



VIRGINIA LAW WEEKLY

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

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Wednesday, 16 February 2022

The Newspaper of the University of Virginia School of Law Since 1948

Volume 74, Number 16

The Thunderdome Closes Its Doors

Phil Tonseth '22
Editor-in-Chief

I'm not going to lie to y'all. When an article idea comes to mind for my intermittent ramblings, it's a relatively easy task for me to pump out 800 plus words on jokes that I find funny, puns my editors sigh and roll their eyes at, and stories that I share that nobody *reallyyyy* cares to know about. However, today's article has sat in my draft folder for a solid week, blank. I'd compare trying to find the words to describe this last year as the *Law Weekly's* Editor in Chief to understanding *Pennyroyer* or *Erie* on the first day of CivPro: almost impossible. There's a deadline to meet though, so we're going to do this live.

There was one goal on my mind when I opened the doors to the Thunderdome last February when I became Editor in Chief: use the *Law Weekly* to show what UVA Law is really all about, COVID or not. We, as a student body (and school, for all of the teachers, administrators, and staff reading this), were still in a weird stage of the pandemic. Some classes were back in person, there were a smattering of events held in the Law School, and the protocols to snitch on other law students for gathering in groups larger than 5 had been lifted.¹ I didn't want the *Law Weekly* to just remain the same, to be a summarization of events and the news, barely attracting the attention of a small splattering of students. My goal was simply to show the UVA Law has a lot to offer, whether it be the return of all in-person classes, Dandelion, softball, cool events and guest speakers, or letters to the editor from concerned students. Anything and everything was on the table.

Was this strategy effective? Debatable. Did my strategy of showing off the social and cultural aspects of the school and community result in fewer articles on "important" topics and organization events around

¹ Thank god. And for those people who filed a FOIA request to see who ratted you out, only to find out it was a good friend, I hope y'all have patched that up.

The Future of Finance



Event panelists and VLBR president. Photo Courtesy of Lauren Johnson, '22.

Nathan Wunderli '22
Sports Editor

My first foray into the world of finance began several months ago. I opened a brokerage account, put some dollars in it, and have since watched the market swing wildly, but overall trend downward, as my precious few dollars have tragically turned into even fewer dollars. Of course, I made a day trade once about a week ago and made like \$60 I wouldn't have made otherwise, so basically I'm a financial genius.

This week, the Virginia Law and Business Review hosted several high-profile speakers on the topic of decentralized finance (a.k.a. DeFi). The panel consisted of CEOs, attorneys, and an SEC regulator. Decentralized finance, put simply, is finance that utilizes open-source software and blockchain to make financial deals instead of having large banks control everything from loans to contracts and other deals. So, anyone can control the way they give and receive money, the transaction is open for everyone to see because it's posted on a ledger, and it doesn't have to go through several large financial institutions first.

There are several potential advantages to decentralized finance. First, a system where anyone can create financial tools the way they want can lead to more innovation and eventually lead to widespread adoption of the best practices. Second,

it makes supply chains more efficient, by making it possible for all the parties in a supply chain to be on the same system. Next, depending on your views on algorithms, it can cut out a lot of the human biases in today's system that can often lead to disparate outcomes. Of course, algorithms can lead to disparate outcomes as well, but at least an algorithm can be fixed—unlike a biased human being. Finally, transactions are far simpler with decentralized finance. While something like a Venmo transfer may look simple from the outside, it actually is a complicated, multi-step process. When a bitcoin is transferred, on the other hand, it is just A to B and posted neatly on a blockchain ledger.

Decentralized finance has been growing rapidly. DeFi coins have grown from ten billion in January of 2020 to eighty-eight billion in January 2022. Countries in Africa have been quick to adopt its principles, allowing for access to loans and the transfer of capital on more informal channels. Other countries with relatively open economies, such as Singapore, have also shown signs of adopting DeFi. The U.S. as a country is at an inflection point, where it can take advantage of the benefits of DeFi, or smother it through regulations. The panel was in favor of less regulation, but saw DeFi moving forward regardless of what the country does. The panelists compared this new way

of finance to the progression of the internet. At one point, the internet was just for reading documents on a screen. Now you can edit it yourself, make webpages, blogs, and interact with it rather than just passively viewing it. However, that change almost didn't happen. Regulators were close to stifling the progress of the internet, putting regulation over growth. Fortunately, this did not happen and the internet is the way it is today. The panelists posed the question: What if we are at a similar point today, where we can choose growth over regulation and move DeFi along, or keep the system as it is today? How would life be different in 20 years if we went one way or the other? The panelists seem to agree that the benefits of democratizing finance outweigh the risks and it should be regulated in ways that promote it rather than stifle it.

