



VIRGINIA LAW WEEKLY

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

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What is a Chicken?

From *Frigalimint Importing Co. v. B.N.S. International Sales Corp.*, 190 F. Supp. 116 (S.D.N.Y. 1960)

Christina Luk '21
Ousted-Editor-in-Chief

what is a chicken?
any bird
that meets contract specifications

“chicken” standing alone is ambiguous, I turn to see the contract called “US Fresh Frozen Chicken, Grade A”

“chicken” meant young chicken broilers stewing chicken any kind of chickens, and in German “Huhn”

the threat of contradiction; however, does not convince the Law

Plaintiff's reliance on “chicken” was only the beginning his acceptance of the standard generally known was no proof of the alleged usage; indeed, to the contrary, the law of New York demands usage so notorious, that the presumption is violent agreement

no credit goes too far, a witness' consistent failure meant that a Chicken is everything. Everything is a chicken. “Young chickens” “Mature chickens,” “Total chickens.” “chicken” without specification

Defendant argues the Government definition of “chicken,” is ignored in the trade.

the market is scarcely an answer 33 cents was closer to the prevailing price certainly deliberately a loss, plaintiff replied

your contract chickens shall make it clear that the measure of damages did coincide with the dictionary meaning

the burden of “chicken” was not sustained.

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Libel: The Movie Makes Students Laugh, Cry, Ask for Spotify Link



Pictured: Chance Maginness '22 as former SBA president Katherine Janes. Photo Courtesy of: The Libel Show.

Dana Lake '23
Production Editor

The 113th Libel Show was an absolute joy to watch from start to finish. While *Law Weekly* likes to keep things light and pithy, I want to make sure this article starts off acknowledging the time and work the participants put into making *Libel: The Movie* possible. The 112th Libel Show was cancelled due to Corona, upping the pressure to make this year's virtual event the comeback of the century. Under the direction of Stephanie Metherall '21 and Jake Sillyman '21, and produced by Katie Carpenter '21, this year's show was a success from start to finish.

Libel may tout itself as one of the Law School's oldest traditions, but it was certainly made much funnier by the work of the *Law Weekly* Executive Board. I would even say our Exec Board was disproportionately represented, with outstanding performances from Editor-in-Chief Phil Tonseth '22 as Dean Groves delivering an important message for all law students; Executive Editor Anna Bninski '23 as Vice President of both ACS and FedSoc; and Managing Editor Stan Birch '22 as Mr. NGSL in a *Survivor* parody that had my entire Covid-compliant watch party screaming. *Law Weekly's* graduating 3Ls also turned out: former Photographer Kolleen Gladden '21 served top-tier facial expressions in a skit capturing the exact

feeling of being a woman in a Zoom room full of toxic male gunners. Former Professor Liaison Editor Leah Deskins '21 served as Band Director, a complex role made more complicated by the virtual show. “I never imagined I was also applying to be an audio engineer,” Deskins commented. “I had a great group of musicians willing to work hard, be creative, and be patient with me as I figured out the recording ropes.” As a humble and unbiased viewer, I give them all tens across the board.

A skit show is only as strong as its musical performance. See SNL's *Dick in a Box*; see also the Cowbell sketch. *Libel: The Movie* did not disappoint—the musical parodies were each excellent. Andi Schlut '22 began the show with a cover of *Frozen's* “Let it Go” that demonstrated both lyrical brilliance and probably the strongest vocal performance of the night. Schlut also served as a vocal instructor for the show. “Singing together over Zoom is practically impossible because of the lag and other issues,” she reflected. The solution required innovation and a lot of patience, but the results were undeniable. The show followed this up with an OGI version of NSYNC's “Bye Bye Bye” that was somehow even more danceable than the original, and a brilliant cover of *Aladdin's* “Whole New World” taught me more about Torts in two minutes than the entirety of Fall semester.

Parodies of “Despacito” by Luis Fonsi and “Mr. Brightside” by The Killers featured stand-out performances from 1Ls Logan White '23 and Rachel Dalton '23. The night ended with a supremely good cover of WAP, and I know I speak for the people when I say: drop the Spotify link already.

The Professor Rebuttal, spearheaded this year by Professor George Cohen, was probably my favorite segment. We poke fun at the spirit of collegiality UVA Law tries to cultivate, but the truth is there is something special here at the Law School. While emotional vulnerability is both lame and embarrassing, I think it's important for everyone—especially 1Ls who didn't get the chance to catch this year's performance—to know that we have a faculty willing to coordinate their schedules and take the time to write, practice, and sing a whole piece for Libel. Law school is hard and professors are intimidating, but there is a real feeling that we're in this together. I have had more professors sing to me this year than in the entirety of my undergrad experience (Friday Torts, never forget) but it has not lost its charm.

The first-ever virtual Libel Show was hosted through Zoom over three days, allowing rowdy viewers to drink along with the performances but losing out on the joy of laughing along with a full

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around north grounds



Thumbs up to Georgetown for dropping out of the T14 per U.S. News.

ANG knows the Dean of GULC is happy to get off the T14 email listserv, but it has to hurt a little bit to be knocked off the rung of the cool-kids club. On the other hand, thumbs down to UCLA. You don't get to have great weather 24/7 and to be in the T14. You have to pick one!



Thumbs sideways to group outlines. ANG loves mooching off the

labor of others but finds it insulting ANG is expected to also contribute.



Thumbs up to Arkansas Governor Asa Hutchinson vetoing the SAFE Act.

ANG wishes he has overturned it on human rights grounds, but government overreach is also a good reason.



Thumbs down to softball being back.

ANG was enjoying the peace and quiet in ANG's section GroupMe, but now ANG is expected to step outside in the name of “camaraderie.”



Thumbs up for the Virginia Supreme Court ruling that Charlottesville

can finally take down its Confederate statues. When ANG was a young ANG and told to clean up the garbage out of ANG's room, it never took quite this long.



Thumbs down to the potential return of “Infrastructure Week.”

