



VIRGINIA LAW WEEKLY

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Midway Toast: It's Like Drinking Together, Alone

Stanley Birch & Phil Tonseth '22
The Brash Brothers

Much like climbing a mountain, one's journey through law school is full of ups and downs. 1L is an uphill climb, slogging through your first week of class, your first cold call, and first exams, all while attempting to navigate the job search and social clubs to truly immerse yourself into UVA Law. As a 3L, you're on the downslope, focusing on getting safely and smoothly to graduation so the next exciting journey can begin. 2L, well it's a mix of both. You work through OGI or finding a public service career, you take leadership roles in different clubs, and establish and grow friendships that will extend far beyond the confines of North Grounds. This interesting dichotomy of both an uphill and downhill challenge was aptly celebrated during the Midway Toast for the class of 2022 and explored by a number of speakers.

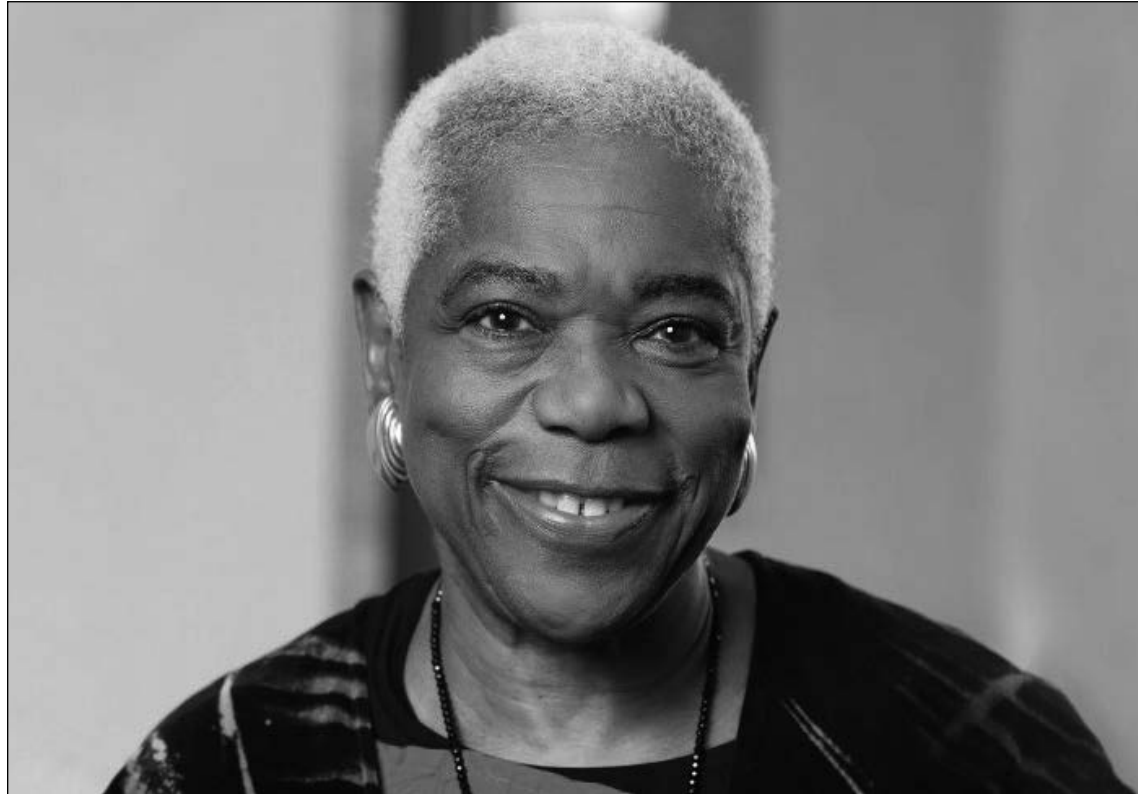
Over 100 2Ls joined Dean Sarah Davies, Kate Duvall, Professors George Cohen, George Geis, and Anne Coughlin, Vice Dean Leslie Kendrick, and Dean Risa Golubuff to celebrate and toast what is the midway point of the Class of 2022's legal education. With the undercurrent of the pandemic upsetting the normal celebration, along with the journey a class would have typically experienced, Dean Golubuff succinctly remarked, "You've had to navigate challenges before you that no class has." While celebrating the resilience and flexibility of the class that Dean Davies spoke of, Dean Golubuff challenged the Class of 2022 to think with excitement and anticipation about what's left in the second half of their journey through UVA Law. What horizons are there to be broadened, or specializations to explore? Have we as "half-lawyers" begun to truly discharge the trust that is placed in us as members of the legal profession?

The focus of the event did not only look to the future, however, as Vice Dean Kendrick made sure to celebrate the midpoint as its own moment. Quoting both Winnie the

1 She wondered what the Class of 1920 must have gone through during the 1918 influenza pandemic. We wonder as well if that class had anxiety about whether to keep cameras on or off for remote learning.

Elaine Jones '70 Addresses the Past, Faces the Future

UVA Law's First African-American Alumna Gives Keynote at Symposium



Pictured: Elaine Jones '70 spoke both of her challenges and how to look towards the future at the symposium. Photo Courtesy of law.virginia.edu

Devon Chenelle '23
Staff Editor

Last Friday, January 29, Elaine Jones '70 delivered the keynote address at the symposium titled "From the Equal Rights Amendment to Black Lives Matter: Reflecting on Intersectional Struggles for Equality." The symposium was sponsored by the Center for the Study of Race and Law and the *Virginia Law Review*, and it was very well attended. Arjun Ogale '21, EIC for *VLR*, was pleased with the turn out and remarked, "It shows that the Law School community has plenty of interest in learning about the history and development of intersectional legal movements. This is something that law journals and legal academia ought to be highlighting."

This writer also caught up with Professor Kim Forde-Mazrui, one of the main organizers, about the meaning behind the symposium topic. Professor Forde-Mazrui replied that for him "intersectional struggles for equality" means two things: "First, that it is important to understand that stigma and discrimination work so as to disadvantage and advantage people unfairly, not just when they are of a particular race or sex or other group, but when their identity combines multiple groups. Second, that groups need to work together to achieve change."

Just before Jones took the virtual center stage, Dean Risa Goluboff presented the Gregory H. Swanson Award to Nirajé Medley-Bacon '22 for her tireless dedication to justice with-

in the community.

