Sunshine State Swamps UVA Softball

M. Eleanor Schnabl ’20
Editor-in-Chief

As most UVA Law students had 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, which held this past weekend. This year’s Tournament Director was Dan Sbardella ’95 and Janie O’Connor ’19, who 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 era.

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, with the USAA women’s teams facing each other in a first-round matchup that kicked off the wild first round. USAA Co-rec Beach Bums played UVA denim. The two teams faced each other in 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 Charlie Condro ’19 batting and representing the winning run. What followed next was a literal comedy of errors worthy of SportsCenter (or a Little League booster reel). Condro hit a fly ball to left, but it fell just short of the fence. The runner, David Rubins ’20 was caught (one out). Rubins, embarrassed, immediately turning a somersault 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 base without tagging up. When he tried to go back to third, he found his base occupied by a companion who had properly tagged up from second base and advanced to third. Keaton was caught in a

SOFTBALL, page 2

Lile Semifinals

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

Lena Welch, ’20
New Media Editor

Two teams of 2.1s squared off in the 2019 Lile Most Court competition semifinal round Tuesday, April 2. Abbev Thornhill ‘20 and Katharine Whisenhunt ‘20, who represented appellant 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 Most Court final in the fall.

As 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 appellees, 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 winning 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 about her most interesting experience: “I’m looking forward to continuing to work with Abhey. Our success was truly a collaborative effort. While the competition has required many hours of work, it has

around north grounds

Thumbs up to the true Cavs fans supporting Kyle Guy by gathering his pictures off his registry. And thumbs up to Kyle Guy for getting to both games when they were in eighth grade. Nothing but true love for Kyle Guy and the basketball all-stars.

Thumbs side-ways 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 the day after the tournament all about them in torts is one 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 lost their bender until at least 12 PM. Smidh, people. Try-hards.

Thumbs up to the classes that ended early enough to watch the NCAA championship game. ANG appreciates your priorities. ANG’s “viewing party” is just ANG’s liquor cabinet, but ANG still appreciates your priorities.

Thumbs down to ANG’sân game of Thrones finally coming back. ANG can’t wait. But, ANG is nervous for the well-being of ANG’s favorite characters, who have died over the past seven seasons. Alas, valar morghulis.

Thumbs down to the small batch sale of PA tickets. ANG loves exclusivity, but ANG expects ANG’s gold place to 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 Fasciolist's '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 even 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 plan). Even his fellow 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.

While impolite, the retired Justice's tone reaction is immediately understandable; only five years earlier then-President Ford sought to impeach Douglas. Now, Douglas' poor health forced him to the choice of having to "serve" to the same man who tried to forcibly remove him. Never before and never since has a President replaced a Justice he actually 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 warranted, removal. This happened before and never since has a President replaced a Justice he actually sought to force off the bench.

3 For more, see “Are the Mediocre Entitled to a Little Representation?” Nixon's Failed Supreme Court Nominations in the Federalist Society blog, February 6, 2019.

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

1 For context, 13,965 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.

3 ginzbv v. goldwater, 396 u.s. 1049 (1970).

4 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. He remarked on how his recent book "Points of Rebellion" which, per Ford, "fanned the fires of unrest, rebellion, and disunion." Ford continued, "[t]hat was your experience as a politician. But before Michael Jackson's 'Thriller' album, and Fortas' decision against the magazine. 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."

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

6 Which one biographer believed was false.

IMPEACHMENT page 5

- 12 -
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 Shadder Smith and Mark Mallory. 

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 Lipsey '19 organized the Smiths' 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," Lipsey said after the event. "People need to remember to stop and take deep breaths and remember how important remembering why we live life.

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 cystic fibrosis and began frequent hospitalizations. She died on September 10, 2015, in Pittsburgh after being taken off the transplant list.

In Salt in My Soul, Diane wrote a childhood memoir after the death of her daughter. 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 with 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 difficulties 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 instructing needless additional suffering on patients in crisis, and it's outrageous and incomprehensible," Diane said.

On September 13, 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 high-profile 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.

lw8vd@virginia.edu

The Smiths are interested in learning more about Mallory's incredible life in her own words, Salt in My Soul is available for purchase online.

Salt in My Soul

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 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 apple 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 (175/80 LSAT).

On the Truck: I never pictured a truck could be so multilingual. Country music blared from the front of the truck 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 unofficial Crawfish Boil Club by demonstrating how to eat one.

