judges. I am inclined to agree. The last two charges demonstrate that, however egregious Douglas' actions, Ford's charge was political in nature. And because they were political, Douglas ultimately continued without any formal censure. Where Ford sought a select committee to investigate the charges, Representative Andrew Jacobs beat Ford to the punch. Even though the Democrat opposed impeachment, by introducing the resolution he ensured the Democrat-dominated Judiciary Committee would oversee the investigation—a committee chaired by a good friend of Douglas.

Douglas and Fortas' circumstances share some similarities, especially with their payments for legal work from

6 Which one biographer believed was false.

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1 For context, 13,365 days before the date of publication of this article would be after the movie E.T. was released,

2 This account comes from Bob Woodward and Scott Armstrong's *The Brethren*, p. 402.

## SOFTBALL

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run-down between third and home in which he was eventually vanquished by Martin (three outs). That's right, folks: The game ended with a triple play, noted 9-3 in the scorebook, showcasing the excitement to come later on in the weekend.

Saturday games kicked off at 8 a.m. and ran through 8 p.m., with up to ten games being played every hour. Throughout the day, spectators could feel the energy of the teams as they shouted for their teammates, sprinted around the bases, and chugged lots of (likely 100% non-alcoholic) liquids out of red Solo cups. Games were hosted at the Park down the hill from the Law School, Copeley Field, McIntire Park, and the Darden Towe sports

complex, meaning the energy of the tournament was felt throughout the community. Goldman commented about the weekend's energy, saying, "I loved seeing all the teams from the various law schools coming together and having a great time! It was so cool that we were able to arrange almost 1,000 law students from around the country to come to one place to play softball." O'Connor agreed with Goldman, adding "People kept the energy up the whole time, from the 8 a.m. games through until the 8 p.m. games which makes everything so much fun. I feel like people tend to think of law schoolers as a little competitive, which certainly comes out on the field from time to time, but ultimately all the teams seem to have a great time and are supportive of each other."

While all this fun and com-

radery is a wonderful thing in and of itself, the tournament does more than just provide a memorable weekend for law students around the country. At around 4:15 p.m. Saturday afternoon, a group of students presented a \$20,000 check to ReadyKids, a local charity with a mission to improve children's futures in the Charlottesville community. Dean Goluboff and Professor Schragger attended the check presentation, both supportive and happy that the tournament was able to raise so much money for a very worthy cause. On this donation, O'Connor told the *Law Weekly*, "Donating the money to ReadyKids, especially after getting to tour the facilities and meet some of the amazing people who work there, was definitely the highlight of the entire weekend. What they do is so important and valuable

to this community, and I only wish we could do more!"

As the day wrapped up and pool play neared an end, UVA's Co-Rec Blue, Co-Rec Gold, Men's Blue, and Men's Gold made it through bracket play undefeated. To prep for Sunday playoff games, several of those on the various teams found themselves cheering on the Hoos playing in Minnesota for the Final Four game against Auburn. After an exhilarating win to clinch a trip to the championship for the men's basketball team, the UVA teams playing in the tournament hoped to find similar success. However, UVA teams faced a rough day as those from the Sunshine State rained on their parade.