One way to regulate it positively is to provide a safe harbor rule for those creating a DeFi system. Because even a DeFi system has to be created, coded and controlled on the backend at the beginning by a few people, it can't actually start out decentralized. It is later on that the creators back off and leave it to the people. A safe harbor rule will allow a certain amount of time to transition to decentralization. If it becomes decentralized in time, it would not be clas-

around north grounds



Thumbs up to Professor Cahn for giving her student's Valentine's goodie bags. ANG appreciates professors that actually care about their students, and UVA Law has a good one in Professor Cahn.



Thumbs up to Valentine's Day. ANG LOVES everything that has an origin in pagan rituals and will be celebrating this Lupercalia in true form, by slapping ANG's crops and body with a wine-soaked animal hide.



Thumbs up to the UVA basketball team. ANG also likes disappearing from the conversation only to show up at important moments.



Thumbs down to last week's warm Saturday and freezing Sunday. If ANG still had the energy to care about things, ANG would feel betrayed by how Mother Nature has been toying with ANG's emotions.



Thumbs down to people who reply-all to emails. ANG doesn't want to know your social security number or your COVID status, ANG has already committed enough fraud.



Thumbs sideways to the Super Bowl for being a week before Barrister's Ball. ANG can't believe the NFL wouldn't have considered ANG's need to fit into ANG's Barristers outfit. COVID did a number but the Buffalo dip was the mail in the coffin.



Thumbs sideways to SRO allowing professors to Zoom for asymptomatic COVID concerns but not for other active conditions. ANG will take any excuse to skip class, but also appreciates professors who make strenuous efforts to actually teach through the pain.



Thumbs up to Professors who take a week to cover ten pages of content. ANG likes that ANG can get lost in the forest looking for the trees and still make it back in time to be ahead in readings.

GOODBYE

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the school? Definitely. Was I accused of using the *Law Weekly* to simply share my social life to the wider UVA Law community, whether through making our front page a collage of pictures of my friends and me multiple times, or writing about how I spent more time on the golf course than in class? Seven times total, if we're being specific. Do I regret it? Not one bit.

I came into this role with zero journalism experience. I couldn't then nor now tell you when to use an em dash, or why it's grammatically correct to spell out numbers below 100. All I knew was that tapping into humor, empathy, and a sense of belonging would hopefully keep the *Law Weekly* readership numbers afloat and bring the community together again after a rough first two years of my UVA Law experience. That's the reason I did everything from reaching out to every class' GroupMes multiple times asking for pictures from different events, to soliciting letters to the editor, to running contests for Halloween. An increasingly involved student body will care more, will help rebuild the culture of UVA Law, and will make it a better experience for everyone involved.

I would be remiss to not thank my amazing team for supporting me along the way. From every staff edi-

tor on the *Law Weekly*, to the editorial board who had to stay late and listen to my wine and Domino's-induced ramblings, thank you. Also, thank you to all of those who were willing to be interviewed and who contributed to our paper.

In summation, my favorite part of this paper and my time at UVA Law has been the ability to make and capture memories. Although Andy Bernard may have longingly said "I wish there was a way to know you're in the good old days, before you've actually left them," I think that's exactly the point of the *Law Weekly*. This paper captures what it is to be a student, from the good and the bad, to the funny and the frustrating. Take advantage of the time we have now and cherish those you'll spend it with. These three years have gone by too quick. It's been my pleasure to help shepherd the Class of 2022 through their 3L year doing such, and I'll happily watch future EICs do the same.

-Mamba Out

pjt5hm@virginia.edu

Raising Your Browsers

We all spend so much time on our devices, but how much

Caleb Stephens '23
Staff Editor



do we actually think about how we're accessing the internet? No, this isn't a VPN ad, I'm talking about your internet browser. I know you've all seen Internet Explorer, and immediately used it to download another browser, but have you even considered using something other than Chrome? In light of this, the *Law Weekly* proudly presents a rambling guide to your favorite browsers.

