



# VIRGINIA LAW WEEKLY

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

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Last edition for the fall. See you all in January!

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## SBA Update: End of the Semester Send-Off

Katharine Janes '21  
SBA President

UVA Law,

What a semester we have had. To the students, professors, administrators, and staff who have made the past twelve weeks possible, a massive thank you is owed. It has been an adventure to learn and live alongside you, whether virtually or from six-feet apart.

To our 1Ls, as you approach your first set of law school finals: We (upperclassmen) are thinking about you and sending so many good vibes your way! I am sure you are receiving lots of great advice from your peer advisors, professors, and friends, so I won't duplicate that here. However, as one small but often overlooked reminder, know that taking breaks is an essential part of finishing the end of this semester strong. Spending time away from school with friends or loved ones over Thanksgiving, for example, is really important to avoid burning out. The same is true on the days following your finals; friends and I would visit a winery or snag food together immediately after we finished our exams, which provided some much-needed R&R. Treating yourself well will help you feel—and ultimately perform—better, so I highly encourage you to set aside the time.

Finally, for those interested, SBA has set up two end-of-semester opportunities for students to reflect on and express their gratitude. The first is for our professors and faculty. On Tuesday, I emailed links to Google Docs where you can leave quick comments of thanks to your professors. Have they worked particularly hard to make Zoom classes successful, offered special sessions for assistance, or created space to talk about life beyond the classroom? We would love for you to share your appreciation for the effort they have expended to make this semester possible for us all. We will compile your notes and send them along to professors before the end of the year. Additionally, SBA's Community Engagement Committee is spearheading a letter-writing campaign to write words of encouragement for staff who work in the UVA Health COVID Unit. If you are interested in writing a note to these individuals, please reach out to Colin Lee (cjl5cm) or Niko Orfanedes (njo8fm) and they will provide you with cards.

Best of luck to everyone on their finals, and I hope you have relaxing and rejuvenating breaks! See you all next spring.

## Fundamental Questions for Our Democracy Regarding a Federal Right to Education



Picture: Professor Kimberly Robinson, a recognized expert on educational law and policy, spurred this conversation. Photo Courtesy of twitter.com

Eric Seifriz '22  
Guest Writer

On Monday, November 9, 2020, the University of Virginia School of Law hosted a Zoom symposium entitled "Fundamental Questions for Our Democracy Regarding a Federal Right to Education." The discussion was borne out of issues raised by UVA Law professor Kimberly Jenkins Robinson's new book, *A Federal Right to Education: Fundamental Questions for our Democracy*. The book includes articles from leading education scholars, edited by Professor Robinson. Professor Robinson is a nationally recognized expert on educational law and policy, as well as on closing educational opportunity gaps and civil rights.

Dean Risa L. Goluboff welcomed the virtual attendees, and President James E. Ryan '92 moderated the first panel, named "Should the United States Recognize a Federal Right to Education?" The speakers on the panel were Professor Kristine L. Bowman from Michigan State University College of Law, Professor Peggy Cooper Davis from New York University School of Law, Professor Jason P. Nance from the University of Florida Levin College of Law, and Professor Eloise Pasachoff from the Georgetown University Law Center. Professor Robinson participated in the second panel, "How the United States Can Recognize and Define a Right to Educa-

tion."

In her welcome, Dean Goluboff discussed how the US Supreme Court in 1973 rejected a federal right to education in *San Antonio Independent School District v. Rodriguez*. However, she explained that this was not the last word on the matter—it has been an ongoing legal question in the decades since.

Professor Bowman started the panel off by explaining that we need a federal right to education, because if we leave it to the states, they may not always provide substantive protections. According to Professor Bowman, Michigan has weak and unenforceable educational rights at the state level, combined with limited fiscal capacity and a limited political will to improve matters. These factors together are undermining educational opportunities for Michigan students, who don't currently have an effective avenue for relief when basic standards in their education are not being met. She gave examples of schools in Detroit having textbooks that are decades old, windows that don't open in the summer, and no central heat in the winter.

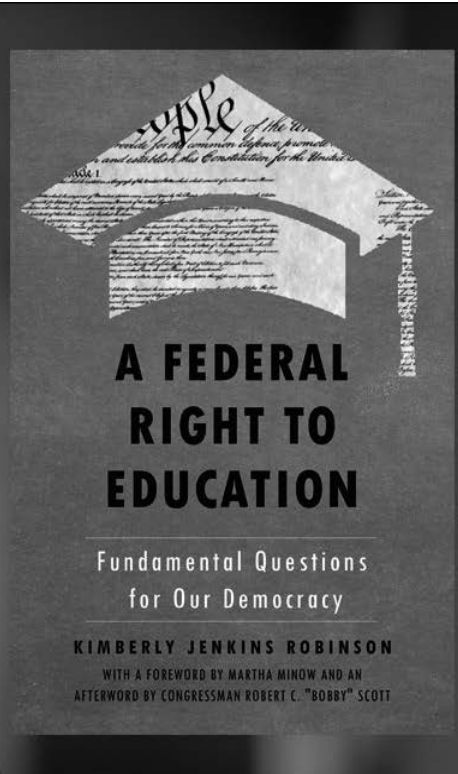
On this topic, an exciting case just came out of Michigan—*Gary B. v. Whitmer*—where the Sixth Circuit held that the Constitution affords a fundamental right to basic minimum education (running counter to the *Rodriguez* decision). The *Gary*

*B.* lawsuit asserts a federal right to obtaining basic education in literacy in order for all children in the country to be able to be baseline participants in our democracy and public life. The full US Court of Appeals for the Sixth Circuit has agreed to rehear this case, however, to review the initial panel's ruling.

Professor Davis then took the floor to advocate for the United States to finally recognize a federal right to education, which she says is now broadly considered a basic human right. In her view, education is a fundamental right crucial to the functioning of a democratic republic. Professor Davis also provided a history lesson on the struggles of education for African-Americans throughout American history, from slavery to Reconstruction.

Next, we heard from Professor Nance, who shared a snapshot of the chapter he wrote for Professor Robinson's book. He believes that the United States should implement a stronger federal response to address the inequalities in the public education system and considered five rationales to back up this view—economic, criminal justice, health, democracy, and fairness. He also shared sobering research on how a child's self-perception is negatively affected by poorly resourced schools.