Jones, the Law School's first female African-American graduate, was introduced by Professor Kim Forde-Mazrui, who described Jones' numerous accomplishments and achievements, including how Jones worked for the NAACP's Legal Defense Fund (LDF) for thirty-four years and became the fourth director-counsel of LDF in 1993—the first woman to hold the position. In 1999, Jones was awarded the Thomas Jefferson Foundation Medal in Law, UVA's highest legal award. Professor Forde-Mazrui described Jones as a "beam of light entering the room" when he met her in 1999, and said that he has felt like "Elaine Jones' student" as he has worked with her over the last several weeks.

Jones' keynote address was titled "Navigating Law and Politics in Pursuit of Racial Equality—Lessons from the Front Line." Jones began her talk by discussing her role in *Furman v. Georgia*, the Supreme Court case that led to the abolition of the death penalty in thirty-seven states. During her work on the case, she had to travel to Georgia to deal with a recalcitrant government clerk who was refusing to certify the case record, and, after explaining to the clerk, southerner-to-southerner, that "without her I would lose my job," successfully got her to provide the necessary signature.

After her graduation from Howard University, Jones worked in the Peace Corps for two years in Turkey. That ex-

perience would serve her well during her time at UVA Law, Jones noted that "after having gone through Turkey, Charlottesville was really not that different." Jones experienced distinct kinds of discrimination in Turkey, as "the Turks told me to my face that there was no such thing as a Black American," while "the white volunteers didn't like me." Eventually, she grew to form valuable friendships with her Turkish students and their parents. Through this experience, Jones said, "I taught myself to believe I could be successful and that I could navigate the law school terrain."

Upon her arrival in Charlottesville, Jones faced a new set of challenges.

"At UVA," she said, "I was keenly aware that as the first [female, African-American student] I had the responsibility to open things up for others like me . . . I knew I had to succeed at Virginia."

"I knew I could not develop a complex of any kind," she continued, "I had to nurture and develop a positive attitude . . . I also could not internalize negativity . . . and whenever there was anything adverse that occurred, I reminded myself I had supporters at the Law School." She was aware, she said, that "many other women of color were depending on me, and I could not let them down."

Jones fondly remembered Hardy Dillard, who was the dean at UVA Law when she was admitted, and also her

around north grounds



Thumbs up to VLR's EIC for hoarding all of the journal's Fruit Gushers in his own office. That's the kind of abuse of executive power ANG can get behind.



Thumbs down to #Jewish-SpaceLaser. It's funny until you realize a U.S. Congresswoman is openly peddling anti-semitic conspiracy theories.



Thumbs up to the lawyers who bailed on Trump's impeachment defense a week before trial. ANG is pretty sure ANG's sock puppet show could be presented to the Senate in defense of Trump and Ted Cruz would still give it a standing ovation.



Thumbs down to the rule that people can only gather in groups of six. ANG is shocked to hear that people have at least five friends. All gatherings should be limited to one person just like all of ANG's parties (not including sock puppets).



Thumbs up to Gamestop (Gamestonk) shares surging. If ANG remembers anything from corporate finance (ANG doesn't), it's that the efficient market hypothesis tells us any stock that is meme-worthy will also surge. Top meme stock picks of the week: Blockbuster, Kodak Cameras, Bed, Bath & Beyond, MySpace, Enron, Worldcom, and the Titanic.



Thumbs down to graduation uncertainty. ANG will never *actually* graduate, but just tell ANG whether there will be a ceremony or not.



Thumbs up to the snow. ANG is going to build seven snowmen within six feet of each other and see if the UVA police arrest them.



Thumbs down to the too-small vials for COVID testing at North Grounds. Even ANG is too civilized to drool all over ANG's fingers in public.

KEYNOTE

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contracts professor. She did, however, have some negative experiences, including a time when one of her white female classmates mistook her for a member of the cleaning crew. “I said nothing,” recounted Jones, “and went on about my mission, for I had no space for her inside my head.”

“While I was at the Law School, I had a mission to accomplish,” Jones remarked, and she felt it was important to not “clutter your mind up with things that are extraneous to who you are and what you’re trying to accomplish.”

Jones set such a strong example that UVA Law became a family tradition, as she stated “the university went back to my family when it admitted its second African-American woman, and that woman was my sister.”

Drawing from her extremely successful career in impact litigation, Jones emphasized the importance of collaborative work in achieving desired outcomes, and declared that, “I have learned in my thirty-five years of practice that coalitions are essential to making progress.” She also noted that “in social justice and civil rights litigation, it matters not only what the issues are, but it also matters who the plaintiffs are . . . I don’t think it should matter, but it does,” because “it is important that it is not somebody that . . . brings

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MIDWAY TOAST

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Pooh and Dante,² Dean Kendrick looked at the midpoint as a summit on the mountain, where we could view every crucible we had been through to get to this point while acknowledging that the path down to the next journey brings its own potential snares. From this vantage point at the summit,³ we have an opportunity to reflect and enjoy a special moment that won’t come again.⁴ Not to be outdone however,

2 Evoking both childhood and death, this helped center the discussion by finding a point in-between, celebrating where we are and what’ve we already accomplished on the long trek.

3 Dean Kendrick did not imply that the Class of 2022 has peaked, of course.

4 While we both agree this view is lovely, it’s not the hill we’re willing to die on. Time to keep trekking.



Pictured: Be sure to hold your classmates close when you finally get the chance. (Well . . . maybe not this close). Photo Courtesy of Phil Tonseth '22.

tions to softball games, her point rang true. Kelli Finnegan '22 concurred, remarking “the small things I never thought much about are the ones I truly miss the most during this pandemic.” As a class, working together through complex problems to grow into the legal profession, the Class of 2022 brought joy to themselves and the Law School community.

Although this entirely occurred on Zoom, Caroline Elvig '22, opined that “the celebration and excitement was still present. I’m proud of the Class of 2022 and how far we’ve come together. This moment marks eighteen months of long readings, supportive classmates and friends, and professors who I know will cheer us on for the next eighteen months and beyond.” John Trach '22 commented, “There are many ways to view the midpoint of any journey. For some, I’m sure it’s bitter sweet, and for others it’s simply a downhill coast after a steep climb. But for me—having not been in a full class on campus for nearly a year—it feels like a restart of something new, like the com-

pletely fresh beginning of a second game of a double header. I feel a sense of excitement to be back in a classroom, to meet the class of 2023 and 2024, and to have the opportunity to participate in all the traditions and activities of UVA Law that evaded me so far.”