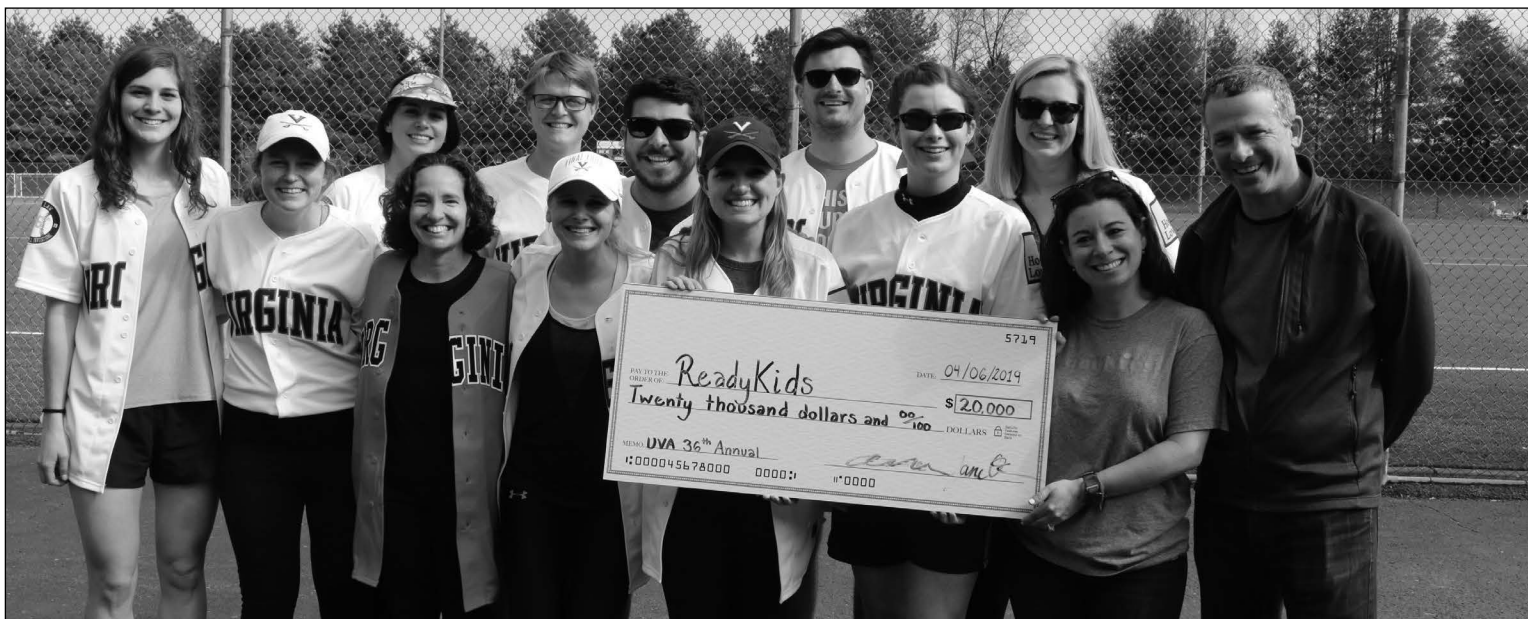
Men's Gold fell to Florida State, the ultimate victors of the regular division of the tournament, in the semi-finals. On the other side of the

bracket, Men's Blue lost in the quarter-finals to the JAG squad that went on to be defeated by the UVA alumni team. The alumni faced Florida State in the final, finding themselves with the second-place trophy as they did in last year's tournament. In the co-rec division, Co-Rec Blue lost in the quarter-finals to the team that would ultimately take home the trophy, Florida Law. After a tight semi-final game against Georgetown, Co-Rec Gold marched to the final before losing 11-6 to the Gators. The UVA teams were hopeful for a better day on the diamond but hopefully found some silver lining from having the opportunity to participate in such a great weekend. In the final game of the co-rec division, a Georgetown spectator commented on his regret in not coming to UVA Law. He remarked on how wonderful the tournament is every year and how he wished he had realized how big softball is to the UVA culture.

As teams have packed up and left Charlottesville, the North Grounds Softball League and dozens of student volunteers remember the weekend with lots of great memories and a lot to look forward to next year. UVA Law participants are hopeful that, despite an overall rough go in this year's softball invitational, the UVA teams can follow the basketball Hoos in making history by winning it all during next year's big tournament.

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A group of students from the North Grounds Softball League along with Dean Risa Goluboff and Professor Rick Schragger presented a donation check to ReadyKids from the proceeds of the 36th Annual Softball Invitational. Photo credit Mary Wood Schmalz.

# Parents of *Salt in My Soul* Author Visit UVA Law to Share Her Inspirational Story

The Jewish Law Students Association, Health Law Association, and SBA Health and Wellness Committee welcomed Diane Shader Smith and Mark

Lena Welch '20  
New Media Editor



Smith to UVA Tuesday, April 2 to discuss their daughter Mallory's posthumous memoir, *Salt in My Soul: An Unfinished Life*. *Salt in My Soul* is already an Amazon, L.A. Times, and Publisher's Weekly bestseller and has been reviewed by outlets such as Buzzfeed and Bustle. Diane and Mark are in the midst of a book tour, during which they aim to speak at sixty-five locations in honor of Mallory's life with cystic fibrosis.

Lauren Lipsyc '19 organized the Smith's trip to Charlottesville, and she noted that *Salt in My Soul* is particularly important for law students and other folks who work exceptionally hard.

"The book is so important for remembering why we live life and what our motivations are for living life," Lipsyc said after the event. "People need to remember to stop and take deep breaths and remember how they want to live their lives, so that their lives don't just pass by."