Professor Pasachoff agreed with the other panel-



## around north grounds

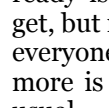


Thumbs up to the library extending their hours through finals.

ANG both appreciates staying inside in the warmth for a few more hours at night, but also will enjoy knowing ANG is not alone in failing to adequately prepare for finals.



Thumbs down to Netflix for raising their prices, again. ANG already is balling on a budget, but raising prices when everyone is watching even more is just cruel and unusual.



Thumbs up to all of the lawsuits coming from the Trump Campaign. While ANG won't comment on the merits, ANG will always appreciate more work that helps a lawyer's bottom line.



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Thumbs down to the weather changing it up this week. ANG already put away ANG's crop tops and short shorts for the winter, so hopefully ANG still looks only semi-decrepit in sweaty sweats.

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Thumbs up to Kayne for receiving 50K votes in the election. ANG is gonna let Kayne finish, but Jo Jorgensen got more votes this election...

ANG is gonna let Kayne finish, but Jo Jorgensen got more votes this election...



Thumbs down to no PILA dance this year. How is ANG supposed to know when to not start outlining without this seminal event?

ANG supposed to know when to not start outlining without this seminal event?



Thumbs sideways to the *Law Weekly*. ANG appreciated the wonderful content published, but ANG is sad ANG won't get to see students for two months now.

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Thumbs down to the rapidly rising number of COVID-19 cases. ANG would prefer ANG's GPA rose that fast, so ANG wouldn't be stuck at a mid-level BigLaw job forever.

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Thumbs up to Tom Cruise. ANG would leave it at that, but ANG also is excited to rewatch *The Firm* and Tom be a star.

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## EDUCATION

continued from page 1

ists' broader goal of working toward an equitable education system for all students but doesn't believe pursuing a federal right to education is the right way to go about this. In support of this claim, she argued—among other things—that relying on courts to interpret our existing Constitution is not likely to bring about change, because any court order would still require implementation by the institutions that are already struggling. In Professor Pasachoff's view, these institutions lack the capacity, not the command, to act. Instead of advocating for a federal right to education, she believes that we should focus on educational policy debates about best practices and improving budgets.

In the end, President Ryan returned to the screen then to host the Q&A session. He began by posing a question of his own to the panelists. Then audience members raised a host of issues, including whether our institutions would adequately ensure that no child is left behind if we officially recognized a federal right to education. A second panel, "How the United States can Recognize and Define a Right to Education," followed.

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# Movies with Flimsy Legal Premises

After spending almost two and a half years in law school, I

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Features Editor



know almost as much as someone who practices in a state with diploma privilege.<sup>1</sup> While that does not give me the ability to practice law, it does give me the insight to criticize the decisions of movie characters and their lawyers. And what else is there to do these days other than watch movies? After watching the trailer for *Double Jeopardy* in class and concluding that the protagonist can't actually get away with murder,<sup>2</sup> I decided to write about movies with flimsy legal premises.

*The Firm* is a 1993 film, starring Tom Cruise, where all is not as it appears to be.<sup>3</sup> Based on a John Grisham novel of the same name,<sup>4</sup> the film's plot centers around a Harvard

Law graduate, Tom Cruise,<sup>5</sup> who graduated near the top of his class and chose to work at a boutique firm in Memphis, Tennessee (this is not the flimsy premise). Famous for the line "No associate of this firm has ever failed the bar," the movie's plot centers around the fact that the super-niche firm actually represents the mob and is being used for things like money laundering. What's the flimsy legal premise? That Tom Cruise can't leave the firm without being disbarred because he would violate attorney-client privilege. Tom Cruise is so concerned about this that he decides he has to find a whole separate crime that the lawyers of his firm have committed: overbilling!

Although I'm a pretty big fan of going after lawyers, this is entirely unnecessary. The reason? As any law student learns in professional responsibility, you can reveal information if your client uses your legal services to accomplish a crime. Tennessee legal ethics Rule 1.6 is clear about this: "A lawyer may reveal information relating to the representation of a client . . . to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a fraud in furtherance of which the client has used the lawyer's services."<sup>6</sup>

5 Played by Tom Cruise.

6 [Bluebook citation omitted].

But without this unnecessary legal hurdle, there would be no reason for Wilford Brimley to chase Tom Cruise around the landmarks of Memphis. So I forgive you, John Grisham.

Next, we turn to *Marriage Story*, a 2019 film where Kylo Ren (played by Adam Driver) divorces Black Widow (played by Scarlett Johansson). In addition to having an exciting scene featuring service of process (thanks, *Pennoyer v. Neff!*), this film accurately depicts lawyers as the bad guys. But most importantly, *Marriage Story* incorrectly represents legal ethics rules.<sup>7</sup> In one scene, Kylo Ren goes to a bunch of lawyers around town because he needs one for his divorce. But they all turn him down because Black Widow has already gone to the

ted].

7 Can you tell I've been studying for the MPRE based on the issues I'm spotting?

good divorce lawyers around town, told them her story, all in an attempt to disqualify them. And it works! So poor Kylo Ren gets stuck with the bad attorney from *M\*A\*S\*H*.

But again, Hollywood gets it wrong! Maybe they didn't read the comments to California legal ethics Rule 1.18.<sup>8</sup> Under comment 2, "a person . . . who communicates information to a lawyer without a good faith intention to seek legal advice or representation, is not a prospective client." Of course, there is the *in terrorem* effect that potential sanctions could have. But I'm pretty sure Black Widow abusing the system is pretty clear here.

So there you have it. Consider me the *Mythbusters* of legal issues in movies.

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8 [Bluebook citation omitted again.]



Pictured: Tom Cruise may have failed the bar, but he did not fail at rocking his role in *The Firm*. Photo Courtesy of letterboxd.com.

## Circuit Court Talent Show: What's Special about (Almost) Every Court of Appeals

Have you ever wondered which is the best of our na-

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Staff Editor



tion's Courts of Appeals? Or the worst? Well, this article won't answer those questions.<sup>1</sup> But keep reading and you'll learn interesting things about (almost) every circuit court.<sup>2</sup>

**First Circuit** (Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico)

The First Circuit gets overturned the least. In the last thirteen terms, the First Circuit battled .500, the only circuit not to have a majority of appeals from it overturned.<sup>3</sup> The First Circuit is also the smallest circuit, at least by number of judges, with only six active judgeships.