While ANG would love for the bleachers at Copeley to be renovated so that ANG had a solid roof to sleep under, endless pandering by the political powers that be won't get ANG anywhere.



Thumbs up to an in-person graduation ceremony.

ANG's parents always wanted ANG to be a football player, and graduating in the football stadium is the next best thing. (Just kidding, ANG has at least three more years before graduation).



Thumbs up to Libel bringing down the house with an awesome show.

From the flawless singing, adept acting, and A-list rapping, ANG realizes even more that ANG is not qualified to be at UVA Law.

LIBEL

continued from page 1

theatre. The cost of admission was only a ten-dollar requested donation. As a viewing group consisting of only 1Ls, there are definitely jokes that went over our heads and professor impersonations I am sure were on point even without the context to understand them. The feeling of everyone I have spoken to for this article is excitement—excitement for more songs, for understanding more of the jokes, for taking bigger roles in production, and more than anything, excitement for an in-person viewing next year. Though it was a cameras-off event, every participant in the show should know there was enough laughing, screaming, and applause in at least one apartment to earn both a noise complaint and some positive memories in what has otherwise been a hellish spring semester.

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HOROSCOPES

continued from below

Virginia Tax Review

Okay, tell me that you want to do transactional law, without actually telling me that you want to do transactional law. You share a lot in common with the folks over at VLBR, but are probably a bit more reserved, and somewhat less in love with *Suits*. VTR folks are a pretty practical bunch, so it wouldn't surprise me if you have already started saving for retirement and love collecting coupons. I'm getting a pretty strong Robert Duvall, circa 1969, vibe coming from you as well. He's not the most memorable character from *The Godfather*, but he's pretty good nonetheless. It's not like you people are stuck with Fredo like VaSE (I don't know why I'm ripping them so hard, but Fredo literally ran a casino, so don't tell me it isn't true). All in all, you seem pretty solid, just learn to accept the fact that you'll never be the Don.

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2021 SBA President Farewell Address

Friends,

You have received countless emails from me over this past year, so I'll keep my

Katharine Janes '21
Former SBA President



final remarks brief: Thank you. Thank you for trusting me to advocate on your behalf over this past year, and thank you for allowing me the privilege of serving as your SBA President.

This year has certainly turned out to be what none of us expected.¹ For SBA in particular, we quickly realized we would need to modify our vision for the term as a new reality became apparent. Despite this deviation, however, I am proud of the work this year's SBA invested to make our community the best it can be.

SBA has always aimed to make sure students enjoy their three years in law school. To this end, we have hosted countless Socials, Foxfields and Fauxfields, and Barrister's Balls to bring students together. This year, though, we hoped that SBA could be different. Not only could it be a place

¹ I promise, though, to avoid all references how "unprecedented" it has been!

where we enjoy fun activities with one another, but it could also be a space where we, as a community, handle hard conversations too. This academic year, we worked with the administration to integrate student voices into the functioning of our school, including in the faculty hiring process. We had candid discussions about equity and inclusion in ways previously unseen. And we talked at length about how to maintain community during a time of distance, both physical and otherwise. There have undoubtedly been growing pains during this process. However, in my role as President, I have witnessed firsthand the collective desire of our student body to make UVA Law the best place it can be. This work is hard, but students and the Student Bar Association have been willing to do it time and again this academic year.

To the members of SBA 2020-2021: Thank you for your diligence, passion, and dedication during a profoundly difficult time. In particular, thank you to Savannah Williams '21, Chance Maginness '22, and Katherine O'Neal '22. You invested countless hours in your work on graduation, SBA governance, and diversity and inclusion, and I am grateful for

having the chance to learn and grow from your examples. The school is better for your work in it.

To the incoming SBA: I look forward to seeing all you accomplish in this next academic year. May it be filled with more socializing, more advocating, and more community-building than any year that preceded it—including this one. Niko, Caroline, Sam, and Ari: You are going to do fantastic things in your new roles, and I look forward to cheering you on as a graduate. And, if you could be so generous, please remember to invite the members of the Class of 2021 back for any festivities on the docket.

With love,

Katharine

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What Your Journal Says about You

What you are about to consume is a playful work. Please understand that no offense is intended by any-

Will Holt '23
Reviews Editor



thing that follows. Every journal below is a serious publication, and you should be proud to be a part of any of them. However, we can still have a bit of fun at their expense.

Virginia Law Review:

Well, if I'm gonna do this, I might as well start with the big boy on the block. Being on VLR is akin to being well-endowed. When people hear about it through the grapevine, they can't help but feel both impressed and a bit self-conscious. But, if you go so far as to stick it in their faces, they will think you're a bit of a jerk. As a result, you've probably learned to be discreet when talking to folks, except during OGI when you practically tattoo it on your forehead. None of us can blame you of course, but that doesn't mean we aren't a wee bit jealous.

Journal of Law & Politics:

Okay, we get it, we get it. You want to live in D.C. No one can quite tell whether or not you actually want to work on Capitol Hill after graduating, but you've made it abundantly clear that if you aren't doing politics, you

at least want to be around it. Being a D.C. native, I can tell you that the whole affair gets old pretty quick, but props to you for sticking by your guns. I'd wager that you were a part of a debate club or model U.N. at some point in your past, and likely acquitted yourself well. It was probably a big reason why you came to law school. As a result, I imagine you see yourself, wherever you go, doing some type of litigation.

Virginia Environmental Law Journal:

You know what, good for you. You're the kind of person who's willing to make sacrifices to do what's right. I'd bet you're fairly politically active, not unlike your JLP and VJSPL counterparts, but with a more idealistic streak. You're probably going to end up working for the EPA—or an oil company. I don't know why, but I get the impression that there isn't really a middle ground (see the Duel on Mustafar, *Star Wars: Revenge of the Sith*). You almost assuredly like hiking or biking, and are probably a bit of a health nut. That's all well and good, but there is a white Prius with a bike rack parked in my spot at Pav, and I know it belongs to one of you. Please remove it, or I swear I will start cutting down one tree a week until it's gone.