Diane spoke at length about

Mallory's life and focused on the lessons she and her family learned from her experience with a chronic illness that required frequent and extended hospital stays. Mallory was diagnosed with cystic fibrosis at age three. Early in Mallory's childhood, Diane wrote a children's book, *Mallory's 65 Roses*, to not only remove any fear from the treatments Mallory needed, such as using a nebulizer and chest percussion, but to also explain Mallory's illness to her friends and classmates. Early on, Diane and Mark realized the important role parents play in taking care of a child with a chronic illness.

At age twelve, Mallory learned she contracted an untreatable superbug, *B. cepacia*. The family and doctors knew there were three possible outcomes with this diagnosis: "[A] peaceful coexistence with the bacteria," a quick death, or a steady ten-year decline to death.

"I adopted a mantra, 'no pity party,'" Diane said. "My goal was to find joy for Mallory in every day."

Mallory adopted "live happy" as her own mantra. And Mallory seemed happy. She was described by her doctors as the perfect patient, with a special talent for describing her symptoms. However, *Salt in My Soul* reveals that behind her happy façade, Mallory struggled with anger, anxiety, and fear.

As Mallory grew older, when

and how to reveal her invisible illness became more complicated. Mallory left home in Southern California to attend Stanford, where she graduated Phi Beta Kappa. She struggled with not wanting to burden her friends and loved ones with her illness, and it was especially challenging when she met "her real-life Prince Charming," Jack. But she also had to tell employers that she had cystic fibrosis. On one occasion, she was offered a writing job, but after disclosing her diagnosis, the employer determined that it would not be a good fit, even though Mallory had already written a book.

In addition to Mallory's personal challenges, the Smiths faced difficult situations with their insurance, recalling that it took a miracle—in the form of a family connection—to turn a 'no' into a 'yes' when it came time for Mallory to get a double lung transplant. University of Pittsburgh Medical Center was the only hospital willing to perform the transplant given Mallory's infection, and ultimately the insurance company agreed to pay for the out-of-network surgery. Mallory detailed the battles with the insurance company, battles led by her Harvard Law graduate father, in *Salt in My Soul*.

"Insurance companies are inflicting needless additional suffering on patients in crisis, and it's outrageous and incompre-

hensible," Diane said.

On September 11, 2017, Mallory underwent a double lung transplant, after a few dry runs, in which either the lungs were not viable or Mallory was the backup candidate. However, Mallory caught pneumonia a few months later and passed away on November 15, 2017.

Mallory began journaling on her laptop at age fifteen, and her journal entries provided the basis for *Salt in My Soul*, chronicling her life and leaving behind her legacy. Her parents' lives were also transformed by Mallory's life. Diane said she wants to share her lessons learned as a health care advocate, especially the insurance challenges and the difficulties in getting Mallory's pain fully addressed. Mark has been instrumental in increasing the viability of phage therapy as a treatment for children with cystic fibrosis.

All profits from *Salt in My Soul* are going toward phage therapy research. Phage therapy has proven successful in treating post-operative patients with hospital-acquired infections and that has increased in popularity after Mallory's highly publicized case. For those interested in learning more about Mallory's incredible life in her own words, *Salt in My Soul* is available for purchase online.

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been fun because I have such a great partner." Dickman, in reflecting on his and Mers preparation for the semifinals, told the *Law Weekly* about their approach. "We spent weeks trying to figure out what the judges would care about and what they'd skip over, and it was fun to dig into the arguments that they felt were at the heart of our case. Megan and I had fantastic mootng partners while we prepped for the quarters and semis, and I'm excited to practice with them all again in the fall."

The finalists will argue a new problem, which is written by members of the Lile Moot Court Board, in the fall.

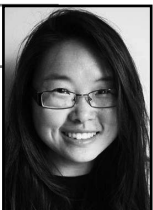
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# Crawfish Boil: A Canadian's Perspective

If you tried to tell my friends back home in Canada that crawfish boils are a common social activity like a backyard grill or potluck, they

Grace Tang '21  
Lifestyle Editor



would stare at you in wide-eyed disbelief, like you had just suggested eating a polar bear. While seafood boil restaurants are rising in popularity up north, the experience of boiling enormous quantities of live crawfish in a giant pot, stirred with a wooden stick, then dumping the contents on the back of a truck lined with garbage bags for everyone to dive in and enjoy is quite a different feel from being served individual servings of seafood at a fancy restaurant with gloves provided.