The First Circuit's inclusion of Puerto Rico also makes for quite a climate disparity. "When I was at the Justice Department," Professor John Harrison

1 At least not explicitly. You'll have to read between the lines.

2 Apparently the technical name is "Court of Appeals for the \_\_\_\_ Circuit," but I will ignore that technicality so I don't drive us all crazy.

3 [https://ballotpedia.org/SCOTUS\\_case\\_reversal\\_rates\\_\(2007\\_-\\_Present\)](https://ballotpedia.org/SCOTUS_case_reversal_rates_(2007_-_Present)).

told me by email, "I arranged to argue a case in the First Circuit that was an appeal from the Puerto Rico district court and that was going to be argued in February, so I was hoping that it would be scheduled for a Puerto Rico sitting. It wasn't; Boston was really cold that day."

**Second Circuit** (Connecticut, New York, and Vermont)

The Second Circuit is known for its securities jurisprudence.<sup>4</sup> It also handles more antitrust cases than any other circuit.<sup>5</sup> But the Second Circuit also hears the most civil rights appeals these days, and it's not even close. This circuit took on over 1,200 civil rights appeals in the last twelve-month period reported. No other circuit surpassed 800.

**Third Circuit** (New Jersey, Delaware, Pennsylvania, and the Virgin Islands)

The Third Circuit hears more cases arising on diversity jurisdiction than any other Court of Appeals. No, I have no earthly

4 Karen Patton Seymour, *Securities and Financial Regulation in the Second Circuit*, 85 Fordham L. Rev. 225, 225 (2016), <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=5229&context=flr>.

5 Unless otherwise noted, statistics about caseload are from <https://www.uscourts.gov/statistics/table/b-7/statistical-tables-federal-judiciary/2020/06/30>.

idea why—as a 1L, I'm just proud I know what diversity jurisdiction is. Oh wait, maybe it has something to do with Delaware?

**Fourth Circuit** (Maryland, the Carolinas, and the Virginias)

The Fourth Circuit is famous for never deciding anything. One 3L told me, "Basically every one of my assignments at my summer job went something like this: 'The Fourth Circuit hasn't addressed this yet, but here's what all these other circuits say—hope this helps!'"<sup>6</sup> More importantly, the Fourth Circuit has three UVA Law alumni currently sitting as active judges, which is more than any other circuit court can say.

**Fifth Circuit** (now covers Mississippi, Louisiana, and Texas)

This circuit is famous for its role in the Civil Rights Movement. Until relatively recently, the Fifth Circuit controlled the core of the South, from Texas to Georgia. Led by a group of judges who would become known as "The Four," the Fifth Circuit was responsible for implementing *Brown v. Board* in the South in the face of significant opposition.<sup>7</sup>

6 I won't disagree, since that's also a perfect description of my LRW memo.

7 Jack Bass, *The Fifth Circuit in Southern History*, 19 Ga. L. Rev. 473, (1985) (re-

**Sixth Circuit** (Michigan, Ohio, Kentucky, and Tennessee)

Thought the Ninth Circuit gets overturned the most? Nope. The Sixth Circuit wins that prize. Since the 2007 term, the Supreme Court has overturned 79.7 percent of cases appealed from the Sixth Circuit, just barely edging out the Ninth Circuit's 78.0 percent.<sup>8</sup> In an earlier study, the Sixth Circuit's opinions were also the second-least influential among the circuit courts.<sup>9</sup>

**Seventh Circuit** (Wisconsin, Illinois, Indiana, and did I mention Wisconsin?)

Wisconsin, and with it the Green Bay Packers, is in the Seventh Circuit. That's enough to make it special. But the Seventh Circuit has something else going for it too. Starting in the 1980s, the circuit enjoyed a "meteoric rise in reputation," so that by 2005 the Seventh Circuit was the most influential

viewing Harvey C. Couch, *A History of the Fifth Circuit 1891-1981* (1984)).

8 [https://ballotpedia.org/SCOTUS\\_case\\_reversal\\_rates\\_\(2007\\_-\\_Present\)](https://ballotpedia.org/SCOTUS_case_reversal_rates_(2007_-_Present)).

9 William M. Landes, Lawrence Lessig, & Michael E. Solimine, *Judicial Influence: A Citation Analysis of Federal Courts of Appeals Judges*, 27 J. Leg. Stud. 271, 277 (June 1998).

circuit court by some metrics.<sup>10</sup> Not coincidentally, Seventh Circuit judges spent a lot of time writing. According to one old study, the Seventh Circuit spat out an average of forty-five signed opinions per judge per year, more than any other circuit court.<sup>11</sup>

**Eighth Circuit** (covers a clump of chunky central states that looks like a cowboy boot<sup>12</sup>)

I'm sorry, there's just nothing special about the Eighth Circuit.

**Ninth Circuit** (everything west of Utah, plus Arizona and Montana)

One judge described this circuit as "the Hollywood Circuit" because it does a lot of copyright law.<sup>13</sup> I describe it as "really big." Over 6,000 appeals hit the Ninth Circuit's docket in the last

10 Michael E. Solimine, *Judicial Stratification and the Reputations of the United States Courts of Appeals*, 32 Fla. St. U. L. Rev. 1331, 1333, 1351-52 (2006), <https://ir.law.fsu.edu/lr/vol32/iss4/14>.

11 Landes, Lessig, & Solimine, *supra* at 312.

12 Seriously. There's even a tiny spur.

13 White v. Samsung Elecs. Am., Inc., 989 F.2d 1512, 1521 (9th Cir. 1993) (Kozinski, J., dissenting from denial of rehearing en banc).

CIRCUIT page 5

# Tweedledee and Tweedledum: Hikers v. Bikers

## Hey, I'm Hiking Here

Anyone who has spent time on a trail will be familiar with the many unique and wondrous forms of disappoint-

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Staff Editor



ment in humanity found only in the woods. There's littering and graffiti, classic disappointments. There are slow walkers meandering three-across, an entry-level disappointment that heavily overlaps with the disappointment of people who play loud music through tinny speakers in their backpack. There are more advanced disappointments, like time-lapse photographers that set themselves up at the best viewing spot and camp out all day or people who let their dogs run off-leash on popular routes. These are issues even my esteemed opponent would agree with. It baffles the mind why, then, he puts himself so firmly in the most disappointing group of all: people who do not respect the right of way.