Virginia Journal of Criminal Law:

Maybe it was different in the past, but after all the challenges to the criminal law orthodoxy we have seen recently, you and your fellow members aren't afraid to share your opinion on anything. For you, there is a right and a wrong, and nothing will stop you from calling out the latter. As far as career aspirations go, there is a good chance that you want to be a public defender. That is great, but the rummaging through Professor Frampton's trash has to stop. For the love of Pete, he is an alive human like the rest of us. I'm sure he would be happy to talk to you if you just ask him like a normal person.

Virginia Journal of International Law:

While researching this article I saw that VJIL is apparently number one in its field. Congratulations! I'm not entirely sure what international lawyers do, but you seem to have your stuff figured out. You are probably pretty outgoing and may speak more than one language. At parties, you are always the fella who has just come back from abroad with some new fad, and pronounces every country or city name in its native accent. But, as annoying as your insistence on pronouncing Paris as "Pair-ee" is, you are well meaning and always have a crazy story about almost dying in some Third World country to cheer me up.

Virginia Journal of Law and Technology

I went to a school known for its computer science program for my first year of college, so I know a computer nerd when I see one. You guys are like semi-nerds. You have all of the trendy gadgets and outlandish predictions, but are still as terrified of a calculator as the rest of us. You will probably still end up doing BigLaw, but I could totally see you going in-house at some tech company in California. While out there, you'll probably get really into yoga and reefer. Anyways, you seem pretty chill. Keep things groovy.

Virginia Journal of Social Policy & the Law

It kinda goes without saying that you are politically active. You're the kind of person who will drive halfway across the country to go to some protest in D.C. or New York. I'll be real, that takes some serious dedication and I don't know how you do it. I'd also bet you are really into indie music and know how to tie-dye your own shirts. You also really like ramen. Joking aside, you have a strong sense of justice. You are willing to throw down with anyone at any time over the causes you believe to be just. I know I don't want to get in your way.

Virginia Law & Business Review:

Work hard, play hard.

That's your motto. You want to mint some coin and have some fun on the way. I imagine you are hoping to get a BigLaw job in New York and probably came to law school with a sycophantic love for the show *Suits*. You're charismatic and know how to network with all the top firms. You lead the softball league in runs, even though I'm pretty sure you've never been sober for a single practice.

Unfortunately, I do have one complaint, and I think I speak for everyone when I say this. Please stop wearing a coat and tie when event invitations say "business casual." It's really annoying. Other than that, you seem to be pretty cool. Cheers.

Virginia Sports & Entertainment Law:

I know your secret. You never thought anyone would find out, but now I am going to expose you. The only reason you came to law school was because that's what Tom Cruise did in *Jerry Maguire* before he became a sports agent. You also cry whenever you hear "Tangled in Blue," by Bob Dylan. I'm not going to say anymore because I know my VaSE friends have to reassess their lives at this point. For those among my readership who have no idea what I'm talking about, just go watch *Jerry Maguire*. It will make sense. Trust me.

HOROSCOPES

continued above

AI and Algorithms in Criminal Sentencing: VJOLT and VJCL Joint Symposium

Michael Schmid '21
Ousted Managing Editor

Rachel Martin '23
Columns Editor

On April 2, 2021, the *Virginia Journal of Law and Technology* (VJOLT) and *Virginia Journal of Criminal Law* (VJCL) hosted a joint symposium on the use of AI and algorithms in criminal sentencing. The discussion was moderated by the Honorable Jed S. Rakoff, Senior District Judge for the Southern District of New York.¹ The panelists were Professor Deborah Hellman of the Law School; Professor Jessica Eaglin of Indiana University Maurer Law School; Julia Dressel, software engineer at Recidiviz; and Alex Chohlas-Wood, executive director of the Stanford Computational Policy Lab.

Technology has revolutionized many fields, and some say it can also revolutionize our criminal justice system. Arguably, it already has: many jurisdictions have used algorithm-based risk assessment tools for years to determine who gets out on bail and how long people are sentenced to jail. The basic idea behind these risk assessment tools is to utilize data about a defendant to estimate the likelihood

1 Judge Rakoff also teaches the J-Term course “Science and the Courts,” which I highly recommend.— Rachel Martin

they will recidivate. Factors like past criminal convictions, employment history, and gender are given different weights and plugged into a mathematical formula. The result is an estimate of how likely a defendant is to skip a court date, be rearrested for any crime, or be rearrested for violent crime specifically, depending on the formula used.

Proponents of risk assessment technology say that these tools will bring much needed objectivity. In theory, algorithmic tools should treat like individuals alike and minimize the risk of judicial bias in the criminal process. They also promise to provide an alternative to regressive practices like cash bail and to reduce mass incarceration by focusing efforts on those most likely to reoffend. However, their use is highly controversial for a number of reasons.

One of the biggest concerns is that the biases and inequalities that have pervaded the criminal justice system are baked into the algorithms. “Any sort of machine learning or statistical model that is making predictions is necessarily going to be built on historical data of what has happened in that system,” Dressel explained. And that historical data reflects decades of criminalization of blackness and poverty. For example, police have historically been more likely to stop, search, and ar-

rest black persons than white persons for low-level offenses or no offenses at all. If the algorithm identifies “age of first arrest” or proxies for race like zip codes as factors that predict recidivism, this has the possibility of perpetuating the harms of those policing practices into the future.

Another overriding theme was the concern that these risk assessment tools will be overvalued² because they are “scientific.” Human decision-making elicits more skepticism; everybody knows that people can be prone to biases and errors. In contrast, when an AI risk assessment tool comes to a conclusion about someone’s recidivism risk based on purportedly objective, scientific criteria, these outcomes can be seen as more accurate, even if they are really not.³ Many times, we do not even know how accurate these tools may be, because there is no regulation of or standards for verifying accuracy. What is more, independent researchers cannot do this validation, because the algorithms are kept hid-

2 I would like to thank Professor Schauer’s Evidence class for arming me with this knowledge.—Michael Schmid

3 Dressler noted that one popular tool, Compass, likely had an accuracy rate of somewhere around 65%, not much better than a coin flip.

den as trade secrets. They are “black boxes” in an area where mistakes have drastic consequences for real people’s lives.