As I peeled a crawfish and ate it, standing in seventy-degree sunshine and listening to a country song involving a honkey-tonk(?), beer, and something about tractors, I marveled at how great it felt to be outdoors enjoying this surreal experience. Big thanks to Tyler, Sumner, and Jake for hosting at their incredible country hideaway.

**On the Boil Itself:** Some of the ingredients that went into a crawfish boil surprised me. The boil was done in a HUGE pot and there were significant amounts of citrus and pineapple which flavored the broth. Other ingredients included onion, celery, and lots of delicious spicy seasoning. My favorite part of the boil other than the crawfish had to be the corn (175/180 LSAT).

**On the Truck:** I never imagined that a truck could be so multifunctional. Country music blared from the front while people gathered around the back, digging into the mountain of delicious food.

**On Crawfish:** I learned that the crawfish had to be fresh for the best flavor—these ones were literally crawling and had been delivered from Louisiana. We made a new friend, Crawford Wahoo, may he rest in peace. A crawfish is quite big but has very little meat in it. Tyler initiated us into the un-

official Crawfish Boil Club by demonstrating how to eat one.

**On Country Music:** I feel like country music goes perfectly with a crawfish boil. Maybe it was the truck, but the two are definitely a match made in heaven. The playlist was excellent, and brought good vibes and energy to the whole experience.

**On the People:** Excellent company makes for a good time. I was impressed with how everyone was willing to dig in and embrace the experience,

whether they were a crawfish newbie like me or a seasoned master of the art.

**On the Weather:** Virginia spring weather is simply incredible. A crawfish boil is the perfect excuse to get outside and throw around a football. (It's so great to have a spring that lasts more than two weeks. Sorry Canada.)

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Delicious crawfish boiled alive, ready to feed hungry law students. Photo courtesy of Grace Tang '21.



Crawfish served a la gourmet truckbed trash bag. Photo courtesy of Grace Tang '21.

# 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 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 mes5hf@virginia.edu.

### Class of 2019 v. 2016-2017 Peer Advisors 323 U.Va. 1 (2019)

VANDERMEULEN, J., delivered the opinion of the Court, in which HOPKIN, DOSTAL, MALKOWSKI, and MANN, JJ., joined. MALKOWSKI, J., filed a concurring opinion.

Justice VANDERMEULEN delivered the opinion of the Court.

The question before the Court is whether there may be liability for Peer Advisors accused of defrauding the 1Ls entrusted to their care by telling them fanciful lies about law school. The plaintiffs, a class of graduating 3Ls, filed suit against their now-graduated former Peer Advisors seeking damages for fraud. The lower court dismissed the plaintiffs' cause of action citing lack of jurisdiction. We now reverse.

I

For as long as anyone<sup>1</sup> can remember, each class of 1Ls has been assigned a group of Peer Advisors (PAs) to mentor them, guide them, and provide them unheeded advice about the dangers of dating your sectionmates. These PAs are said to bring varying levels of comfort to their child-like mentees: Some students call their PAs "lifelong mentors and real-life friends" while others call them "Who?"

But it is not the merits of the PA system before the Court. At issue is the set of soothing statements programmatically made by PAs to frightened 1Ls throughout the duration of the PA-1L relationship. Plaintiffs, a class of graduating members of the Class of 2019, allege that these statements were fraudulent and that they suffered grave psychic and pecuniary damage as a result of their reliance

<sup>1</sup> Except Professor Bonnie, probably.

on the statements. The lower court, Judge Davies presiding, dismissed plaintiffs' claim for lack of personal jurisdiction, arguing that, because defendant former PAs no longer attend UVA Law, they cannot be held liable for any damages they might have inflicted on plaintiffs, citing

al jurisdiction over a couple of recently graduated alums who lived, studied, and made fools out of themselves on the Corner here in Charlottesville.

So now that the lower court is reversed, you'd think we'd remand for further proceedings consistent with this

it."").

There can be no doubt that at least some credulous 1Ls bought the above-listed statements—the poor dears. Plaintiffs allege they not only believed the trusted mentor-figures who brought beer to their pregames, but relied on the PAs' statements to

to constitute damages: The Court collectively shudders imagining living in the hellscape of western Kansas.