Chrome: The standard browser most of you probably use. Chrome is a solid option, providing the base level for basically all browsers. Chrome allows you to link to your Google account, providing seamless access to the myriad services provided by Google (all hail the Google overlords). The only major drawback to this beautiful vision of the future is that Chrome takes up a lot of your CPU when it's running. For those of us who don't speak the language of the coming robotic/AI/artificially augmented humans/virtual reality revolution, your computer is more likely to overheat if you have a lot of tabs open in Chrome versus the same amount open in some other browsers. Or it is more likely to overheat and freeze if you're using some-

thing that makes your computer work really hard at the same time as your browser (like playing the latest, greatest version of Skyrim that allows fishing while on a Zoom call in your browser, your Spotify app, messages, and your timesheet for your summer job). Chrome does allow extensions and bookmarks, some of which can completely change your browsing experience (for the uninitiated, extensions allow you to add features to your browser, such as a text to speech translator, a VPN, a translator, or basically anything else you can think of).

Safari: Ah, all Ye Apple snobs. Probably the people most likely to be reading this and thinking, oh this *definitely* doesn't apply to "me." But, while Safari is definitely the best "default" browser, it's far from perfect. It offers great basic functionality, getting the job done, but it has a serious lack of customization options. Admittedly, that is Apple's entire M.O.—oversimplification for ease of use—but it does come at the expense of features that could be desirable, such as hotkeys or the vast library of Chrome-based extensions.

Internet Explorer: Do I even need to say anything? All of you have had to use Internet Explorer, and all of you have hated it.

Microsoft Edge: A newer, better version of Internet Explorer. It's a much better basic browser, but it will occasionally break internet pages. Decent, but probably not a great choice for your full-time browser.

Firefox: The second best, really. Probably the best option for plugins. Firefox is the classic open-source browser, allowing those of you who *really* know what you're doing to change what you want, but for the rest of us, Firefox just remains a solid option. It has good modification choices, but its bookmark feature leaves something to be desired.

Brave: Brave is more of a niche browser, but it provides a more secure experience than most of the other options on this list. Brave is basically a re-skinned version of Firefox that's slightly more secure, but a little bit less elegant. It's worth trying, but it's probably not the best option for everyday use.

Opera: Opera is an elegant vision of a different sort of browser, one that uses mouse gestures instead of keys, like conducting an orchestra through your tabs. Opera runs well, and it's fairly light, adding more custom options than most of the basic browsers, including a free VPN. The main catch is that it was re-

BROWSER page 6

True Gunners Throughout History

We all have made our share of gunner accusations in our time in Law School.

Jack Brown '23
Staff Editor



From mocking the person doing the reading with their firm offer in hand, to impersonating 1L study groups working through doctrinal classes together, we've all had a laugh at what we think gunning is.

But none of that is real gunning. Sure, at a lowly T-8 school, memorizing your professor's hornbook before the start of 1L might be seen as out of the ordinary, but it pales in comparison to the true gunners that have left their mark on the legal profession. This article will take you through some true examples of excellence that we should all aspire to live up to.

Louis Brandeis

To start, yes, by default, anyone who reaches the Supreme Court qualifies as a gunner. No matter how often they talk about not being the smartest person in their class, how many social events they were involved in Law School, or how suspect their understanding of legal issues seem to be, they are, as a rule, gunners. But not all Supreme Court gunning is made equal.

Enter Louis Brandeis, the only Supreme Court Jus-

tice your NLG friend says wasn't a spawn of Satan.¹ After spending his teenage years traveling Europe, he decided that the law was calling to him. To say he became a little unhinged is an understatement; at one point he referred to the law as his "mistress," holding a grip on him that he could not break.²

His obsession with reading law books got so intense that it began to have physical consequences. Worn out from overuse, his eyes began to deteriorate to the point that doctors suggested that Brandeis give up school to preserve what little vision he had left.³ Unable to imagine a world where he didn't spend countless hours reading about how judges solved simple scenarios, Louis instead paid other students to read out legal principles to him which he then memorized.⁴

1 This may change if there is a group of NLG students who might compete to see who can be the most woke; in that situation, Brandeis might be labeled as no better than Scalia.

2 Thomas K. McCraw, *Prophets of Regulation* (1984).

3 John R. Vile, *Great American Judges: An Encyclopedia* (2003).

4 Diana Klebanow, & Frank-

This expensive form of outlining paid off, as Brandeis graduated first in his class at Harvard with a record-setting GPA that remained unmatched for almost eighty years. Brandeis said of that period: "Those years were among the happiest of my life. I worked! For me, the world's center was Cambridge."⁵ The kid in your class who spends twenty minutes asking the professor bombastic questions after each lecture has nothing on Gunner Brandeis.