Additionally, there is a fear these tools can mask the subjective judgments upon which they are based, providing another layer to the “black box” problem. On the front end, the developer of the algorithms must choose which factors are most pertinent to whether a certain individual will recidivate. For example, common misdemeanors like petty theft may be considered while white-collar crime like embezzlement may not be. These choices and the resulting discrepancies get solidified as “objective” truth when judges rely on these tools, thereby reinforcing the criminalization of poor, Black, and other communities.

Professor Hellman, though, said it was important not to forget that judicial decision-making is similarly a “black box.” While she echoed the concern that algorithms tend to be overvalued because of their “scientific” character, she noted that it is difficult, if not impossible, to truly know how much weight judges give to different factors in making decisions about bond, sentencing, and the like. Judges may be influenced by factors that are just as questionable and subjective. She suggested it is ultimately a comparative question: “are we making

things worse or making things better [with risk assessment tools], because the alternative isn’t a system that is free of those [same] problems.”

There was broad agreement, however, that we need more transparency. Chohlas-Wood, for example, stated that having detailed, accessible information on exactly what goes into these tools is vital. He pointed to a Wisconsin case⁴ where the defendant challenged the use of gender as a factor in estimating likelihood of recidivism, noting that he would not have been able to challenge this potentially problematic category if he did not know it was being used. Similarly, Professor Eaglin argued that we need to know not just what goes into these tools, but where the data comes from, who picked it, and why.

Moreover, perhaps reform and transparency start in a more fundamental place: what questions are we asking about sentencing? Judge Rakoff noted that the use of these tools are predicated on the idea that we should punish people based not on what they have done, but what we think they might do in the future. While many people have celebrated the change in focus from retribution to outcome-based theo-

4 *State v. Loomis*, 881 N.W.2d 749 (Wis. 2016).

Farewell Chicken Sandwich Review: 2 crappy BJ’s and McDonald’s

I am sitting in the McDonald’s parking lot questioning my choices. Why on earth did I agree to write this article?

Drew Calamaro '21
Satire Editor



Why would I choose to try the McDonald’s chicken sandwich, the forbidden fruit, that which I had promised to never review ever? I look away—the parking lot is relatively empty on this Easter Sunday. All the better, for I am about to do that which is most unholy—consume a McDonald’s chicken sandwich. I think about my personal life decisions one more time and dive in.

But before I commit that act of terror on my body, I want to discuss my past chicken sandwich articles. Given the current climate, I think it is incredibly healthy to go back and review all of the jokes I have made that were funny at the time and apologize for them now. So without further ado, I would like to apologize for the following jokes.

On The Whiskey Jar using a FRENCH Brioche Bun: “Folks, I haven’t seen appropriation like this since Ruth Bader Ginsburg stole Barry Goldwater’s glasses.”

On The Fitzroy using two fried chicken thighs: “getting a pair of thighs covered in honey and hot sauce to the face is not exactly a good time.”

And I also apologize for rating Chick-fil-A number one in my previous rankings. Please see the updated rankings below for the revised number.

BJ’s

We find ourselves at BJ’s Taphouse. The name alone should clue you in that this is going to be invariably disappointing. Is there nothing more depressing than a corporate taphouse? Not good enough to be a corporate steakhouse (see Tim Dillon corporate steakhouse), not bad enough to be a Five Guys or something similar to that. No, the corporate taphouse is possibly the most depressing version of Americana there is. BJ’s represents it through and through. The 140+ items on the menu tell you “God is dead and we won’t spend time doing any one thing right, but we’ll just throw the kitchen sink at your fat mouths and see what lands.” Meanwhile, the place is dark and cold in the middle of the day, which to me is the opposite of what a taproom should be.

Never mind that, however. I got their classic chicken sandwich, which has fried chicken, honey mustard,¹ lettuce, tomatoes, and dill pickles, on a toasted parker house bun. This is, indeed, a classic version of a chicken sandwich, widely recognized by many. It’s the equivalent of some-

1 I tasted mayo.

one trying to sing words to a song they only kind of know, or Libel students trying to be funny. It’s almost there, but off in every way. This was a crude imitation of the real thing and lives up to the BJ’s brand completely. If you want “good enough,” if you think that is all we are as Americans,² I recommend this.

The bun stinks, the pickles were tasteless, and iceberg lettuce, the polyester of vegetables, should only be used when absolutely necessary. I rate this a 75/140+ items on the menu. Onto the next BJ.

The Southern Comfort BJ

As if the classic fried chicken sandwich wasn’t enough—and it never is at BJ’s (140+ menu items)—they have decided to place smoked ham, applewood smoked bacon, creamy alfredo, swiss cheese, and Dijon mayonnaise on top of their fried chicken sandwich as well. What began as an innocent exercise in imitating a classic has turned into a nightmare of unnatural cultural fusions that were born of greed and a corporate desire to capitalize on the nostalgic tastelessness of the average American consumer. We deserve this. This is who we are, at the end of the day.

Much like being a law student during a pandemic, where you are asking yourself

2 And you can absolutely be sure that is all we are.

“Am I really paying for this?” and then you continue doing so anyways, the Southern Comfort BJ is there for you to give up on fighting for something better. Who are you to question the opaque decisions of a BJ’s corporate conference room where the menu is decided, or the UVA administration’s many opaque decisions over the past year? Nobody, that’s who. Eat your sandwich and be glad you get anything at all. I rate this a one vaccine out of two doses.

McDonald’s

With that out of the way, I will review the McDonald’s chicken³ sandwich. It sat there in my car, and I looked at it. But as I brought it to my mouth, the Holy Spirit came over me and caused me to throw it in the trash. “Man was not meant to eat McChickens,” it said to me. I cried out of happiness, for I had been saved from the evils of the McChicken, and all of its cursed ingredients. Let this be a warning for all those who read this—God did not intend for the McChicken to happen. It is an abomination.