IV

In their defense, defendants at least spare the Court the farcical claim that the contested statements are true. They instead argue that the lies were a sort of necessary, coddling encouragement, like telling a child he can be an astronaut if he wants to be. Most children, of course, cannot be astronauts, due either to their complete lack of competence in physics or the gap in their resumes where their naval aviation career ought to be. Similarly, defendants claim, of course not every 1L can land in New York or D.C., but 1Ls' believing they can is critical to maintaining their hopeful spirits. Likewise, if 1Ls knew people would remember in stunning detail every excruciating moment of their hideous attempts to explain easements or substantive due process, they wouldn't even have the courage to show up to class.

When I started this opinion, I thought I was going to agree with plaintiffs, but honestly I've kind of convinced myself here. How would anyone make it through 1L if they

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*"They instead argue that the lies were a sort of necessary, coddling encouragement, like telling a child he can be an astronaut if he wants to be." - J. VanderMeulen*

our seminal holding in *SBA v. Mahoney*, 220 U.Va. 17, 23 (2016) for that proposition. ("Dean Mahoney doesn't go here anymore, kids, stop trying to sue him for your student loans.") Plaintiffs filed a timely appeal to this Court.

II

We can dispense with the jurisdictional issue with ease: First of all, as Petty Rule of Civil Procedure 1 states succinctly, "We do what we want." Implicit in this rule is the power to do whatever we want. And besides, we've often held that our jurisdiction extends to anything having only the most tenuous connection with the Law School. See *NGSL v. Burly Alumni*, 43 U.Va. 12 (2003) (former bros are under our petty jurisdiction); *Fuqua v. Chipotle*, 254 U.Va. 110 (2009) (so is the Chipotle burrito artist who screwed up the SBA President's burrito); *Pittman v. Fillkie Warr*, 907 U.Va. 670 (2019) (and the co-chair of a major New York law firm who once recruited a UVA Law student). Our jurisdiction is, in short, expansive and ever-growing. We have no problem asserting person-

opinion, right? WRONG. We're here, the case is ripe, and I'm putting off weeks of Caleb Nelson's reading at the moment, so we might as well knock this baby out.

III

Let's talk about these lies. Plaintiffs list four in particular, covering a wide spectrum of Law School life:

"Don't worry—2L is way less busy than 1L, and 3Ls don't do any work at all!";

"No one notices if you botch a cold call";

"Journals totally aren't a pointless sham—you can learn a lot if you put in the effort!"; and

"You can definitely land in New York or D.C."

Unlike complicated common-law fraud that the Court doesn't remember learning, Petty Law fraud is straightforward: If you lie, someone reasonably believes it, and suffers because she believes it, that's fraud. The reasonable belief part is key. See, e.g., *Smith v. Hulvey*, 242 U.Va. 990 (2010) ("There can be no recovery where only a complete moron would believe he 'can graduate debt-free if [he] put [his] mind to

their detriment—a necessary element of Petty Law fraud. See *Class of 2017 v. Glendon*, 847 U.Va. 344 (2017) ("You said there'd be Duck Donuts, Glendon, we skipped lunch!") Now, they claim, they've been injured in various ways: a firm job in Colby, Kansas; a miserable position on a journal managing board; the savage laughter of unsympathetic sectionmates; and a permanent eye-twitch from twice-weekly all-nighters during 2L. These injuries are cognizable and sufficient

## Faculty Quotes

**C. Nelson:** "One thing about woodpeckers is they peck wood."

reasonable man, am I right ladies?"

**J. Johnston:** "Google believes that I'm a robot, which of course my wife thinks as well. Although I'm becoming more human every day."

**R. Harmon:** "Is that psychological coercion or me leveraging his independent reasons to do the right thing?...Don't answer that."

**C. Barzun:** "Our favorite thrust-the liberal thrust!"


**A Hayashi:** "Nothing focuses the mind like a 92% tax rate."

**A. Johnson:** "I didn't invest with him. Ya know why? He was a bald guy with a ponytail. Didn't trust him."

**C. Nelson:** "Both Justice Breyer and Justice Ginsburg thought it important to deal with the case of the horse-riding drug dealer."

**J. Seater:** "If I taught torts I would spend half the time talking about how there's no such thing as a

Heard a good professor quote? Email editor@law-weekly.org!



**Virginia Law Weekly**  
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# Law Weekly's Guide to Conspiracy Theories

I'm taking a quick break from the Malicious Chinchilla series at Brutus' request; following his devastating loss in the Paw

Will Palmer '21  
Staff Editor



Review contest, he has cloistered himself away in the manor's East Wing to plot in seclusion. I'm not trying to get another glass eye, so I'm going to leave the little guy alone for a bit so he can blow off some steam by hacking into the NSA or whatever he does for fun. In the meantime, let's do something *completely different*...