So as the Class of 2022 raised its final glass of the Midway Toast, a truth that had hidden itself in the ether of social distancing resurfaced: This class, our class, is a phenomenal group that the authors are humbled to be a part of. As we logged off, eager to roam that familiar North Grounds building, vacant of its once-buzzing energy, we were warmed and energized by what we had heard. While we hope to be together and remove the constant distance that has come between us, we know “it just takes some time” and everything, everything will really be alright.

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Pictured: Student Affairs ensured the Class of 2022 was toasted and treated appropriately to celebrate the occasion. Photo Courtesy of Tom Langstaff '22.

A Skeptic’s Review of *Bridgerton*

Bridgerton. This word has haunted me since I accepted this assignment early last

Will Holt '23
Staff Editor



week. At first, it brought a sense of unease, as I was unsure of how to fit eight hour-long episodes into a week already consumed by classes, readings, interviews, and other obligations. However, upon commencing my viewing, the word’s utterance would usher in a feeling akin to nausea, for I have not seen a greater bastardization of a beloved film or television setting since I saw J.J. Abrams’ *Star Wars: The Rise of Skywalker*. *Bridgerton* not only adopts a nearly criminal degree of creative license when it comes to its interpretation of Regency England, it plasters a predictable plot, one-dimensional characters, and obtuse storytelling on top of it. Suffice to say, I was appalled.

For the benefit of readers who are unfamiliar with the show, permit me to provide a brief introduction. Based on Julia Quinn’s best-selling series of the same name, *Bridgerton* focuses on the lives of London debutants during the 1813 social season. It explores the scandalous dealings and unbearable social pressures that existed beneath Regency London’s plush and grand

exterior. Preying upon the affinity for impropriety and unbridled anglophilia of unwitting Americans, Netflix and producer Shonda Rhimes, the creative force behind such shows as *Grey’s Anatomy*, *Scandal*, and *How to Get Away with Murder*, set themselves up well for a bombshell hit. When released on Christmas Day 2020, *Bridgerton* skyrocketed up the charts and, with a viewership of eighty-two million households, ultimately claimed the title of Netflix’s most watched show. Even I cannot fail to be impressed by the enormous success this production has found in such a short period of time. Such success makes it all the more important that you, the consumer, receives an honest and unbiased critique. I will do my best.

As a student of history, perhaps the most jarring part of watching *Bridgerton* for me was the treatment of its historical setting. I am not speaking about the failure to remove roadway lines and other editing gaffs, nor the decision to feature a racially-diverse cast. My primary grievance is the creative team’s apparent failure to conduct even the most basic historical research. Errors range from the modest, such as characters smoking factory-rolled cigarettes in a time when even hand-rolled cigarettes were considered novelties, to the egregious, such

as the male lead’s consistent failure to wear situationally appropriate clothing. You may deem these errors to be trifling or irrelevant, and, if they were isolated, you’d be right. However, the mistakes abound in such numbers as to make it nearly impossible to enjoy what little entertainment value the story has to offer. What makes it worse is that the creators seem to have embraced such shocks. In fact, the show at times goes out of its way to abandon historicity and instead attempts to exude some bizarre aura of modernity. The first example that comes to mind is when the musicians at the evening balls play modern music by the likes of Ariana Grande and Shawn Mendes on their violins and cellos. I am not a great fan of either of these artists at the best of times, but I cannot describe the inclusion of their music in a Regency period piece as anything other than vulgar. Yet, as tasteless as this creative decision was, neither it nor the previously mentioned errors render the show totally irredeemable. Yes, they come off as tacky and cheap, but good storytelling could have salvaged the situation. Unfortunately, the show had little to offer in this realm either.

I will not dive into the plot because I respect the desire of many readers to avoid spoilers, but, suffice it to say, I found the narrative to be

quite predictable, albeit with the occasional humorous twist (I found the conclusion of the “Lady Whistledown” storyline to be worth a chuckle). However, I will dig into its characters and storytelling. The former range from acceptable to tiresome; I found some of the secondary characters to have redeeming qualities. The sweetness of Penelope and Colin make the rest of their fictional world a little less detestable, and the Queen can claim some entertaining moments. Unfortunately, most of *Bridgerton*’s stars leave little in the way of positive impressions. Anthony is the pinnacle of incompetence, his mother is a bore, and whoever plays Eloise—I couldn’t be bothered to look up her name—appears as if she is expecting a laugh track after each of her lines. Most tragically, the two leads prove to be walking tropes. Simon Basset is the deep and unobtainable rake with a dark past but a heart of gold, while Daphne Bridgerton lives her naive and innocent life until grown up problems force her to grow a backbone and defy expectations. In other words, we’ve seen them a million times, in a million places.

Now, I must be fair. A conventional character can be extraordinary when a creator presents their narrative in a sophisticated way. Unfortunately, the storytelling in *Bridgerton* does nothing

to help its protagonists as its character-building is blunt and obnoxious. For instance, when the show wants to make Basset seem tough and masculine, it throws in a bare-knuckle boxing scene (which conveniently leaves him totally unbruised and unbloodied). If Daphne needs to appear pure and flawless, it literally has the Queen declare it before all of her court. There exists no subtlety, no grace. And those are the exact qualities that should be abundant in a production set during the Regency. Ultimately, *Bridgerton*’s greatest flaw is there exists a rift between its goals and how it tries to achieve them. It leverages popular affinity for English history, yet it deliberately undermines its accuracy. It tries to channel the charm and nostalgia of Jane Austen, but applies none of her sophistication. It tries to make a statement, but it can’t decide on what to say. The end result is a confusing, disjointed production that can’t seem to achieve anything. And so, I am perplexed by its popularity. I can understand why people watch the *Bachelor* or *Bachelorette*. They are trashy, and embrace it. *Bridgerton* doesn’t. Why? I haven’t a clue.

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Legal Writing Fellows Demystified

Who are Legal Writing Fellows?

They are, at first, creatures of legend.