3 Spoiler alert: this isn’t chicken.

Final Final Rankings:

Chick-fil-A

Taste: 66/66 books of the Bible
Problematicness: None—one-way ticket to heaven
Godliness: 1000% (see I told you I revised the rankings).

The Fitzroy:

Taste: 9.1/10
Problematicness: 9.1/10

Michael’s Bistro:

Taste: 177/180 LSAT
Problematicness: 3.54 GPA

Iron Paffles:

Taste: 173/180 Press Freedom Index
Problematicness: 147/180 (still very high!)

Whiskey Jar

Taste: 10/12 eggs
Problematicness (Brioche tastiness): 47/50 freedom fries

Draft Taproom:

Taste: Louis XII/Louis XVI
Problematicness: Louis XVI/Louis XVI

Zinburger

Taste: 3.5/5 stars (Southwest airlines food rating)
Problematicness: 3.5/5 stars (Id.)

BJ’s Classic fried chicken

Taste: 75/140+ items on the menu
Problematicness: Just eat it

BJ’s Southern Comfort

Taste: 1 vaccine dose out of 2
Problematicness: Id.

Cookout

Taste: 163 LSAT
Problematicness: Tune in next week!

McDonald’s (unranked)

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 pjt5hm@virginia.edu

Residents et al. v. Pavilion Garage
73 U.Va 21 (2021)

J. PETERSON delivered the opinion of the Court, in which QUERNER, TONSETH, C.J, TANG, KULKARNI, BNINSKI, WUNDERLI and LAKE join.

JUSTICE PETERSON delivered the opinion of the Court.

JUSTICE BIRCH concurs in part and dissents in part.

The question presented to the Court today is whether a garage, owned and operated by an apartment complex for the benefit of its residents, designed in an undeniably poor nature, and often plagued by disrespectful and entirely unwelcome interferences by both the community and what can only be assumed to be Pavilion's own utilities, may be allowed to mar this community because, as defendants put it, "you get what you pay for." The answer of the Court today, in accord with the lower courts before it, is no, no it absolutely may not.

Plaintiffs, the residents of the Pavilion, as well as those friends and acquaintances of theirs unlucky enough to have experienced the terrors of traversing The Pavilion's (Pav) garage (Pav Garage), bring this suit in equity to request not only an injunction ordering Pav not only to tear down the Garage and erase all record of its existence from the annals of time, but also an order requiring Pav to reconstruct a new garage. Importantly, the new garage must include a straight path to the key-sensor to enter the garage, as any sane individual would think would already be the case. Additionally, the blueprints must include designs to better the visibility between the floors, widen

turns around corners, and add a rooftop bar and grill for those unlucky enough to have to park on the fifth floor.

Due to the Court's complete agreement with the plaintiffs in this case, it seems unnecessary to engage with the defendant's arguments. However, in short, the "you get what you pay for" argument, while valid in other jurisdictions such as Ivy, has no place as a defense for an overpriced apartment scheme such as Pav. In fact, ironically, Pav's argument functions exactly *not* as intended, much like many of the amenities and privileges offered there.

The plaintiffs cite spe-

cially in their grievances, first, the "general awfulness of the typical drive through the [G]arage." While this language of "general" seems directly in conflict with a reference to a specific grievance, if one has set foot in the Garage, it becomes immediately clear what the plaintiffs are talking about, specifically, when they say, "general awfulness."

Second, the plaintiffs draw the Court's attention to the danger and difficulty inherent in navigating the Garage. For example, the narrowness of the Garage when going up or down the roundabout turns is extreme. Additionally, the turns are completely blind unless one uses the mirrors placed on

"Due to the Court's complete agreement with the plaintiffs in this case, it seems unnecessary to engage with the defendant's arguments."

third parties will leave large vehicles parked half-on the sidewalk alongside Pav, further obstructing the view of those trying to depart. This is unacceptable. This is America. The land of the free, the home of the brave, and the country where at one point we were required to get out of our cars to check to see if a train wasn't coming. Allowing the visual obstructions present to persist any longer would be to return back to Holmes, back to imposing undue burdens upon our citizenry in favor of The Big Guy (like Pav), and away from the American dream we attempt to instill in every hallway, every garage, and every overpriced single apartment from sea to

shining sea. As such, the plaintiffs' injunctions are granted in full. Pav must construct the garage per plaintiffs' requests. This judge is certainly excited to make use of the rooftop bar. And, lest there appear to be any trace of allowing politics to infect the decision of this court, I reference back to my own ruling in *Residents of the Pavilion v. Pavilion*, 73 U.Va 8 (2020), in which I allowed Pav to continue its current practices, much to the chagrin of its residents. As such, I believe my position, and the legitimacy of this Court today, remain unsullied.

pediency. The Garage is traf-

ficked by many of the smartest minds our country has brought together under this University, but many of them have not applied their wit or wisdom to learning the art of driving. This, in combination with an already suspect design, compounds two issues together that creates a cause of action. Now, the Pav cannot control the actions or behaviors of its residents,¹ but it can control its own behaviors and designs. Making adjustments for the very foreseeable fact that highly-educated people are terrible drivers should have been done long ago, and it needs to be handled now.

However, I dissent from the young justice's proposed remedy, being as short-sighted as the turns in the Garage currently are. I cannot fault the justice for his naivete, as my two additional semesters on this bench have clearly wizened me beyond my years. As a resident of the Pav and owner of a car, I have frequently experienced the atrocities that plague Plaintiffs. I have, however, also experienced what living in a building is like that is (1) under construction and (2) does not have a garage. I wish neither of these on the plaintiffs and encourage a more restrained order from my colleagues. The short-sighted nature of the remedy proposed ignores the two plain reasons

JUSTICE BIRCH, concurring in part and dissenting in part

1 Even though it has tried many times through sleep deprivation and sound therapy.

While the young justice makes admirable points, this justice must get out of my car and look around the garage corner to navigate the dangers inherent in the proposed remedy. To make plain, I concur that equitable remedy for the Plaintiff is wholly warranted and should be issued with ex-

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Faculty Quotes

J. Mahoney: "There are no programs out there for law students who want to have swank handbags and can't afford them. Does this bother you?"