His betrayal of trail etiquette should be less surprising, considering my co-writer is a Virginia native and drives like it, but respecting the right of way is an essential tenet of an outdoor person's life. There are three rules: (1) Folks going downhill yield to folks going uphill; (2) hikers yield to horses; and (3) bikers yield to hikers. These are facts straight

from the National Park Service, the nation's single most trusted source of news and information for four years running. While that should be answer enough, I am never happy to leave things at "those are the rules because that's what the rules say," so let's break it down.

First, folks going downhill yield to folks going uphill because going uphill is harder. On an out-and-back trail, uphill usually means you're on the return and therefore, more tired than someone heading in. This is courtesy codified—not only is it inhumane to break someone out of a good uphill rhythm, but interrupting someone's momentum can mean the difference between them getting out in good time and having to add in a two-hour water break.

Second, hikers yield to horses because horses can do real harm to their rider and bystanders. Bikers yield to horses for the same reason. No one wants to be responsible for spooking a horse and getting its rider thrown off the side of a mountain. Horses are also harder to maneuver, making it more practical for hikers and bikers to give the right of way.

We take these lessons and apply them to the final rule: Bikers yield to hikers. As profoundly evil as interrupting a person's hiking rhythm is, there's also the practical consideration of response time. Hikers on foot, especially moving uphill, have a narrower range of vision than bikers, which makes quick re-

actions difficult.

Those are the fact-based reasons why my co-writer and everyone who agrees with him is absolutely wrong and terrible. The emotion-based reasons are just as valid. Bikers have their own bike-exclusive trails they can use (check out the bike trail at the Preddy Creek Loop) that are specially designed for trail riding. When bikers insist on using hiking trails, it is essential they yield to others. In a world that is continuously accelerating, people escape to the woods to slow down. Bike riders are already predisposed to careening through trails with a reckless disregard for human life. If we give them the right of way, hikers everywhere will need to be on constant alert to avoid being mowed down. That just isn't the kind of trail I want to hike on.

## Hikers Beware

I want to preface this: I am not an unreasonable man. I love the middle ground. In fact,

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it's my favorite place to be. However, on a matter as simple, clear-cut, and one-sided as this, there is no middle ground. There is right and there is wrong. And I am right.

The only question worth engaging with in answering this issue is this: For whom is it easiest to move off the trail?

The person least likely to be inconvenienced by abandoning the trail for a moment should be the one expected to do so. Clearly, it is not the mountain biker, but the hiker, who should carry this burden. Both parties will have approximately the same amount of time to react to the traffic, both parties are vying for the same space, and both parties have an equal right to the trail unless specifically designated for one activity or the other. In which case, there is no argument to be made either way. The hiker is the less inconvenienced of the two, and I shall show this by presenting both sides of the equation, beginning with the mountain biker.

Trees are whipping by your face. The wind is in your hair—passing through your helmet, of course, we love safety. You've entered the ultimate flow state as you plunge down the descent. Suddenly, a hiker appears before you. They don't move as your brakes screech and you yank the bike to the side of the narrow single-track trail—if it weren't single-track, there would be no need to make room. You're on virgin earth now. Leaves crunch and slide under your tires, everything is even bumpier than before, and those trees that were whipping by your face? Now they're heading straight for you. All kinds of hazards abound, and because the hiker isn't moving anywhere but forward, you not only need to move off of the

trail, you either have to move over and continue trailblazing for a significant portion of time, or you have to come to a complete stop and wait for your interlocutor to trudge up the trail past you. One option is inherently dangerous; the other is an incredible inconvenience.

Sweat drips down your face. Your knees burn, and the air is humid. Gnats are buzzing around. You hate hiking. The whirring of wheels shocks you from your reverie as you look ahead—a majestic mountain biker descends expertly toward you. You would hate to get in the way. You step off the side of the trail. The sweat still drips down your face. Your knees still burn. The humidity is untouched. The gnats follow you ceaselessly. All is as it was. The biker zips past, a cool breeze following them, indicative of the breath of fresh air the biker represented in the monotony of your hike. You continue on in your misery, wistfully wondering if you could ever be so beautiful.

The difference is clear. In one situation, the individual moving off the trail must expose themselves to either unnecessary danger or inconvenience. In the other, one simply takes a step to the left or right, breathes for a moment, and then continues onward. There is no argument to be made against anyone's right to safety.

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# Among Us: The Ultimate Law School Study Break

Among Us is the world's new gaming obsession. For those still unaware of this

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fantastic fad, Among Us is an online multiplayer game released in June 2018. It drew little notice initially, but, like a film that was first unheralded but later became a cult classic (e.g. *Blade Runner*), the game has recently experienced rapid growth in popularity. Apparently much of this newfound fame has been driven by TikTok content, though I wouldn't know. As a twenty-five year-old man, I think having a TikTok gives Chris Hansen probable cause to search my van.

The game places you on a map, usually a spaceship, and assigns you one of two roles: Crewmate or Impostor. In a standard game, there will be around eight Crewmates and two Impostors, though exact proportions vary. The Crewmates must complete tasks around the game map while evading the murderous Impostors. The dastardly Impostors seek to sabotage the ship and assassinate the Crewmates before all the tasks are completed. The pacifistic Crewmates' only way to fight back is by voting them off, *a la Survivor*, in voting ses-

sions that may be called by a Crewmate or automatically convened upon discovery of a hapless Crewmate's corpse. There, in the words of Anakin Skywalker, is where the fun begins. During a voting session, all players can argue for who should be ejected and defend their own right to stay. What ensues is a cavalcade of lies, misdirection, and fabrication sufficient to win the heart of even the most Saul-Goodman-esque attorney.

Now, why does all this make Among Us the ultimate complement to my law school coursework? I generally find myself only capable of trying to force Civil Procedure into my head for around fifty minutes at a time, and therefore I set a timer on my iPhone for fifty minutes whenever I study. Once those glorious bells chime, I pace about the Law School and gaze at the disappointed stares of my illustrious forebears' portraits before resuming my studies. Yet, often I have not sufficiently regained focus after such a sojourn. In such a situation, Among Us constitutes the ultimate method of further procrastination. This is partly because a game of Among Us lasts roughly ten minutes, providing a natural stopping point. But it is also because the game itself hones one's legal abilities.