When Legal Research and Writing (LRW) began over

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Staff Editor



Zoom last semester, knowing who was who made for a challenge.

Some of the gallery-view faces appearing in our LRW I class were not the sweaty visages of disoriented neophytes. Scattered among us were students advanced in skill and wisdom, who already knew the way of the Bluebook and the arcane calculus of (not) underlining punctuation. These were the Legal Writing Fellows.

More seriously, as we all know, the Legal Writing Fellows are upperclassmen who serve as a bridge between the LRW professors and their many students, providing crucial feedback on the 1Ls' very first stabs at legal writing.

With the tryouts for next year's cohort in progress (the last day to turn in try-out packets is March 8), here are some professorial and student perspectives on the LRW Fellow program and experience.

When Professor Ruth Buck began teaching LRW in 1988, she had about 160 students. That was, she told me in an interview, "too many," and required a cohort of twelve Legal Writing Fellows just for her own classes. Nowadays, she works with fewer

Fellows. "They're just as essential as ever, though!" she said, and added that the program has been around for some forty years.

In addition to simply providing the manpower to give detailed feedback on writing assignments, Professor Buck explained, the LRW Fellows provide a perspective that is useful to professors. "It's very helpful that they're both more informed than 1Ls you'll be surprised how much more you understand in your 2L year!—and very close to the 1L experience. They remember what they didn't know then and are able to get to the bottom of any particular issue that a student is having with respect to writing."

One of the things that Professor Buck stresses when preparing a cohort of new Legal Writing Fellows is the importance of providing feedback in a way that 1Ls can receive well and actually act on. Professor Buck recalled a Fellow many years ago who crossed out the entirety of a student's very first memo with red ink. She does not recommend this route.

Erin Edwards '21, a current Fellow, echoed the importance of finding a balance in written feedback. "Even with a perfect memo, you can be really nitpicky. Sometimes it's hard to balance what you should comment

on and what you should let go."

Edwards emphasized that students learn just as much from feedback on what, specifically, they did well as from critique of areas that could use more work. After all, getting affirmation on the strength of particular research or analysis will enable the student to build on and replicate it in the next assignment.

"During 1L it felt like the only practical class," Edwards recalled. "I felt like it was really teaching me a skill that I could go apply somewhere." That experience brought her back to LRW. "I wanted to become a Legal Writing Fellow because I really wanted to stress to my students why this class was worth their time. I understand that not everyone will

be quite as enthusiastic as I am about LRW, but when students take feedback seriously, when I see every single written assignment get better—that's really enjoyable."

According to Perrin Tourangeau '21, another current Legal Writing Fellow, the benefits of the program flow both ways. "Helping other people work on memos and briefs has made me a more efficient writer," she said. "You see a bunch of mistakes that *everybody* makes—it's amazing how consistent it is—and think 'I definitely did that last year!' It helps you avoid errors and think about your process." Particularly, reading many memos attuned her to a common tendency: "Ev-

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Pictured: This legal writing fellow begins reviewing each memo with a healthy dose of excitement. Photo Courtesy of Perrin Tourangeau '21.



Pictured: This legal writing fellow has to sometimes give more constructive criticism than positive feedback. Photo Courtesy of Perrin Tourangeau '21.

The Legend of Zelda: Breath of the Wild

My relationship with video games has hardly been harmonious. My mother, a.k.a "Mama Nate Wunderli '22 Sports Editor



Deb," was a victim of the 1984 hit game *Tetris*. She said she played for hours on end for weeks, sometimes sacrificing sleep and definitely sacrificing productivity and a balanced existence. How much of this is true I do not know for sure, but as a result I was rarely given video games as a kid. It wasn't that I was given time restrictions or got punished when I played too much, it was literally the absence of video games in my house made it impossible to play. When we did get a game it was borderline exercise, something like *Dance Dance Revolution*, *Guitar Hero*, or *Wii Sports*. These games are fun at first, but rarely do you hear of someone putting in forty-hour weeks on *DDR*.

As a result, I was never very good at video games. Sometimes I would go to a friend's house to play a first-person shooter like *Call of Duty*, only to find myself running in circles and being shot from behind so frequently I gave up trying, resorting to sabotaging my own teammates or hiding in some room somewhere on the map where no one could find me. I was further reminded of my lack of video game prowess my first year at UVA Law, when my roommate Dave Goldstein '21

would pick his worst character, use only one of that character's moves, and still beat me handily in *Super Smash Bros Brawl*. He once let me play online, where I proceeded to drop his character's rank down to the fifth percentile as eight-year-old kids in their mom's basement clowned on me mercilessly.

Over winter break, however, my *Tetris* moment had finally arrived. The game is the classic story mode *Legend of Zelda*. My brother-in-law brought it over with his Nintendo Switch and started me my very own account. I was intrigued. The game starts off with a half-naked, pointy-eared, blonde skinny guy named Link waking up from a 100-year long slumber. Turns out, this is me, the princess's appointed knight. Well, at least I was, 100 years earlier before Calamity Ganon took over the kingdom and captured the princess. I found out this information later on. At this point, I was content to simply find a worn shirt inside a treasure chest as I make my way through a maze of clues and hints to find myself, at last, in the open world.

At this point, I am still learning the controls and have no weapons. There are no instructions of what to do or where to go, and the map—at this point only a small portion of which is unlocked—is impossibly huge. Turns out, it is possible to skip all the main quests and side missions, make your way directly to the castle, defeat all the big, bad evil dudes, and save the

princess right then and there. The record holder defeated the game in thirty-five minutes, which is documented on YouTube from start to finish. Of course, it would be ill-advised for me to do this. After picking up a couple tree branches as weapons, I proceeded to fight my first monster, a small, pig-like creature, and got my butt kicked. Slowly, I learned the controls and started to defeat some minor foes, taking their weapons in the process. I began to talk to people, did side missions, hunted-and-gathered food, and explored.