Gregory Watson

While Mr. Watson never was on the Supreme Court, at the top of his class, or even in law school, no one can deny his gunner credentials because to win an argument, he changed the Constitution of the United States. That's right, the kid who brings up the comments when the professor says they're wrong isn't even in the same dimension as the great Gregory Watson.

His story begins in 1982. Gregory was a student at the University of Texas at Austin who wrote a paper for a political science course that argued an amendment proposed along with the Bill of

lin L. Jonas, *People's Lawyers: Crusaders for Justice in American History* (2003).

5 Thomas A. Mason, *Brandeis: A Free Man's Life* (1946).

Rights was still "live" and could be ratified by the states at any time. This amendment prevented Congress from enacting pay raises that would take effect before the next election. The professor gave this paper a C, which inspired Gregory to begin a letter writer campaign to state legislators.⁶

Over the next decade, one by one state legislatures began to ratify the amendment. Although he had already graduated and changing the grade wouldn't mean anything to anyone else, Gregory continued relentlessly lobbying for this amendment's passage. His goal wasn't just to get the Amendment passed; he wanted all fifty states to spend time ratifying it even though he just needed thirty eight states to prove his paper right.

Roughly a decade after getting his paper back, Gregory had actually done it. He had permanently changed possibly the most important legal document in human history to show the professor that he was right, and they were wrong. And you think someone visiting a professor's office hours three times

6 John W. Dean, *The Telling Tale of the Twenty-Seventh Amendment*. FindLaw, (Sept. 27, 2002), <https://supreme.findlaw.com/legal-commentary/the-telling-tale-of-the-twenty-seventh-amendment.html>.

to argue they deserve an A-triple plus is over the top?

While outside of this one obsession, Gregory Watson's life lacked the consistent gunnerhood of many famous judges, lawyers, professors, and crossword puzzle editors that come out of law school, it is the absurd scale of the one moment that earns him a spot in this article. One moment of sufficient exception from norms of humility can forever label you a blue-blooded gunner.

The Person Reading This Article

Ya, that's right, you, the person reading this, you're a gunner too. We all are here in a million different ways. Some of us really take well to the exam system and to the production of legal papers as a whole and channel our energy into developing that skill. Others gun by staying healthy, by staying present in their friend's lives, by just getting through the day even when it's really hard to even get out of bed.

Every one of us works really hard every day, and it's okay to be tired sometimes. Always remember that and never lose sight of how amazing you are.

jub4bb@virginia.edu

Does Men's Equality Require...?

Michael Pruitt '24
Guest Writer

Before diving into the content of Friday's panel on reproductive health, the events leading up to it deserve their own column inches. From the panel's title to the slogans used in advertising, it stood unambiguously in response to the Federalist Society's conversation with Erika Bachiochi. Members of If/When/How and Lambda Law Alliance jointly developed the panel over the course of three short days in response to Bachiochi's opposition to both reproductive healthcare access and to legal protections for trans, nonbinary, and intersex people. Both If/When/How and a group of trans and nonbinary law students published open letters that put their lived experiences, Bachiochi's record, and the national political moment—with *Roe* under scrutiny by the Supreme Court and a wave of states proposing anti-trans legislation—in conversation.¹ Chloe Fife '22 touched on this background in a brief introduction for the forty-some-odd in-person attendees and the larger Zoom audience before turning the event over to Professor Coughlin, who moderated.

1 If/When/How's letter and the trans and nonbinary students' letter can be found at bit.ly/uvaletter_iwh and bit.ly/uvaletter_tnb respectively.

Professor Coughlin began by interrogating the title of the Federalist Society's event, including the intended meaning of key terms like "women" and "equality." With these questions in mind, the conversation turned to introducing each panelist and allowing them to discuss their work.

Dr. Chris Barcelos, a social scientist teaching gender and sexuality studies at the University of Massachusetts in Boston, noted that the theme of the panel linked to their own scholarly work, where they have found that efforts at regulating abortion and regulating trans bodies are fundamentally intertwined. "Both," Dr. Barcelos said, "are attempts to deny bodily autonomy and attempts to define the futures of others."