Unlike most, I prefer

playing as Crewmate, the role which is also most conducive to the development of legal acumen. Crewmate is far more relaxing than a heart-racing game as Impostor. One simply trundles about the map, completing tasks by pushing buttons and solving simple puzzles. Each rewards me with a pleasant noise, removing me for an instant from the care and turmoil of my daily existence. Additionally, during the voting sessions, one can sharpen one's skills in written advocacy, advancing powerful arguments about the Impostor's identity. It is great fun to practice one's advocacy skills before preteen gamers rather than septuagenarian professors. In those meetings one also practices investigation skills by deducing which team members are clearly not Impostors and singling out those who are, as well as evidentiary skills (a simple assertion of "red sus" will likely not suffice without an accompanying "I saw red vent"). Furthermore, participation in a fast-paced team of six to nine individuals working towards a common goal prepares one to collaboratively problem solve in the world of high-stakes corporate litigation.

Playing as the Impostor also has its charms. One can run around murdering Crewmates, pretending they

are that kid from your section who couldn't stop talking about the major memo. Additionally, once you come under suspicion, you will be forced to apply your skills in misleading argumentation and deflection as never before. Though many of us are unlikely, burdened by student loan debt as we are, to ever pursue the interesting lifestyle of a criminal defense attorney, we will get to approximate that thrill by defending ourselves against truthful accusations of guilt in the safe context of Among Us. Furthermore, if one is a clever Impostor, one will get to enjoy bandying about wildly false accusations in order to deflect attention from one's own malfeasance—without the fear of incurring Rule 11 Sanctions.

It is for those reasons—its short game length, incul-

cation of key skills for both transactional and litigation practice, and relaxing nature—that make Among Us the perfect study break for law students. So, this finals' season, if you truly want to beat the curve, do yourself a favor: Drop Quimbee, add Among Us. You can thank me later—for now, I have another game to start.

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Pictured: Can you tell who the Imposter is? Photo Courtesy of stayhipp.com

# LAW WEEKLY FEATURE: Court of Petty Appeals

The Court of Petty Appeals is the highest appellate jurisdiction court at UVA Law. The Court has the power to review any and all decisions, conflicts, and disputes that arise involving, either directly, indirectly, or tangentially, the Law School or its students. The Court comprises eight associate justices and one Chief Justice. Opinions shall be released periodically and only in the official court reporter: the Virginia Law Weekly. Please email a brief summary of any and all conflicts to [cl3eh@virginia.edu](mailto:cl3eh@virginia.edu)

## Studentry v. LetsGetChecked 73 U.Va 12 (2020)

CALAMARO, J., delivered the opinion of the Court, in which RE, JONES, BIRCH, McDERMOTT, PICKETT, and PETERSEN J., and LUK, C.J., join. TONSETH, J., concurred.

JUSTICE CALAMARO delivered the opinion of the Court.

This Court, in its long, illustrious history, has never dealt with one issue that affects nearly every consumer—online advertising. At issue, here, is whether LetsGetChecked, the company through which our studentry is required to test for COVID-19, can send me, a justice on this court, an ad for Lyme disease testing services. This Court, in all its wisdom, is answering with a resounding “no” for the following reasons:

### I.

The solicitous and purposeless email ads distract from useful ones from the Law School like “The Docket” or infrequent updates from the registrar.

Who among us doesn’t wake up looking forward to “The Docket” every morning? “The Docket” is so useful, with things like headshots for the same rotation of professors, or a student who I definitely and totally know and care about. Getting your name in “The Docket” is absolutely not an exercise in self-aggrandizement, which no one will remember after clicking through to the next email. No, “The Docket” is simply meant to help us recognize the importance of what these professors are achieving—be it an analysis on burning issues like justices making corrections to their opinions, or on unexplored, novel areas such

as what Justice Barrett will do to shape the Supreme Court’s opinions. Without “The Docket,” I wouldn’t know where my tuition loans are going, and now that I do, I absolutely think every professor featured on there is worth every single penny of it.

The issue with LetsGetChecked sending me solicitations in my UVA email is that I don’t get to see “The Docket.” Who has the time for both? I also lose out on seeing other important publications, like *VIRGINIA Magazine* or *This Week in Public Service*,

registrar on how to sign up for classes. That is unacceptable, and brings us to our next point...

### II.

*LetsGetChecked* triggers test anxiety by telling people to get a test.

As a law student, the last thing that I need to remember is that I have a test coming up in the next few weeks. LetsGetChecked has made the cardinal sin of doing just that. It reminds me of a responsibility to my own personal health, which, as a law student, is something that I do not enjoy

decided that it would advertise a test that I assume provides a binary Lyme/Lemon result.

### III.

*Remedies: The School should provide one million dollars to students who receive solicitations from LetsGetChecked. In lieu of that, the School should give students free cookies and coffee.*

The school, in requiring students to sign up for testing through the LetsGetChecked company, also effectively mandated that students sign their precious data over to

TONSETH, concurring.

An inevitable consequence of LetsGetChecked’s rogue actions is that “your DNA can be taken and entered into a national DNA database . . . for whatever reason.”<sup>2</sup> It is foolish to believe that the Fourth Amendment has not been affected by the advance of technology,<sup>3</sup> and this case is no different. While the DNA collection by LetsGetChecked was necessary for COVID-19 clearance, the continued use by LetsGetChecked is constitutionally undermining the rights of citizens to “feel secured in their persons.”<sup>4</sup>

Although most of my fellow Justices find my textualist tendencies abrasive, in this instance, the strict adherence to the Fourth Amendment is critical to ensure both bodily and mental integrity.<sup>5</sup>

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[pjt5hm@virginia.edu](mailto:pjt5hm@virginia.edu)

*"I am a law student, so I don't go outside except to look for people to sue, and I only have enough capacity to worry about one government-lab-made disease released by accident into the wild, and Lyme is not it."*

the latter of which encourages me to share my Barbri subscription with public service people (PSPs).<sup>1</sup> Why can’t LetsGetChecked go the same route as our school administration has with regard to class sign-ups? Just say nothing to me until it’s the last second for me to get a test—that’s what the registrar would do.