Fast forward to today. I spent countless hours over winter break on this game. It's like a good book that you can't put down, only it never ends. There are nearly an unlimited number of missions and side quests, places to explore, and things to collect. The map is varied and diverse, with dozens of towns scattered amongst vast swaths of uninhabited land. The land ranges from desert to thick forests, from grassy plains to volcanoes and high mountains. In order to unlock the map I climbed towers, which are often surrounded by monsters, faced evil guardians and their laser beams, and overcame other obstacles. I built my defenses by finding shrines scattered across the map and solved (and sometimes agonized over) the puzzles within. I got better weapons, bows, and shields through either defeating enemies or finding treasure chests. I acquired various equipment I needed to

withstand the harsh climates. I defeated the four "divine beasts," gaining special abilities to make my way into the castle and defeat my final foe. I tamed wild horses so I could explore more quickly, as well as ride into the castle and save the fair, pointy-eared princess in style.

For a while, I delayed ending the game, instead choosing to do more missions and quests. In fact, if it weren't for this article, I probably would still be out there in the fantasy world, finding more shrines and obtaining more ancient powers and weapons. But at some point I have classes to attend and homework to do, and this article would be woefully incomplete if I do not detail my final storming of the castle. Plus, the princess needed to be saved, and what would she think if she knew I was dilly-dallying in the wilderness hunting wild boar instead of saving her?

I rode my finest horse to the main gate, hoping to run fast enough to dodge the incoming barrage of fire from the castle guardians. My plan played out better in my head, as I was soon shot down, taking serious damage in the process. Nope, better to go in stealthily. Putting on my stealth clothes and downing a stealth elixir, I decided to sneak around back and enter from there. I climbed walls and used Revali's Gale (a power I received earlier in the game) to make an updraft of wind and propel myself higher and higher up the castle. Despite my attempts to avoid all enemies, at one point I had three guardians

locked into me at once, and it was only the blast of one knocking me downward that saved me, as it propelled me out of range. Better take a different path. After a couple slight miscues and close calls, my stealth plan worked and I made a final sprint towards Calamity Ganon's quarters.

Calamity Ganon: the scourge of Hyrule Castle, the epitome of hatred and malice. There isn't any sort of character development for him; he just represents evil in the broad sense. Good enough for me. This guy has the princess and I am going to take him down. He takes the form of a mega, fiery, spider-beast. To be honest, defeating him was not that difficult. I kept my distance, and at this point I was an excellent shot with a bow and had plenty of ancient arrows and bomb arrows, the two most powerful in the game. The second phase required me to get on my horse, and fire arrows at glowing targets until Zelda, the princess, appeared and finished him off for good.

The ending cinematic sequence of the game is minimal (some may say anticlimactic). While I expected some romantic, or at least emotional meeting between the knight and the princess, what actually occurred was far less. After thanking Link and declaring him the Hero of Hyrule, Zelda turns towards Link and asks: "Do you really remember me?" before rolling

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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

Loiterers v. The Powers that Be 73 U.Va 14 (2021)

LAKE, J., delivered the opinion of the Court, in which PETERSON, CHENELLE, LAZAREK, MARTIN, RE, BERDAN and STIEVATER J., and LUK, C.J., join.

JUSTICE LAKE delivered the opinion of the Court.

The question before the Court is whether the powers that be (in this case the shadowy cabal secretly governing the University of Virginia School of Law) (hereafter “the Administration”), acted within their proper authority by banning loiterers (hereafter “the Students”) from seminar rooms for the Spring 2021 semester.

The answer this court has reached is an emphatic no.

I.

The 2020 Fall semester showed remarkable resilience from students, professors, administrators, and most notably, custodial services.¹ UVA Law entered winter break with no significant COVID-19 outbreaks and an increasingly sophisticated system of prevention/response. By the end of the semester, this system included random prevalence testing, restricted library hours, a school-wide mask mandate, and a restriction on eating and drinking outside the designated sacrificial cesspool (hereafter “ScoCo”).

In search of the barest scraps of community, students utilized seminar rooms to take Zoom courses with classmates and to study between class a healthy six feet apart. Some

1 Custodial services have gone above and beyond the call of duty in meeting the new disinfectant and safety requirements on top of regular duties and we love them.

students² did not comply with the restriction on eating and drinking in seminar rooms. Discovery has yielded reports of students taking bites of a “granola bar,” sipping “water,” and “vaping.” Plaintiffs do not contest these findings.

Beginning in the Spring 2021 semester, all preventive measures from the successful Fall semester were put into effect, along with a new ordinance suspending student seminar room access—indefinitely. Administration buried their notice of closure at the bot-

City of Madison, Wisconsin (1803) set the precedent for judicial review of non-political actions. Closing the seminar rooms was unpredictable, unpopular, and poorly executed: the classic signs of political action. Digging a bit deeper, we find this to be a legal action subject to judicial review, because of how the regulation infringes on the enumerated rights of the legislature to make all laws necessary and proper for execution of “all other powers vested by this Constitution in the govern-

es are often unconstitutionally vague and overbroad anyway.⁷

Thus, if an ordinance might be passed that does not infringe on due process, it would be the province of the legislature and not accomplished with executive action. The unilateral, indefinite closure of whole sections of the Law School by the Administration clearly violates that most sacred principle of separation of powers.

III.

Why, then, did this Court grant a writ of certiorari and

to sprinkle in some nuance; COVID-19 is the most serious public health crisis America has faced since the beginnings of the opioid epidemic. It needs to be addressed through consistent, broad, and proactive measures. This Court can acknowledge the invaluable contribution of many state governors to stopping the spread and saving lives by implementing mask mandates, curfews, and restricting gatherings when their legislatures were unable or unwilling to act. The Administration has certainly been admirable in their commitment to similar measures.

The Students do not protest the mask mandate, they do not protest the limited library hours,⁸ and they do not protest the six-person gathering limit or the six feet of space needed to social distance. These measures, while outside the normal power of the Administration, are tolerated and even encouraged by Plaintiffs. Students protest only the very silly idea that ScoCo has a magic barrier around it that COVID-19 cannot cross but the seminar rooms do not. If students are permitted to eat

8 The record shows at least one incident of a Justice being shut in the library and all the lights turned out on her with NO WARNING while taking an evening class, but can agree she should have paid more attention to the altered hours notification.

“Students protest only the very silly idea that ScoCo has a magic barrier around it that COVID-19 cannot cross but the seminar rooms do not.”

tom of one of a dozen Return-to-Grounds emails students received mid-January, citing “persistent non-compliance with protocols” as their justification.³ It is this regulation the Plaintiffs seek to overturn.