Ting Ting Cheng, the current director of the Equal Rights Amendment Project at Columbia Law School, spoke next, beginning by providing a short history on the 100-year effort² to pass the ERA, the attendant thorny legal issues of the ERA's current status, and the history of unfortunate decisions on "which voices to include and which to exclude." She noted that ERA activists pushing for ratification in the '70s claimed that the amendment wouldn't provide special legal protections for abortions.

2 Well, more like 98.5 years, but that doesn't have the same ring.

Cheng stated that these claims were false then, and remain false now, but they presented a salient reminder of the importance of focusing on issues of equity while working for equality. "We care about winning," she said, "but also how we win."

Tannis Fuller, who runs the Blue Ridge Abortion Fund, a grassroots organization that provides financial and logistical assistance to support abortions, spoke last. A poster in the background of Fuller's office read, in block capitals, "Funding abortion is a radical act of resistance and community care." She engaged directly with Professor Coughlin's question on the meaning of "women's equality" in relation to abortion. "If we're all down in the mud together, well, I don't want to be in the mud," she said. According to Fuller, people should aim for liberation rather than equality, and "access to reproductive health, the whole spectrum of fertility care, is central to liberation." Abortion and other reproductive care, she continued, should be seen as tied to family and community so that by improving access to care, people are able to "unify different streams of their life and become whole" rather than dividing their lives "into separate buckets."

Each speaker echoed the themes of their introductions in answering questions from the audience. When asked

about the role of lawyers in addressing legal barriers to trans folks' access to reproductive healthcare, Dr. Barcelos stated that "the law isn't going to totally save us," referring to the frequent gap between legal protections on paper and realities on the ground. By example, they noted how the Affordable Care Act's ban on gender identity discrimination hasn't kept many insurers from denying coverage for gender-affirming treatment.

Cheng considered the possibility that the ERA could be used in an anti-classification argument to block laws designed to help women and trans people. She noted that unlike the Fourteenth Amendment, the language of the ERA doesn't require intent, making this interpretation weaker.

Fuller spoke about the possible externalities of increased restrictions on abortion. With increased scrutiny of abortions, she claimed, we also get increased scrutiny and criminalization of pregnancy outcomes like miscarriages, which disproportionately impacts people of color, trans people, and poor people.

When asked how to combat the stigma associated with abortion, sex, and gender, Fuller said that the solution was talking with our children early about sex and gender. "When we're comfortable in our identities," she said, "we can more easily talk about sexual health, and when we're

comfortable with that we can more easily talk about abortion."

Both Dr. Barcelos and Fuller addressed Bachiochi's belief that abortion denigrates the role of mothers in society. Dr. Barcelos noted the cognitive dissonance in the fact that over half of all abortions were obtained by people who already had one birth, while Fuller rejected the framing of abortion and parenthood as binary opposites rather than paired concepts.

To close the event, each speaker offered their advice to the audience on ways to create change. Dr. Barcelos encouraged listeners to work with their pocketbook by donating to their local abortion funds, which create vital infrastructure connecting patients to limited care resources. Cheng emphasized the importance of democracy's roots, stating that listeners should look into meaningful local work and ballot initiatives. Fuller echoed the value of local grassroots organizing, stating that something as simple as putting a can of green beans in the local community fridge "can feel good even when everything else feels like crap." Professor Coughlin joined the audience after for discussion, coffee, and the best canelé in Central Virginia.

jhu5ey@virginia.edu

Introducing Professor Joy Milligan (A Semester Early)

As the semester starts, Jack Brown and I had the chance to sit down (virtually) with

Jacob Smith '23
Professor Liason Editor



one of the Law School's newest professors, Professor Joy Milligan. Professor Milligan (together with her husband, Professor Bertrall Ross) agreed to come to UVA from Berkeley last semester, adding to the already-stacked ranks of brilliant UVA constitutional scholars. But don't be surprised if you have not heard much about either of them yet. Professors Milligan and Ross are currently in Germany, and will make their UVA debuts this fall.

But let's start at the beginning. In undergrad, Professor Milligan started out at Harvard as a Physics major before switching to Social Studies. After spending some time working in the Dominican Republic and Mexico, she went back to school for a Masters of Public Administration. Then came law school. At that point, Professor Milligan said, she thought academia was definitely her goal. But, as with many law students, plans changed: Professor Milligan ended up getting "pulled into" public interest and civil rights law, working on civil rights and discrimination litigation at the NAACP after law school. Still, all along, aca-

demia seemed like it would be a good move eventually. While working at the NAACP was a good experience that Professor Milligan still misses sometimes, after a few years it was time to move toward academia.