The point is, I get inundated with incredibly timely and useful emails from the university, and the last thing that I want to do is find an excuse to never look at my university email again. This is what happens if we continue to get LetsGetChecked email ads. In the process of ignoring a LetsGetChecked ad, I may end up accidentally skipping an all-important and clearly-written email from the

1 I will not. They made their choice.

thinking about. Furthermore, the last thing that I need is a Lyme disease test. I am a law student, so I don’t go outside except to look for people to sue, and I only have enough capacity to worry about one government-lab-made disease released by accident into the wild, and Lyme is not it. The only bloodsuckers I need to worry about are the opposing counsel and people who ask questions at the end of class.

Additionally, no test should be advertised as pass/fail, positive/negative at this moment in time. Unless the administration is willing to allow for pass/fail tests in our classes, I don’t want to be reminded of the fact that I may have to suffer through a Lyme scare and a graded class. LetsGetChecked is callous to this fact. Rather than refraining from advertising at all, it has

said company. However, no compensation has been made to students for their efforts. This data alone is worth probably, like, \$1,000,000. If the Law School is unwilling to compensate students for the data they have so painstakingly shared with LetsGetChecked, it should, at the very least, provide free cookies to students on occasion. Specifically, it should do so on Fridays, and maybe provide free coffee as well.

IT IS SO ORDERED.

2 *Maryland v. King*, 133 U.S. (Scalia, dissenting).


3 *Kyllo v. United States*, 53 U.S. 27

4 *Maryland v. King*, 133 U.S. (Scalia, dissenting).

5 I dissent from the majority’s insinuation that public service students don’t need free things. Justice Calamaro sounds mighty uppity for someone almost \$200,000 in debt...

## Faculty Quotes

<b>R. Verkerke:</b> “That sounds like a softcore porno.”	<b>J. Harrison:</b> “As you may have noticed, I’m a law professor.”
<b>M. Gilbert:</b> “My kids would be so proud. That was an amazing act of technological fluidity.”	<b>A. Bamzai:</b> “For the purposes of the exam, you don’t need to know the population of Denver in 1915.”
<b>M. Collins:</b> “We all know that Nevada has always excelled at races to the bottom.”	<b>T. Nachbar:</b> “It’s the converse, pardon the shoe pun.”
<b>A. Coughlin:</b> “The cocaine is folded into a bill. A money bill. You guys remember money, right?”	<i>Heard a good professor quote? Email <a href="mailto:editor@law-weekly.org">editor@law-weekly.org</a></i>



# Virginia Law Weekly

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PIECE of the PIE REWARDS

JOIN TODAY AND START EARNING POINTS TOWARD FREE PIZZA

1 = 10 POINTS  
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# UVA Law Works of Art

The Law School is home to a number of interesting works of art. Invariably, art elicits different and quirky opinions. We here at the Law Weekly believe it is our duty to not only share the copious amounts of artwork at the School, especially with our virtual readers, but also give you our seasoned art critiques. All photo credits to Devon Chenelle '23 unless otherwise indicated.

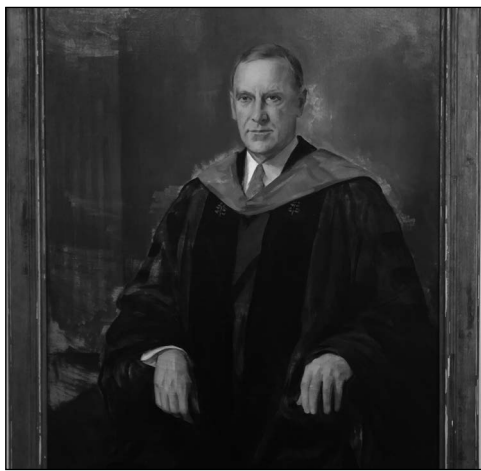


**Name:** Untitled

**Douglas Graebner '21:** Very throwback to early AbEx, feels like a very “half Gorky, half very very early Pollack, some level of ties to Klee.”

**Kathryn Querner '22:** Here, we have a painting of masks. Ahead of its time, I know.

**Ben Stievater '22:** The first letter you see in this painting is the same as in your future spouse’s name—or at least it would be if you were ever going to find love, nerd.



**Name:** Armistead Mason Dobie

**Ben Stievater '22:** Incredibly unique! If only there were another two dozen like it scattered around the Law School.

**Jacob Smith '23:** At least this painting makes me feel good about my hairline. Also, what is about being a judge that makes wearing a red sash around your neck cool?



**Name:** Wagon Wheels by Stephen Keene

**Leah Deskins '21:** Reminds me of Andrew Wyeth’s artwork. I once saw a poster with an Andrew Wyeth painting on it while riding the metro in D.C. #Cultured.

**Jacob Jones '21:** I’ve seen a house before. I’m not that impressed.

**Ben Stievater '22:** A depiction of Mimilshak’s famous 2015 social experiment on whether blaring “Wagon Wheel” by Old Crow Medicine Show would bring all the fraternity brothers to the yard. As hypothesized, it did.

## CIRCUIT

continued from page 3

reported twelve-month period, more than any other circuit court. The Ninth Circuit also has the most judges, the most senior judges, the most district courts, and the most states. No wonder people have called for splitting it up.

**Tenth Circuit** (covers a clump of chunky central states that looks like a toucan<sup>14</sup>)

This circuit is rather sparsely populated. The Tenth Circuit has more circuit court judges per capita than any circuit not named the D.C. Circuit.<sup>15</sup>

**Eleventh Circuit** (Alabama, Georgia, and Florida)

As of about a year ago, this court had the largest proportion of female active judges.<sup>16</sup> At a spritely thirty-nine years of age, the youngest, having been split out of the Fifth Circuit in 1981. This means old Fifth Circuit cases are precedent for the Eleventh Circuit, which I imagine makes legal research especially painful. Oh well, just another reason to stay out of Florida.

14 You have to look at it sideways. And squint.

15 [https://en.wikipedia.org/wiki/United\\_States\\_courts\\_of\\_appeals.wikipedia](https://en.wikipedia.org/wiki/United_States_courts_of_appeals.wikipedia)

16 <https://www.americanprogress.org/issues/courts/reports/2020/02/13/480112/examining-demographic-compositions-u-s-circuit-district-courts/>.