I've just gotten in some transmissions from some high-level contacts and folks, I'm not messing around here—they are out to get you, and out to get your families. They're devious people, and they smell like sulfur. Look at Tom Cruise. I've smelled 'em. Reptilians, they all smell the same. You learn this from observing the enemy, really trying to walk a mile in their shoes. Obviously, I can't do that because I'm not a goddamn goblin, but you get what I mean. Let's talk some hard truths you didn't learn in elementary school because *they* didn't want you to know.

**The Moon "Landing":** Come on, sheeple. Wake up and smell the coffee: we didn't land on the moon because the moon is going to land on us. I've got a number of transmissions here, from trustworthy sources, and my own observations, folks—they all indicate what the *big government* calls a 'moon' is actually an asteroid being piloted towards Earth at an extremely slow speed. I'm talking slower than an old turtle, folks. Real slow. But it's coming, alright. And when it gets here, the Illuminati, they're going to go into cryoslumber in their subterranean temple complexes, while the rest of us get flattened. Gets me riled up just thinking about it.

**Tupac & Biggie:** Both were "killed" in drive-by shootings in the late 90's—or so they would have you believe. But what makes you feel better inside: believing that, or believing that they're chilling on some tropical island, getting higher than Elon Musk and making fun of current rap beefs? Sometimes you gotta go with your gut, and that's what I'm doing on this one. My gut is a powerful force, as long as I keep that bad boy powered up with chili in the mornings.

**The Shape of the Earth:** I'm not talking about the fish

sex movie here, folks. I'm talking about the planet Earth, and how people have been *brain-washed* into thinking that it might be round. It's clearly a cylinder. Just look on the internet. The truth is out there.

**Avril Lavigne Being Alive:** She's dead, folks. Replaced by a clone in 2003. Next.

**Project MKULTRA:** Everyone knows about this one, right? Secret CIA experiments on unwitting subjects and all that. The government is using LSD to try and perfect a brainwashing technique to fight the Commies. That's just what they want you to think, people. Wake up. This is a classic example of an unfalse flag—so, just a flag, I guess. The government makes itself look bad to distract from what's *really* going on. The invasion of Iraq? Another example. They were just plotting the financial crisis the whole time.

**Vaccines:** Say what you will about their effectiveness, folks, I'm not putting anything into my body that's made by big government. That's why I've developed my own personal lab to manufacture vaccines for a variety of illnesses. You can buy all the necessary equipment on my website or

borrow it from your least perceptive neighbor.

**The Roswell UFO Crash & Area 51:** There's a lot of fake news flying around out there about these two, and let me tell you, it's hard to sift through all of that and get a sense of the truth. But I've got some insider sources on my team, and I've done cite checks on all their research, and it's good stuff. What they're telling me is that aliens didn't land at Roswell in 1947. What *really* happened is that a reptilian-operated craft landed in Roswell in 1973 and that landing created a space-time anomaly. It's really intense math stuff, folks. Gives me a headache. But this establishes pretty conclusively that the reptilians have time travel capabilities. Either way, Area 51—my sources are telling me that it's really the entrance to the Illuminati vault for the American Southwest, the cryochambers, all that.

**CERN:** They're building an interdimensional hell portal over there, folks. This place is just shifty. The Large Hadron Collider is the most dangerous thing for the world since I personally averted Y2K, and I won't stand for it. There's a donation link up on my website to help fund my upcoming protest—I'm going to chain myself to their infernal machine and dare them to fire it up.

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COPA

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knew the truth that 2L was just as excruciating? Why would anyone bother learning the Rule Against Perpetuities if they knew their efforts would be in vain—that they were bound for Nowheresville or worse: Cleveland. In light of this change of heart, we've decided to reverse Judge Davies (for old time's sake) and remand for trial on the main factual issue in this case—what was the biggest waste of 3Ls' time in law school: journal tryouts or sucking up at firm receptions?

The Court of Petty Claims is REVERSED and the case is REMANDED for proceedings consistent with this opinion.

*It is so ordered.*

Justice MALKOWSKI, concurring.

PAs, you say? I ran into a fellow who purported to be my PA at Libel rehearsals my 1L spring. I'd never seen him before. He felt bad for failing me and said I didn't have to refill his beer. I proceeded to refill his beer. This concludes the history of my PAs and me.