Plaintiffs failed to include a claim of improper notice with their amended complaint, so this case turns exclusively on how far the Administration’s executive power extends.⁴

II.

Some have argued that it is not the judiciary’s place to interject in disputes between the executive and legislature, but the seminal case *Marbury v.*

ment of the United States, or in any department or officer thereof.”⁵ As *Baker v. Sedan* (1962) affirmed, the judiciary has the final say on whether another branch has exceeded their authority.

While the Code of Virginia allows for any locality to pass an ordinance prohibiting “loitering in, upon or around any public place, whether on public or private property” (Va. Code § 15.2-926 (2020)), a quick scan⁶ of the Albemarle County and City of Charlottesville Code of Ordinances reveals no such regulations. Even if such regulations did exist, anti-loitering ordinanc-

invest several hours of time thinking of legal puns instead of dismissing the case? You might be familiar with the phrase *unprecedented times*. It would be improper to proceed without considering the role of the executive in times of emergency.

Is the Law School in a state of emergency? Obviously not, or we would be 100 percent online. To avoid jinxing the delicate peace the School has maintained, we are willing

7 See *City of Chicago v. Morales*. 527 U.S. 41 (1999), the only crim law case this Justice has committed to memory.

2 You know who you are.

3 Can you Bluebook emails? Please respond quickly, journal try-outs are fast approaching.

4 Ignoring for the sake of argument the iron-fisted autocracy the Administration runs.

5 U.S. Const. art. I, § 8., but you should really be familiar with this by now.

6 This Justice has a ten-page paper not yet begun at the time of this writing due very soon, so an investigative standard of “cursory” was approved by the Chief Justice.

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Faculty Quotes

T. Frampton: “Verse two from start to finish is terrible legal advice.”

R. Harmon: “This was decided in 2012. That was basically last week.”

E. Yale: “Does anyone want to stop and have a smoke break, or a conceptual discussion?”


A. Bamzai: “I kind of parachuted into the Supreme Court. But then they rejected my view.”

J. Harrison: “Every new form of fraud is invented in New York.”

J. Bowers: “Let’s take drugs . . . not right now.”

M. Collins: “There are no conflicts in Hawaii. Shall I worry about conflicts in Hawaii? Later, I’ll have another piña colada.”

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



Virginia Law Weekly

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COPA

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and drink six feet away from each other in the toxic airspace of ScoCo, filled with a constantly fluctuating population of students, it doesn't make sense to this Justice as to why the same safety standard is not met in the comparatively more restricted environment of a seminar room, which might have three students or so at a time.

The double standard is confusing and appears to be totally arbitrary. Unless the Administration has a better argument than the one presented (such as, maintaining the enhanced cleaning standard for so many rooms was unduly burdensome on custodial services) we would like to hear it.

Because the powers that be nonetheless lack the authority to enact such far-reaching, strange, unusual, and/or cruel regulations by executive action, we must grant the relief prayed for by the Plaintiffs. An injunction directing the immediate unlocking of all seminar rooms is thus ordered.

The Court compromises with the needs of the Administration by consenting to sentence any student caught vaping inside to corporal punishment in Spies Garden.

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FELLOWS

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eryone has the inclination to want to use big words and sound very academic, and you don't want to be casual. But that can make it longer than it needs to be—or there's a more clear way to say things."

Both Tourangeau and Edwards mentioned that serving as a Legal Writing Fellow makes for a unique way to get to know newer students in an explicitly academic context. It's also "resume gold" in Professor Buck's estimation, a sentiment that Edwards concurred with. "It caught employers' eyes, which is an extra benefit. Being a Fellow, you're signaling: Legal writing is so important to me that I'm willing to spend a significant amount of time helping other people become better writers. It's helpful for the job or clerkship search."

Aside from those benefits, how should one sum up the experience of being a Legal Writing Fellow? Tourangeau put it succinctly: "It's a lot of work, but it's fun."

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Letter to the Editor

Letters of interest to the Law School community may be sent to editor@lawweekly.org. Letters may be published at the discretion of the Editorial Board and are subject to editing for grammar, style, and clarity, but not content or viewpoint. The Law Weekly does not necessarily endorse the content or viewpoint of any letter herein published.

Regarding Corpus Linguistics

John Setear '84
Professor of Law

I enjoyed Rachel Martin '23's recent, front-page-and-center discussion of corpus linguistics in the *Law Weekly* (Vol. 73 Edition 14). Textual interpretation is a difficult and contentious endeavor that should concern all of us at the Law School, and Ms. Martin's piece pithily raised intriguing issues. Besides, why should the Court of Petty Appeals have all the heavily-footnoted fun?

Still, I am a little leery of whether we can reliably resolve textual ambiguities by referring to collocates in electronic databases.

One problem is choosing the database. For a contracts case about diamond merchants in New York City, are we to consult a corpus of the English language as a whole, a lexicon of diamond merchants across the country, or a database of communications among all merchants in New York City? Do the latter two databases even exist?

Additionally, the use of a general database favors the most common locutions, but common locution and legal vocabulary are not the same

thing. Without state action, there cannot be a First Amendment violation, yet I have recently seen many denizens of virtual media complain that employers, or online media companies, or even other forum participants are violating their "freedom of speech." Unless the government is sponsoring the forum or the employment, however, these are simply not constitutional violations—even though a tally of collocates in common usage might lead one to believe otherwise. (Selina Meyer's in-elevator observation about many of the "real people" whom she has met may be relevant here, if unduly harsh.)

Finally, the counting of collocates in electronic databases may elide important issues of linguistic evolution. The website of the Federalist Society states that it is "a group of conservatives and libertarians interested in the current legal order," without breathing a word about their actual view on federalism—that is, the proper balance between state and federal government. See <https://fedsoc.org/about-us> (last visited Jan. 31, 2021) (admittedly, I only read the first three paragraphs, which, in my defense, do exhaust

their description of their purpose). I would bet a cornucopia filled with delicious Chick-Fil-A, however, that "conservatives and libertarians" generally favor a weaker federal government vis-a-vis the states. Yet James Madison—literally the face (at least in profile) of Fed Soc—was a "federalist" who favored precisely the opposite re-balancing of governmental responsibilities. I worry about anyone's ability to use a database to ferret out an "ordinary" meaning of a word that, over time, has both drifted 180 degrees from its origins (to Fed Soccers) and stayed right where it started (to constitutional historians). Meaning in words, as in life, can be elusive.