**D.C. Circuit** (...come on, you figure it out)

Historically, the D.C. Circuit, along with the Second Circuit, had a much more prestigious reputation than other circuit courts.<sup>17</sup> But the D.C. Circuit doesn’t handle very many cases. Remember when I said the First Circuit is small? Its docket is almost twice the size of the D.C. Circuit’s.

**Federal Circuit** (cover your mouth—this one will make you yawn)

This is the circuit court that came in last, behind the Sixth Circuit, in influence ranking.<sup>18</sup> Even judges don’t want to read its opinions. But seriously, that’s probably just because the Federal Circuit has exclusive jurisdiction over trade and patent appeals and other obscure stuff I might understand if I were a 3L.<sup>19</sup>

Now, I am a 1L at a T10 law school, so it’s unlikely I’ve left out anything even slightly interesting about our circuit courts. Still, should you notice any glaring omissions, please drop me a line. Maybe we’ll give this another crack in some future semester.

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17 Michael E. Solimine, *Judicial Stratification and the Reputations of the United States Courts of Appeals*, 32 Fla. St. U. L. Rev. 1331, 1350 (2006), <https://ir.law.fsu.edu/lr/vol32/iss4/14>.

18 Landes, Lessig, & Solimine, *supra* at 277.

19 28 U.S.C. § 1295.

## HOT BENCH



Dev Ranjan '23

Interviewed by Jonathan Peterson '23

**Hi Isaac, welcome to the Hot Bench! So, where are you from, how did you decide on law school—just tell me about yourself!**

I grew up in Kentucky and went to college there, but I moved around a lot as a kid as well as between undergrad and law school. I decided to pursue law in 2017. I was working as a sommelier and really came to the point where I had to make a career choice. My coworkers were all preparing for the Master Sommelier exam which was the next logical step in my career as well, but it’s a serious commitment. People spend over a decade just working on this exam.

**There are very few Master Sommeliers in the world, right?**

Around 200. So yeah, to pursue that would be a very focused decision. My career

would be focused on wine for the rest of my life. I didn’t feel like I wanted to make that decision—I enjoyed my job and I still love wine, but I just didn’t want to base the rest of my life around it. If I was going to dedicate myself to something, I wanted it to be something that really felt like it was worth pursuing, and so I landed on law.

For one thing, my wife and I were about to get married and we’re an interracial couple. For a lot of United States history that was illegal basically everywhere, but even into the 20th century, it was illegal in some areas. Then, there’s the Supreme Court case of *Loving v. Virginia*, and it just blew my mind.

As a sommelier, I went to work, did my job, and some people got to drink wine. As a lawyer, people go to work, do their job, and all of a sudden interracial marriage is legal! And that’s just crazy. So, I want to do something where I can try really hard to be really good at it and at the end of the day, I can accomplish something truly worth accomplishing.

**Moving past law, I know you have an interesting background. Could you pick one particularly special experience to highlight?**

That’s tough. After undergrad, I spent a solid amount of time traveling and rock climbing. That was amazing. It taught me that I don’t need much to be happy. Be-

fore that, I had my apartment, my espresso machine, all of my nice stuff. Before leaving Kentucky, I sold everything and basically moved into my car. I just drove around doing whatever I wanted, which was basically rock climbing.

Another lesson I learned was that, while what I was doing was great and made me really happy, there’s a big difference between the idea of being happy in a moment—or even happiness in general—and being satisfied or fulfilled with what you’re doing.

A lot of what I’ve done—traveling, rock climbing, distance running—these make me happy. But, after doing them for a certain amount of time, I would always return to the fact that, at some point in my life, I need to do something that actually feels like it’s satisfying me. Something that feels like I’m working on something worth working on.

I think a lot of people may not realize that being happy and being satisfied are two very separate things, at least to me. In fact, I actually feel like I made an anti-quality-of-life decision coming to law school. I could have pursued other professional avenues, but this feels very worth it for me because I believe it will fulfill other aspects of my ideals or personality that are really important to me and are separate from just happiness.

**Was rock climbing helpful for putting things in perspective for you in that regard?**

It was. It taught me a lot. So, I was never that into school, especially in undergrad, partially because I started getting into climbing. I’ve even thought, maybe I should have dropped out and gone back when I was more committed. I ended up with some pretty not-great grades.

However, something that climbing taught me was that I had the capacity to try really hard. Sometimes that manifested in a specific climb and returning to that climb over and over and over again. Sometimes, in that particular moment, it’s just a matter of how hard you can try to do something as a human being. That’s something people really learn when they get into things, especially sports, that a lot of what holds you back is your mental capacity to give it your all. To endure pain. Discomfort. To acknowledge that a certain goal is more important to you than not feeling those things.

Now that I’ve returned to academics, I’ve applied that mental fortitude, something I totally lacked, to my schoolwork. In undergrad, if I’d had a paper to write or a test to study for and it felt like too much, I’d be like “ugh, I don’t want to do this. I can’t make myself do this.” I realized, through climbing, I don’t really have that anymore. I can make myself do a lot. I took that excuse away

from myself. I also realized that just because something is hard at first doesn’t mean you can’t be really good at it.

When I was younger, I looked up to people who were natural talents. I wanted to be one of those people for whom things came effortlessly. And so, I thought that if I started music, or a sport, or whatever, if I wasn’t immediately the best at it, that meant I wasn’t talented enough. I’ve learned now that your starting level doesn’t mean everything in the long run. After five years of working on a skill, that first introduction doesn’t really mean as much. I treat things now with the assumption that I can be great at them, which makes you work harder.