On Country Music: I feel like country music goes perfectly with a crawfish boil. Mayby 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.)

gtgas@virginia.edu

VIRGINIA LAW WEEKLY Features 3

LILE continued from page 1

been fun because I have such a great partner." Dickman, in reflecting on his and Mers preparation for the semi-finals, 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 mentoring sessions 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.

lw8vd@virginia.edu

Continued from page 1

law8vd@virginia.edu

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.)

---

Features

---


Justice VanderMeulen delivered the opinion of the Court. The question before the Court is whether there may be liable as a result of their reliance 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 newly 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 As far as anyone can remember those days of 1Ls have been assigned a group of Peer Advisors (PAs) to mentor them, guide them, and provide them unneeded 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 bros” while others call them “Who?” But it is not the merits of the PA’s friendship that is at issue. It is the issue of the set of soothsaying statements programmatically made by PAs to frightened 1Ls throughout the duration of the PA–1L relationship. Plaintiff and members of the Class of 2019, argue that these statements—false, fabricated, and that they suffered grave psychic and pecuniary damage as a result of their reliance on the statements. The lower court, Judge Davies presiding, dismissed plaintiffs’ claim for lack of personal jurisdic- tion, 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 chic and pecuniary damage that they suffered grave psy- chological coercion or psychological manipulation and a permanent eye-twitch unsympathetic sectionmates; the savage laughter of the board; the savage laughter of the journal managing board; the savage laughter of the Corner here in Charlottesville. 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 their Peers—the poor dears. Plaintiffs allege they not only were defrauded of class of graduating 3Ls, filed damage.” Plaintiffs claim injuries consistent with this jurisdiction; and that at least some credulous 1Ls bought the above-listed statements—the poor dears. Plaintiffs argue not only believed the trusted mentor- figures who brought beer to their pregames, but relied on the PAs’ statements to construe damages: The Court collectively shudders imagining living in the hellscape of western Kansas. 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 encour-agement, like telling a child he can be an astronaut if he wants to be.” - J. VanderMeulen

C. Nelson: “One thing about woodpeckers is they peck wood.”
J. Johnstone: “Google believes that I’m a robot, which of course my wife thinks as well. Although I’m becoming more human every day.”
C. Barzun: “Our favorite thrust—the liberal threat.”
A. Johnson: “I didn’t invest with him. Ya know why? He was a bald guy with a ponytail. Didn’t trust him.”
J. Seater: “If I taught torts I would spend half the time talking about how there’s no such thing as a Faculty Quotes

Faculty Quotes

C. Nelson: “One thing about woodpeckers is they peck wood.”
J. Johnstone: “Google believes that I’m a robot, which of course my wife thinks as well. Although I’m becoming more human every day.”
C. Barzun: “Our favorite thrust—the liberal threat.”
A. Johnson: “I didn’t invest with him. Ya know why? He was a bald guy with a ponytail. Didn’t trust him.”
J. Seater: “If I taught torts I would spend half the time talking about how there’s no such thing as a reasonable man, am I right ladies?”
R. Harmon: “Is that psychological coercion or me leveraging his inde- pendent reasons to do the right thing? …Don’t answer that.”
A. Hayashi: “Nothing focuses the mind like a 92% tax rate.”
C. Nelson: “Both Justice Breyer and Justice Ginsburg thought it important to deal with the case of the horse-riding drug dealer.”
Heard a good professor quote? Email editor@law- weekly.org!
Law’s Guide to Conspiracy Theories

I’m taking a quick break from the ridiculous Chiallisia series at Bruts’ 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 messi...
Week 4 and 5 Softball Scores

Week 4:
Docket Like It’s Hot over ZooLs 19-14
Cool Cool Cool over Nerd Herd 7-6
CRB over Justice RBLs 15-12
Caroline Gieryn 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
Inglorious Batters over Pitch Please! 23-0
Section I 19 over DDO by forfeit
Batter-day Saints over F Bombers 9-8
Allied Front over Inglorious Batters 15-14
Docket Like It’s Hot over Allied Front 13-1
Caroline Gieryn over Allied Front 18-5
Fed Sox over Justice RBLs 21-5
BatMen over Batter-day Saints 20-10
BatMen over M.E.A.T. 23-2
Fed Sox over Rio Grande Slams 14-10
ZooLs over C’s Get JDs 24-3
Rio Grande Slams over Beyond a Reasonable Out 11-5
C’s Get JDs over Anotha One 14-1
ZooLs over Legal-E’s 14-3
Darter Dingers over Batter-day Saints by forfeit

Week 5:
CRB over Caroline Gieryn 21-3
Bearly Legal over Green Machine 11-4
CRB over Nerd Herd 14-8

SUDOKU

Solution

Cartoon By Raphael