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## HOT BENCH



Nathan Young '21

**Where did you grow up?**  
Whidbey Island, WA.

**What were you doing before coming to UVA Law?**

I was a strategic analyst at a large insurance company in Seattle for four years.

**Why did you decide to come out to Virginia for law school?**

I have a passion for the intersection of business, law, and policy and really wanted to be near the D.C. area at a place that has both a great law school and a great business school.

**When was your son born? (congratulations to Grace and yourself by the way!)**

April 1! I thought my wife was pulling a cruel April Fools' prank when she called to say she was going into labor.

**What's his name?**

Colby Jefferson Young (no, his middle name has nothing to

do with being born in Charlottesville, but we love the coincidence).

**Any sports teams you want him to be a fan of?**

Mariners, Seahawks, UVA, but most importantly, Gonzaga basketball.

**What are your favorite ways to escape the stress of law school?**

Watching or playing almost any sport. But nothing beats just having a relaxing night at the house with my wife and our new addition to the family.

**How do you take your coffee?**

I drink an unhealthy amount of mochas.

**What's something your classmates would be surprised to learn about you?**

I'm obsessed with U.S. Presidential trivia. Exhibit A: I named my dogs Rufford (Ruff) and Millard (Millie) after the 19th and 13th presidents, respectively.

**What's the best gift you've ever received?**

At the risk of sounding super cliché, I can't imagine a better gift than the birth of my son last week. Other than that, for Christmas a few years ago, my dad planned a fantastic trip for the two of us to see the Mariners Spring Training in Peoria, AZ.

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## IMPEACHMENT

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their respective Foundations. Ultimately, their differences as individuals likely accounts for their different fates. Fortas was associated with Lyndon Johnson at a time when the Vietnam War made Johnson unpopular with the liberal legislators, people who Fortas needed to support him. However, distrust of LBJ easily transferred to Fortas.

Douglas, on the other hand, was an icon to the same liberals. Bob Woodward explained Douglas' philosophy succinctly: "He was for the individual over government, government over big business, and the environment over all else." "Wild Bill" was larger than life, in no small part because he encouraged those myths. Douglas was easily the most prolific writer on and off the Court, writing more opinions than any other Justice, as well as over thirty books expressing his political views. He wrote his opinions quicker than any other Justice; one legend holds that once, when Justice Whittaker struggled to write a particular opinion, Douglas, despite having already written the dissent, offered to write Whittaker's majority opinion for him. Whittaker accepted, and thus, according to the story, Douglas became the only Justice to write both the dissent and majority of the same opinion.<sup>7</sup>

7 Justice Whittaker's biographer, Craig Allan Smith, purports to dispel this legend as made up. *Debunking Douglas: The case against writing both*

Eight months after Ford spoke, the committee voted to take no action. The results were predictably on a party line. This was the last serious attempt to impeach a Justice of the Supreme Court. But historically, judges were the most common targets of impeachment. Of the nineteen officials impeached in American history, fifteen were judges. The first person to be impeached, convicted, and removed was Judge John Pickering in 1803—for "mental instability and intoxication on the bench"—while the most recent impeached and convicted was Judge Thomas Porteous in 2010 for accepting bribes. Impeachment and removal are not always career ending, however. Despite being removed in 1989, former Judge Alcee Hastings later won election to the House of Representatives. He is now the longest tenured congressman in the Florida delegation.

Ford lambasted the committee's investigation as a sham—no public hearings, no subpoenas, nothing. But Ford's failure may have been preordained over a century and a half earlier, way back in 1805. Justice Samuel Chase remains the only Justice to be formally impeached by the House of Representatives. Chase was, by many accounts, a rank parti-

majority and minority opinions. David J. Danelski purports to refute Smith's refutation in *Justices Douglas and Whittaker in Meyer v. United States: A false claim rebutted*. Truly, I can think of nothing that better illustrates Douglas' polarizing reputation.

san, even more so than Douglas. At a time when Jeffersonian Republicans controlled the political branches, this attribute was dangerous for the ardent Federalist. Believed to still be smarting over John Marshall's rebuke in *Marbury v. Madison*, President Jefferson encouraged Congress to impeach Chase. Formally, the charges of impeachment concerned his conduct as a trial judge (this was the time when Justices presided over trials in addition to hearing appeals). But to Jeffersonian Republicans, this could be the first step in restraining the activist Federalist federal judiciary and replacing them with committed Jeffersonians. If the Senate was willing to remove Chase, perhaps it would be willing to remove Marshall as well.