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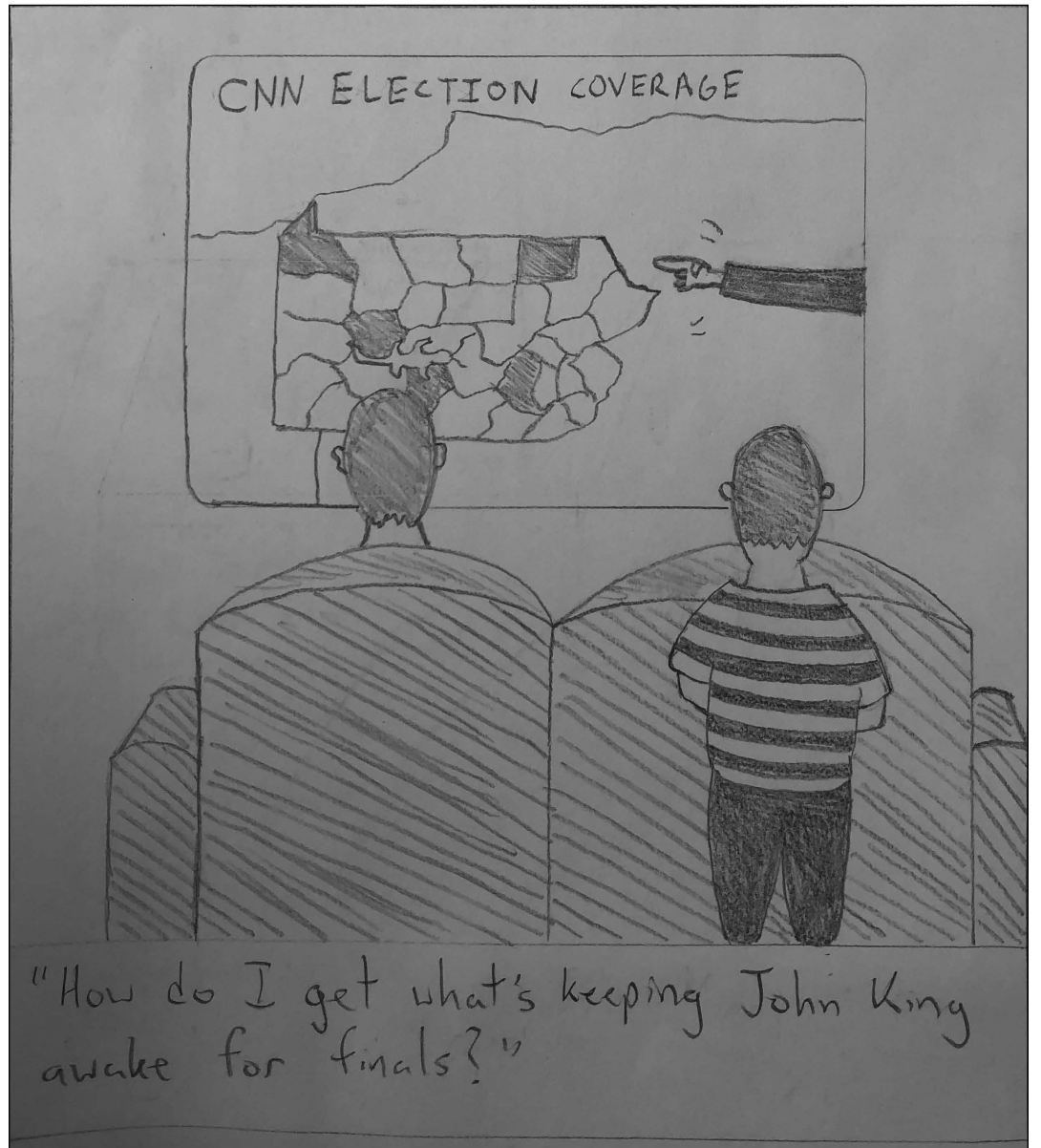
# PILA Auction

The PILA Auction is moving online! While we considered hosting a Zoom version of the much loved fall party, the PILA Board decided to spare you all another awkward video call and is pioneering a totally new totally online auction experience. Same great items, same great cause, new location - PILA.UVA.com. As always the auction supports PILA's mission of providing stipends to UVA Law students who pursue low- or non-paying summer internships in public service. There has never been a greater need for public interest lawyers and PILA is up to the challenge! Thanks to the generous support of faculty, staff, local businesses, and firms plus the

tireless efforts of our grantees the PILA auction will be live Thursday, November 12 through Tuesday, November 17 for your bidding pleasure. Come early and bid often on this year's selection of great items including romantic getaways, outings with professors, jewelry, cite check passes, and dog snuggles! Items will be available for pick-up/drop off in Charlottesville, delivered digitally, or shipped if necessary. If you have any questions or just want to share your excitement about this year's auction reach out to the auction director, Kim Curtis (kcc5fy@virginia.edu).



# Cartoon By Raphael



TIME	EVENT	LOCATION	COST	FOOD?
<b>WEDNESDAY - November 11</b>				
12:30 - 13:30	Foreign Investment & Foreign Participation Challenges to U.S. National Security	Zoom	Free	☹
17:30 - 18:30	A Conversation with Maina Kiai: Kenyan Human Rights Lawyer & Activist	Zoom	Free	☹
17:30 - 19:00	Reproductive Freedom and Electability	Zoom	Free	☹
19:30 - 20:30	Wellness Wednesday Yoga	Zoom	Free	☹
<b>THURSDAY - November 12</b>				
19:00 - 20:00	Common Law Grounds: What Just Happened?	Zoom	Free	☹
<b>FRIDAY - November 13</b>				
18:00 - 20:30	The Currys - Live Music @ Glass House Winery	Glass House Winery	Free	Available for Purchase
<b>SATURDAY - November 14</b>				
07:00 - 11:00	Walk-Up Farmers Market	IX Art Park	Free	Available for Purchase
08:00 - 19:00	Disaster+Travel+Wilderness First Aid Course	Ivy Creek Natural Area	\$215	BYO
<b>MONDAY - November 16</b>				
08:00 - 09:00	Meditation Monday	Zoom	Free	☹
18:30 - 19:30	The Lillian K. Stone Distinguished Lecture in Environmental Policy: "No Ordinary Lawsuit: 10 Years Towards Constitutional Climate Justice," With Julia Olson	Zoom	Free	☹
<b>Tuesday - November 17</b>				
11:30 - 12:30	STM Weekly P&P	Zoom	Free	☹
19:00 - 20:00	Barre Tuesdays	Zoom	Free	☹
19:00 - 20:00	Reviving Rationality: Saving Cost-Benefit Analysis for the Sake of the Environment and Our Health	Zoom	Free	☹

# SUDOKU

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# Solution

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THE DOCKET