E. Kitch: "There are many soap operas that could be written about the fate of closely held family corporations."

C. Barzun: "He had no PhD. in pot smoking! No Master's in reefer madness."

A. Bamzai: "I've gotten this far without learning the federal sentencing guidelines, I'm not going to start now."

S. Walt: "This test is a stupid idea. It's like testing the outcome of a horse race based on my blood pressure. You could do it, but it's a stupid idea!"

Heard a good professor quote? Email us at editor@lawweekly.org



Virginia Law Weekly

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AI SENTENCING

continued from page 3

ries of punishment, this is not always a fair or positive thing. Chohlas-Wood elaborated that the question of risk assessment tools in criminal sentencing comes down to policy judgments about the function of sentencing and incarceration. If the goal is to prevent recidivism, “I think there is a lot of promise,” he stated. If, however, the goal is to rehabilitate, then these tools are likely not helpful.

Algorithmic risk-assessment tools also risk dehumanizing people and limiting judges’ ability to adapt outcomes to individual circumstances. Judge Rakoff and Professor Eaglin explained that the rise of AI in judicial decision-making in the criminal process reflects the broader and somewhat concerning trend in recent decades of replacing judicial discretion with a framework of rules that cabin or entirely eliminate that discretion, such as the federal Sentencing Guidelines, mandatory minimum sentences, and career offender statutes. Although the Guidelines are now advisory instead of mandatory, many judges still lean heavily on them, and quite a few judges today have never known anything else, as Judge Rakoff pointed out. Judges were “rightfully angry” when the Guidelines first came out, Professor Eaglin expressed, because sentencing is supposed to take into account how an individual got where they are and what will best help that individual and society moving forward. The current focus on “things we can measure” thus makes judges’ jobs harder in some ways.

The role of AI and algorithms in the judicial process is still evolving, and it is likely to be a subject of debate and innovation for some time to come. Chohlas-Wood highlighted that in addition to risk assessment tools, there are other applications of these technologies that are less controversial. For example, he noted the great success of recent programs to increase court appearances by sending automated, personalized text reminders. Dressel said that her organization is working on technology that can model the system-level impact of policies designed to reduce racial and other disparities. She suggested that AI is better suited for this sort of system-level policy research, rather than the individual determinations that risk assessments are currently used for. Professor Eaglin concluded that algorithmic risk assessments are just one of many possible ways to reduce incarceration, and they may not normatively be the way we want to approach the problem. We choose to use these tools; there are other choices.

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HOT BENCH



Dean Natalie Blazer

Interviewed by Phil Tonseth '22

Hi, Dean Blazer. Welcome to the Hot Bench! Let's start with the basics. Where do you call home?

I was born in Fairfax, Virginia. I grew up going to Wintergreen, as my parents had a place there that we frequently visited, so Charlottesville is also home. Basically, I claim all of Virginia.

When did you start thinking about law school? And why'd you decide on UVA?

I was the editor of my high school newspaper, so I originally thought I'd be a journalist. After not initially liking my communications major in college, I switched to political science and was drawn to immigration and asylum law. During undergrad, I had an internship at an immigration clinic in downtown Boston, spent a summer in Bosnia researching refugee and asylum issues, and spent my entire senior year working as a legal clerk in Boston College Law School's Immigration and Asylum clinic. I helped translate documents and conversations with detained Serbian nationals and learned so much about asylum law that would serve me well later on in my career.

As for my interest in UVA Law, that started the summer before my senior year, when I worked as a paralegal for Baker Botts LLP in Washington D.C. Both the partner and the summer associate I worked for were UVA Law grads (or soon to be), and, although they were both brilliant and hard-working, they were also laid back and cool. They were my first real impression of UVA Law. Combined with the good stories I'd heard about UVA from my friends who went there for undergrad, I knew it's where I wanted to be for law school.

I saw that you spent your 1L summer interning at the Sarajevo War Crimes Tribunal and that you clerked for the United Nations' International Criminal Tribunal for the former Yugoslavia following graduation. Can you describe those experiences?

I had spent a summer living and researching in Bosnia while I was in college, so when I was a 1L, I thought that maybe I'd be able to do something law-related there and get to go back to that part of the world. I worked for a British prosecutor at the war crimes tribunal, lived in Sarajevo,

got to use my language skills, and experienced a completely international tribunal. It was an amazing experience; truly transformational! The prosecutor I worked for said I was so lucky to be in the United States and that the best formal training I could possibly get as a young attorney would be at a big law firm. That was the first time I considered doing anything “corporate.”

So my 2L summer, I did a BigLaw summer associate position, but I never wanted to let go of my public service work. The firm knew that international work in particular was important to me, so they let me work in their Paris office for a month that summer, and also let me delay my start date after graduation so I could clerk for an appellate judge at the ICTY in the Hague. My firm was so great about it too; they encouraged and supported my pro bono work on similar issues once I returned to NYC. My first time arguing in court was an asylum case for a young man from the former Yugoslavia [Dean Blazer won that case, of course]. I can't say enough about how accommodating and welcoming my firm was about allowing me to continue my interests and my desire to do pro bono work, as they truly worked to keep my job fulfilling and honestly kept me at the firm for longer than I expected!

How big of a culture shift was there between the ICTY and your subsequent BigLaw position as an associate?

Living in both Sarajevo and the Hague are completely incomparable to BigLaw in NYC. I appreciated the culture of my firm (they called themselves the “UVA Law of law firms” for their collegiality, warm and friendly attitude, dedication, and hard work), but it was an obviously different experience from doing public service work abroad. I was able to find my way through the pro bono side of the firm, and I also engaged in a lot of recruiting, coaching high school mock trial teams, and engaging in the women's affinity group. My firm experience was great, but I'd do anything to be able to live abroad again.