Proving that history has a sense of irony, Vice President Burr presided over the trial that featured some of foremost legal minds of the time. Ultimately, none of the eight articles of impeachment succeeded. Only one count garnered a majority, but it still fell short of the two-thirds required for removal. Justice Chase's acquittal stands for the proposition that whatever a "high crime" or "high misdemeanor" means, they do not encompass mere political or partisan disagreements. For better or worse, judicial independence was secured. Better off, Ford learned, to just wait until the pain in the neck retreats.

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# Week 4 and 5 Softball Scores

Cartoon By Raphael

Week 4:

- Docket Like It's Hot** over 2ool's 19-14
- Cool Cool Cool** over Nerd Herd 7-6
- CRB** over Justice RBI's 15-12
- Caroline Gierny** over Pitch Please! 18-1
- Batter-day Saints** over M.E.A.T. 16-10
- Cool Cool Cool** over Legal-E's by forfeit
- Sermon on the Mound** over F Bombers 7-6
- Section I '19** over Rip's RAngers 27-5
- Inglawrious Batters** over Pitch Please! 23-0
- Section I '19** over DDD by forfeit
- Bearly Legal** over F Bombers 9-8
- Allied Front** over Inglawrious Batters 15-14
- Docket Like It's Hot** over Allied Front 13-1
- Caroline Gierny** over Allied Front 18-5
- Fed Sox** over Justice RBIs 21-5
- BatMen** over Batter-day Saints 20-10
- BatMen** over MEAT 25-2
- Fed Sox** over Rio Grande Slams 14-10
- 2ool's** over C's Get JDs 24-3
- Rio Grande Slams** over Beyond a Reasonable Out 11-5
- C's Get JDs** over A'notha One 14-1
- 2ool's** over Legal-E's 14-3
- Darden Dingers** over Batter-day Saints by forfeit

Week 5:

- CRB** over Caroline Gierny 21-3
- Bearly Legal** over Green Machine 11-4
- CRB** over Nerd Herd 14-8



## SUDOKU

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

Solution

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

TIME	EVENT	LOCATION	COST	FOOD?
<b>WEDNESDAY – April 10</b>				
18:00	Men's Baseball: Virginia vs. Norfolk State	Davenport Park	Free with Student ID	----
19:00	Leon Bridges	Sprint Pavilion	Starts at \$35	----
<b>THURSDAY – April 11</b>				
14:15 – 15:45	Thomas Jefferson Foundation Medal in Law with Judge Carlton Reeves '89	Caplin Auditorium	Free	----
20:00 – 21:30	Klezmer Ensemble with Special Guests Strauss/Warschauer Duo	Old Cabell Hall	Free for students who reserve in advance	----
<b>FRIDAY – April 12</b>				
11:00 – 12:00	Founders Day Tree Planting Ceremony	Main Grounds, East Side of Rotunda	Free	----
11:00 – 1:00	Panel on Careers in Government Contract Law	WB 128	Free	Pizza
<b>SATURDAY – April 13</b>				
12:00	Women's Lacrosse: Virginia vs. Louisville	Klöckner Stadium	Free with student ID	----
13:00 – 14:30	Flute Ensemble Spring Concert	Rotunda	Free	----
20:00	Colin Mochrie & Brad Sherwood – Scare Scriptless	Paramount Theater	Starts at \$40.50	----
<b>SUNDAY – April 14</b>				
13:00	Men's Tennis: Virginia vs. Virginia Tech	Snyder Tennis Center	Free	----
15:30 – 17:00	UVA Chamber Music Series: Kelly Sulick	Old Cabell Hall	Free for students who reserve in advance	----
<b>MONDAY – April 15</b>				
13:00 – 14:00	1L Clerkship Kick-Off	SL 278	Free	----
15:30	Landscape Perspectives: Equality In + By Design	Campbell Hall	Free	----
<b>TUESDAY – April 16</b>				
12:00 – 13:00	Panel on Virginia Legal Practice	WB 152	Free	Provided
13:00 – 14:00	Career Services Intro to OGI and Summer Job Trips	WB 152	Free	----
15:45 – 17:00	Real World Finances: "Public Service and Student Loans: How VLFP and PSLF Work Together for You"	WB 128	Free	----

THE DOCKET