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HOT BENCH



Eli Jones '21

Interviewed by Christina Luk '21

Hi Eli! Thanks for joining us on Hot Bench this week. Where are you from?

I am from Erie, Pennsylvania, northwest two hours from Pittsburgh.

When did you start thinking about law school?

Freshman year of undergrad. I was originally an education major, and I wanted to be a high school teacher. But I went to an informational meeting about law and decided to do this instead. I'm fortunate that my undergrad offered a lot of career counseling, and it really benefited me.

Sounds like a great place! Where did you go for undergrad?

Duquesne University, in Uptown Pittsburgh.

So what did you do between college and law school?

Well, I graduated one semester early, and for six months, I was a counselor and teacher for students with criminal convictions. I worked with a boarding

school that was basically a step below juvenile prison for ninth to twelfth graders. I taught English.

What was it like coming to UVA after that experience?

I think it was important to have an experience like that, particularly before coming to a place like UVA, which is very elite and overflowing with privilege. It helped me understand that law is real and that behind every decision is a real human life. In class, we talk about things in the abstract, but behind every case is a human person.

So, my experience was really important to me, and it reframed for me how people talk about crimes. There are people who make mistakes, including children, and we apply these labels to them that can stick for life. My experience also helped me learn how to handle stress, and not get overwhelmed.

Did that experience have an impact on what you hope to do as a lawyer?

I've always wanted to do some public service job in the long term. I do think, for sure, seeing how society interacts with people in the criminal law system once they've been convicted convinced me we ought to change how we treat people once they're incarcerated. Working with those high schoolers made me wanna do right by people and, long term, gave me a lot to think about.

I heard that you're still doing some teaching. Tell us a little bit about that.

Yeah, I got an opportunity at my alma mater to teach about race and law. I came across it

on a whim actually. Derrick Bell was a well-known race scholar and alum at my undergrad. I was talking with the Director of the Honors College where I graduated about him, and I said we should commemorate him. And she said, oh, we should do a course, would you like to teach it? I was a bit surprised, but given that everything is virtual now and I'm physically back in Pittsburgh, I was able to make it work. It's a weird experience, but definitely interesting. We just had our first week of classes.

Do you want to continue teaching in the future?

I would like to. My dad is a teacher, and my mom also teaches. She runs a martial arts school. Plus, both my parents teach at church. I've always seen value in it, and I really like the experience and I love interacting with students. So yes, definitely.

You've mentioned that you're an English major with a creative writing background—do you still write?

You know it's funny, I've tried, but law school really saps the creative juices out of you. I find I can sketch the plot points, but finding the creative language is difficult after three years of stuffing my head with Supreme Court cases.

What inspired you to be a UJC Representative and what's been different about it this year?

Being in SBA, I was like, oh cool, I get to be involved in student government, which is a lot more robust than it is at my undergrad. I enjoy engaging with the wider community and with the whole university. What's

different? The adjudicative process. Seeing how other students from other schools at the university approach quasi-legal issues in different ways has been eye-opening. I think, especially in terms of crafting a sanction, everything is more open-ended than you would expect as a law student. I get locked into thinking if this is a statute, this would be the sanction, but the way other people can craft and personalize sanctions actually makes for a really cool alternative.

Let's do a lightning round!

Favorite place in Charlottesville?

Blue Whale Books on the Downtown Mall. It's by the Violet Crown Theatre. It's got the biggest used books collection, and a big collector edition section, and a biography section I always get lost in.

What's a biography you'd recommend to readers?

Devil in the Grove, by Gilbert King. It's about Thurgood Marshall and NAACP's defense of the Groveland Boys.

Anti-Stress Hobby?

Watching a good TV show. Recently, I watched *Neon Genesis Evangelion* and *True Detective*. Really cool.

Pet peeve?

Passive aggression. Snide comments.

Favorite word?

Community.

If you could live anywhere, where would it be?

Pittsburgh, where I live right now. I'll be working here after graduation.

What's one movie that left an impression on you?

No Country for Old Men, by the Coen Brothers.

If you won the lottery, what would you do with it?

Pay off my loans.

If you could pick one song to play in the background of your life, what would it be?

"Keep the Devil Off," by Big K.R.I.T.

Where's a place you've never been, but would like to go?

I've never been to California. I've always wanted to see L.A. Coming to Virginia, I've learned to appreciate wine, so wine country would be good. Even to see the Pacific Ocean would be cool.

If you could make one rule that everyone had to follow, what would it be?

Treat other people like you want to be treated.

What do you do for fun?

I hang out with the family. My wife, we have four pets, and they've been my main support. They keep me on track in life.

Well, now you have to introduce your pets.

We got one pet for each year of law school: Jefferson, he's a Jack Russell-Beagle mix. He's a very distinguished little guy. We got King next, an American Bulldog. Then, the year after, Misato and Zhu Li, two cats. We got them all from the local shelter. Support the ASPCA!

Anyone you want to give a shout out to?

To the folks at BLSA, at the SBA, and all the other classmates I'm happy to call friends.

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ZELDA
continued from page 3

to credits. Apparently, there is a slightly expanded ending if you find all of Link's missing memories that he lost, of which I only found a few. While I also yearned for a more emotional ending, I thought that it, while truncated, was quite fitting. Much like the game itself, it gives only a small portion, leaving the rest to your own creativity and imagination. The ability to control what you do and where you go is part of what makes the game so unique, and the world that it takes place in is so exciting.

After beating the game, I am now in the process of overcoming my addiction. Thinking back, I realized there was so much more I could have done, so much unexplored terrain. Maybe I beat it too early. Was I ready to end my video game career so soon? Now that I have all this extra time, should I finally take one of the hybrid course survey reviews? Fortunately, I won't have to wait too long. The sequel is projected to come out by November 2021 and has already won the Most Anticipated Game of the Year award. Until then, I will put the story of Link on hold and continue writing my own story.

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KEYNOTE
continued from page 2

to the mind of the Court issues that are not relevant to the case."