Did you always see yourself coming back to work in academia?

First, I never thought I'd be in BigLaw for seven years. I used that time to aggressively pay off my student loans, knowing I'd move on to something else one day. Towards the end of my BigLaw career, I was recruiting a lot and visited so many law school campuses during interviews. Every time I was back on a law school campus, I felt so happy and fulfilled talking to administrators and students. It reminded me of my time at UVA Law, and it started to dawn on me that some of these administrators were former lawyers, and that they had made this their full-time job. So I started to really think about it, could I work in a law school?

For about a year, I gathered information by talking to anyone I could find who worked in some sort of law school administration job. To make that

big of a career leap, I wanted to make sure I would really love the day-to-day work. After all of this research, I narrowed my potential transition down to working in admissions. I then saw Columbia had an opening, and, realizing I could make this huge career move without leaving my Upper West Side apartment, I applied. Long story short, I got the job, and I knew from my very first day at Columbia that I had made the right decision.

From reading applicants' stories, to witnessing the beginning of their life-changing law school journeys with exciting careers ahead of them, I loved it. After two-and-a-half years at Columbia, the Dean of Admissions at Georgetown (someone I had spoken to during my information gathering phase) called me to say they were looking for a Director of Admissions. I took the promotion, moved to D.C. and found myself managing a large team and making all kinds of decisions I never had to before. I loved the challenge. About two years into my time at Georgetown, Dean Cordel Faulk left UVA Law, and Dean Goluboff called to talk about my current role. I never thought I'd make it back to UVA Law, although deep down I knew that's what I always wanted to happen. Even now, six months into the job, it's still completely surreal. The legitimate connection I feel to the community here and the ability to talk about my own experiences to admits is wonderful. It's truly so full circle.

Looking back at your time on North Grounds, what's something you know now that you would tell yourself coming into law school?

Truly enjoy every moment of 1L year. Well, all three years, but 1L gets a bad rap as such a difficult and crushing time. While it's a lot of work, it's also a time to do so many other things! It was my favorite year of law school. You're learning so much for the first time, forming bonds with your sectionmates, and learning to think in a completely new way. Stop thinking 1L is a year to simply “get through,” it's fun if you let it be fun, and something you only get to do once (ideally). I always tell admitted students that UVA Law isn't just a means to an end (a law degree), it's a full experience. Also, you don't need to be at the top of your class to do great. Enjoy your time outside of class.

Having just completed Admitted Students Open House and working towards closing out this current admissions cycle, what's your hope for the incoming class or some advice you'd like to pass along to them?

I hope they have the full UVA Law experience that all students deserve. I want them to experience campus, Charlottesville, and the UVA community in full effect. We worked hard this cycle to connect to admits to get to know them, so we hope they see our mindfulness in bringing in a diverse class from all over the world and all different back-

grounds. I hope they contribute as much to UVA Law as they get out of it.

Let's do a lightning round!

Favorite food? Appetizer: peel-and-eat-shrimp.

Entrée: New England style lobster roll, preferably eaten at the beach, and French fries.

Dessert: Ice cream sundae, vanilla ice cream on a brownie or cookie, with hot fudge and whipped cream.

Cocktail: mezcal margarita on the rocks with salt.

Favorite place in Charlottesville? Any running trail. They're my happiest place.

Anti-Stress Hobby? Running. Working remotely allows for a lunch break run.

Pet peeve? When people gun their car engines super loud and speed down the street. I don't know why but that sound boils my blood.

Favorite word? I really like the word scuttlebutt.

If you could pick one song to play in the background of your life, what would it be? “Get Along” by Kenny Chesney

What's your spirit animal? My cat Brie Bella. (She and her sister Nikki are named after the WWE Bella twins). I mostly just want to BE my cat; she has the best life. Sleep whenever she wants and is absolutely adored.

Where's a place you've never been, but would like to go? Africa. Not just a traditional safari vacation, I want to go to Kenya, South Africa, Zimbabwe, the Congo, all of it. I love everything I've been able to learn about the culture, wildlife, and natural landscape.

If you could make one rule that everyone had to follow, what would it be? The golden rule. Treat everyone as you'd like to be treated. We need more empathy.

Secret wonder of Charlottesville that people should know about?

Southern Crescent. It's all outdoors, they have huge firepits, and Bayou-style New Orleans cooking. I love their conch fritters, everything is so laid-back and it feels like a hidden gem. I also love that the place is named Southern Crescent after the train route that runs from Charlottesville to New Orleans!

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Barristers United Weekly Report

March 28, 2021

A top-of-the-table clash between Barristers United and Kerfuffle FC did not live up to its billing, as Barristers cruised to a comfortable 9-1 victory to cement their position as the best team in the illustrious SOCA Spring 2021 Co-Rec League 11v11 Division A.

The first half was a tight contest, with impressive heart shown by Kerfuffle FC who managed to hold Barristers to only a two-goal lead. Talent wasn't the issue for Barristers; they lacked the dedication of Kerfuffle FC, whose passion for public service and disciplined defense kept the law students at bay.

A rousing halftime speech was enough to get the Barristers out of their slump. With an eloquent appeal by Captain Zach Turk '21 to cheer themselves up by laughing at the author of this piece, the team roared to life in the second half. Led by the forward play of Doyle Tuveson '23 and Ardi Khalafi '22, the Barristers scored at will. Any doubts the press had about Doyle's ability to make the leap from Division 1 soccer to the SOCA league, or concerns about Ardi's fitness after two weeks away due to injury were put to rest after a masterful performance.

On the other end of the field, backup goalkeepers Aziz Rashidzada '23 and Tom

Schnoor '23 put in an impressive performance when needed while the rest of the defense was able to help keep possession. Many of the goals started from the back, with Stephen Wald '22 showing how aggressive fullbacks can be taking every chance he could to take the ball up himself.

Kerfuffle FC has some faces that students at the Law School will be familiar with. One of them, Professor Thomas Frampton, when approached for a comment about the match, simply asked us to "put a string of expletives in there for me." Another member of Kerfuffle asked if "there was a better league" for Barristers to play in. The answer to both of these questions is no, but we look forward to playing against this team again in the playoffs!

Looking ahead, the team has a break this weekend due to the long weekend. After a grueling season, it will be good for the players to take the time to see some family and get ready for the second half of this title run. This squad is far from their maximum potential and it seems like something truly special is brewing down in Charlottesville.

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3L Talks Shop: Innovation, Non-Profits, and a Brighter Tomorrow for Students of African Descent

Doriane Nguenang '21
Guest Writer



1. What is Pembe?

Pembe is a non-profit organization focused on mentoring aspiring law students of African descent throughout the law school application process. Our executive board consists of current law students at top U.S. law schools and recent graduates working across the private sector, including law firms and investment banks, as well as the United Nations. Our mission is to increase the representation of people of African descent in the U.S. legal profession by providing free mentorship and law school admissions counseling to prospective law school applicants.

2. What inspired you to join Pembe?

I was inspired to join Pembe by my own law school journey. I moved to the United States when I was sixteen years old. I knew early on I wanted to study law. However, my initial roadmap to get there was quite different from my ultimate path. Initially, my goal was to go to law school in France after graduating from the French International School in Bethesda, Maryland. However, my parents encouraged me to stay in the United States for the better educational opportunities. I decided to stay, and obtained a degree in economics from the University of Maryland, College Park. From there, I embarked on my law

school journey.

As someone with a Franco-Cameroonian background, the law school application process was very challenging. When I started the process, I knew nothing about the law school application process in the United States, nor did I know any lawyers who could provide me with critical advice on how to be successful with my law school applications. I did a lot of research online to learn what I needed to do to apply and be a successful candidate. Later on, while interning at a solo law firm in D.C., the lawyer I interned for provided me with great insight into the law school application process and valuable feedback on my personal statement. Following my applications, I was fortunate enough to be accepted at several law schools, including UVA Law.

When a friend at Harvard Law School (Brice Ngameni, Pembe's President and Co-Founder) invited me to join Pembe, I immediately knew that I wanted to join the organization. I want to help students who look like me in their law school application process. I do not want them to go into the application process blind as I did. There are various barriers, including a lack of access to knowledge and connections, and financial difficulties, that prevent many students of African descent from applying to and attending U.S. law schools. If I can help in any way in minimizing

these barriers, I want to know that I have done my part.

3. What is your role within Pembe?

I am Pembe's Content Director. As Content Director, I am responsible for overseeing Pembe's content efforts, including compiling resources on the law school application process for mentors and mentees, and developing training presentations for mentors. I recently completed detailed modules on LSAT preparation, resources for scholarships, and writing personal statements, which we hope to share with our mentors and mentees. The LSAT modules include information on best practices for LSAT success, structured study plans, and resources for scholarships and grants to cover LSAT expenses. I also created a "Road to Success" series to provide pre-law students with first-hand LSAT preparation and other admissions-related information from current or past law students who have taken the LSAT in the last couple of years.

4. How can others get involved with Pembe?

We have recently started our recruiting campaign for mentees and mentors. More information about applying to become a mentor or mentee can be found on Pembe's website at www.pembeorg.com.

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THE DOCKET

EVENT	LOCATION	COST	FOOD?
WEDNESDAY - April 7			
An Original Document for Every Song in "Hamilton"	Zoom	Free	☹
"Navigating the Derek Chauvin Trial for the Murder of George Floyd: Understanding the Case," With Anne Coughlin	Zoom	Free	☹
THURSDAY - April 8			
SPRING BREAK			
FRIDAY - April 9			
SPRING BREAK			
SATURDAY - April 10			
Winter Farmers Market	IX Art Park	Free	Available for Purchase
MONDAY - April 12			
Monday Gypsy Rumba	225 W. Main St. Downtown Mall	Free	Available for Purchase
Meet and Greet With Professor Craig Konnoth	Zoom	Free	☹
Tuesday - April 13			
National Lawyers Guild Disorientation Lunch, Veena Dubal	Zoom	Free	Yes!

COPA

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the plaintiffs have a complaint in the first place: cost reduction and poor planning. It is in the defendant's best interest to spend as little as possible while collecting high rent. And while the "you get what you pay for" argument may be applicable in Manhattan or San Francisco, in Charlottesville, Virginia, it is not. On top of that, this is a year where the amount spent on events, staff, and upkeep has outwardly dropped while rent has remained constant. The budget may contain the "surplus" needed to fund these changes. However, this justice recognizes that those finances have not been saved, but may have immediately disappeared without a trace.² The prior poor planning does not inspire confidence in the outcome of a new construction without significant judicial oversight, adding the additional burden on members of this court of coordinating with Pavilion management.

Therefore, I would order the Pavilion to reposition the card reader to the front point of the newly-installed barrier blocks, bar third party trucks from parking to the northeast of the entrance, reposition certain vehicles³ that extend far

out into the turn, and proceed with a full garage power wash and cleaning.⁴ All of this will allow for many of the unskilled drivers to swipe their cards without popping a tire or hitting the gate arm, take turns with their usual abandon, and park their cars for more than two days without them becoming covered in dust.

As a personal aside in a vein similar to my colleague, "lest there appear to be any trace of allowing politics to infect the decision of this court," I live in the Pav. I have taken an objective approach, recognized my bias, and continued anyways. I don't want to lose a garage for the remainder of my tenure for sake of a few dangers that ultimately may still exist at the conclusion of the majority's remedy.⁵

4 For good measure.

5 I cannot urge this enough: I need that garage and hope my actions on this bench do not result in real-world consequences involving the named parties.

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2 Like license plates off cars on Floor 2.

3 Pick-up trucks.