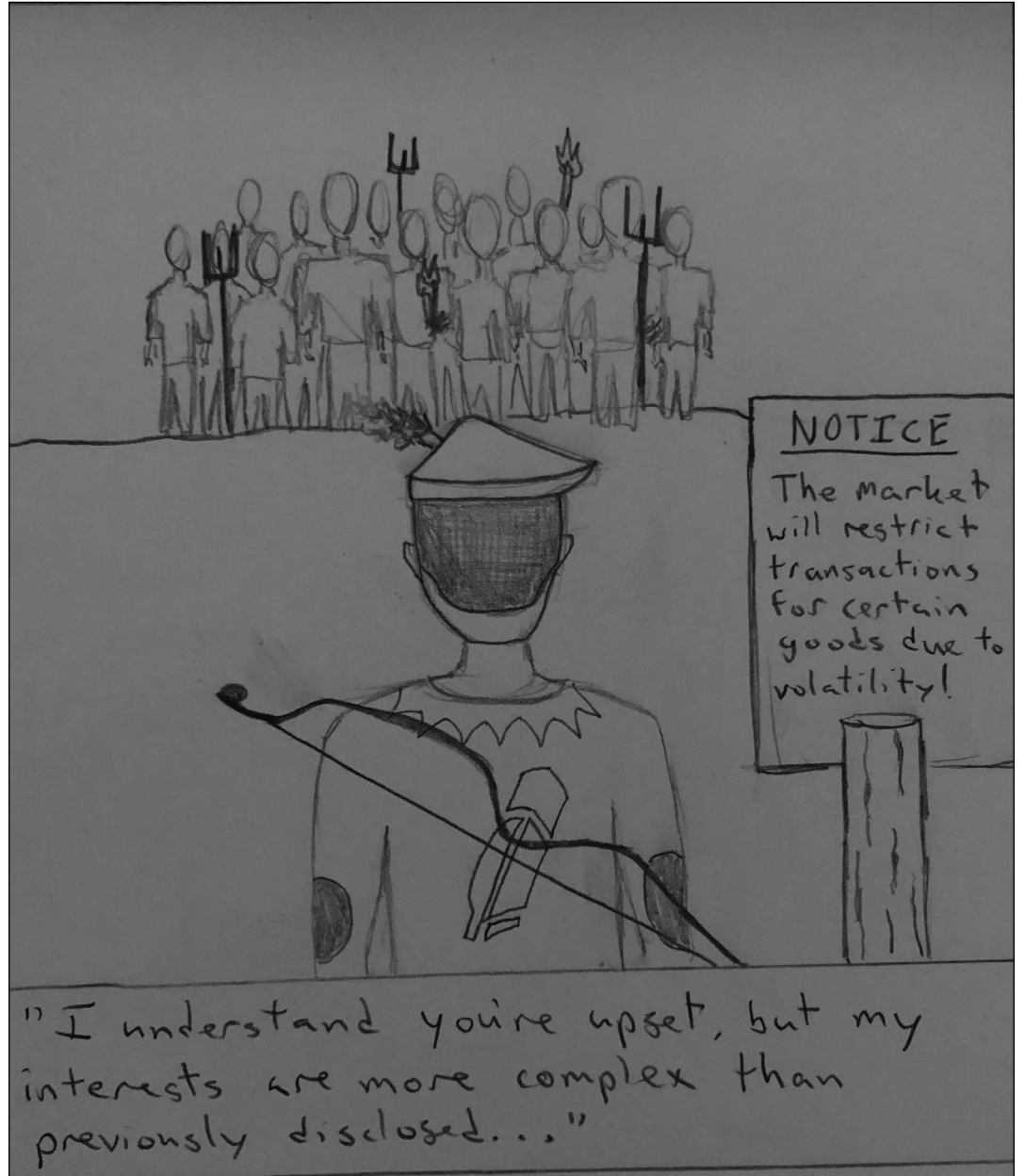
Jones also reflected on the importance of voting rights for all Americans, as she referred to the franchise as "the corn of the realm." She noted her own experience assisting in the passage of the Motor Voter Act, which offered a simplified voter registration process for anyone signing up for a driver's license.

Jones concluded her talk with reflections on the meanings of tolerance and respect, and the long-term goals of social justice. "Tolerance," she said, "means you do not have to like my skin color, my age, my size, my gender identity, or anything else about me, but you do have to respect my right to be different." And she continued, "'Respect' is the right word I think, rather than tolerance," because "tolerance infers something is lesser than," and "it tends to elevate me above you, because I can look down and tolerate you." Yes, "Respect is the word."

"I submit," said Jones, "that the goal should be to live in an environment with mutual respect for our differences." In her long career of civil rights advocacy, Jones has done much to help create just such an environment.

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Cartoon by Raphael



TIME	EVENT	LOCATION	COST	FOOD?
WEDNESDAY - February 3				
12:30 - 13:30	Spacepower: Space Law and the Creation of Space Force	Zoom	Free	☹
17:00 - 18:15	A Fireside Chat With Former Solicitor General Noel Francisco	Zoom	Free	☹
17:30 - 19:30	Ins and Outs of In-House Counsel	Zoom	Free	☹
THURSDAY - February 4				
19:00 - 20:30	Intro to Journals and the Unified Journal Tryout	Zoom	Free	☹
19:00 - 20:00	Therapeutic Thursday Yoga	Zoom	Free	☹
FRIDAY - February 5				
13:00 - 14:00	Managing Risk in the U.S. Financial System	Zoom	Free	☹
14:00 - 18:00	Beer and Wine Tour Crozet Spirits Loop	Crozet Trolley	Free	Available for Purchase
17:00	Virginia Law Review January Notes and Comments Pool Closes	Zoom	Free	☹
SATURDAY - February 6				
09:00 - 13:00	Winter Farmers Market	IX Art Park	Free	Available for Purchase
10:00 - 13:00	PILA Virtual Spring Day of Service	Zoom	Free	☹
MONDAY - February 8				
All Week	Diversity Week	Zoom	Free	☹
09:00 - 10:00	Meditation Monday	Zoom	Free	☹
10:45 - 12:15	U.S. Government Perspectives on Cybersecurity	Zoom	Free	☹
Tuesday - February 9				
12:30 - 13:30	Journal Tryout Writing Workshop	Zoom	Free	☹
18:30 - 19:30	LGBTQ+ Health in the Age of COVID-19: A Conversation with Preston Mitchum	Zoom	Free	☹

THE DOCKET

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