But Professor Milligan thought she was not quite ready to be a law school professor: she wanted more training, more time to think about big questions. In particular, she found herself wondering why there was still such inequality despite all the effort and progress that had been made in civil rights. So a PhD in Jurisprudence and Social Policy at Berkeley was the next step. Professor Milligan thought her focus would likely be law and economics, but she found herself more drawn to legal history, which allowed for a broader and more holistic approach to scholarship. Getting a PhD sounds pretty challenging, but Professor Milligan described it as an enjoyable experience: "I love law. I think it's endlessly fascinating." She also described a PhD as a "luxury item," the opportunity to be dedicated to your own research for years at a time. (We didn't get the chance to talk much about that research, but Professor Milligan's dissertation examined resistance to *Brown v. Board of Education* in the administrative state.)

By the time her PhD wrapped up in 2018, Pro-

fessor Milligan had already jumped into teaching at Berkeley. She described the transition as a "big shift." Despite its perks, a PhD doesn't really teach you how to teach, so it was necessary to learn on the job. But Professor Milligan has found teaching "really gratifying," and she especially enjoys teaching 1Ls, meeting public interest students, and "liv[ing] vicariously" through them. One unique course that she taught at Berkeley, and hopes to teach at UVA, is called "Civil Rights & Anti-Discrimination Law" and studies the substance of statutory civil rights protections.

What prompted the move to UVA? While UVA's oft-cited "collegiality" definitely contributed—and it helped that UVA also wanted to hire her husband—location was undoubtedly also an element. Professor Milligan thought Charlottesville was beautiful during a visit last spring. (She was surprised to learn that Charlottesville is even more beautiful in the fall!) And she is also glad to be moving to a more affordable and less congested part of the country after spending many years in the Bay Area.

But, as mentioned, Professor Milligan isn't here yet. Currently she and her husband are working in Germany at the American Academy of Berlin with a multidisciplinary group that includes novelists, a public health expert, histo-

rians, journalists, and even a cartoonist, as well as other specialists. In the spring she will work on some other academic projects before making the long-awaited move to Charlottesville in time for the fall semester. The short days have left Professor Milligan "really excited" for spring, and COVID worries have limited the opportunities to have fun, but we were told that it's still been a nice change of pace to live in such a "cosmopolitan" city, catch some "football" games, and avoid driving for a year.

Professor Milligan has also appreciated getting the chance to visit other parts of Europe. Travel and "family adventures" rank high on the list of things she likes to do in her spare time. Other hobbies include hiking and going to her fourteen-year-old son's soccer games. (She and her family are already planning for tryouts in Charlottesville for the fall.) While Professor Milligan worried this list of hobbies sounded "boring," we would heartily disagree. Charlottesville is the perfect place for a sophisticated legal scholar who also appreciates the joys of family and the outdoors, and we are excited to welcome Professor Milligan to her new home!

js3hp@virginia.edu

FINANCE

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sified as a security and will avoid a lot of regulations it otherwise would have to deal with.

Fortunately for lawyers such as us, there will be plenty of room for our services; as there are in the current system. There is a big question about how to assign liability if something is programmed poorly in a decentralized system. Unlike now where we can just blame the bank where the transaction originated, a decentralized system is more difficult to assign blame. A new set of rules will have to emerge to deal with this problem. As for hackers disrupting the system, the panelists did not seem to think that is an issue. Or rather, it is an issue, but not any more of an issue than we would have without a DeFi system. If anything, it is easier to find the perpetrators on a DeFi system because everything is open source.

nw7cz@virginia.edu



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

2L v. COVID Protocols
74 U.Va 16 (2022)

BROWN, J. delivers the opinion of the court, in which REYNA, J., BERDAN, J., WUNDERLI, J., McDERMOTT, J. and PETERSON, J. join.

PAZWAK, J. concurs in decision only.

MORSE, J. and KULKARNI, J. concur.

THE EXECUTIVE BOARD has abstained.

On March 17th 2020, the NCAA made the unprecedented decision to cancel that year's March Madness Tournament due to concerns about the novel coronavirus that was beginning to rapidly spread around the world. For many Americans, it was this moment that signaled the start of the pandemic that has quickly come to define so many parts of daily life. Of the many changes the virus brought, one of the most relevant to this Court is a seemingly endless stream of policy changes from institutions of higher education all over the country.

This case focuses on a specific aspect of the Law School administration's response to the pandemic. Since the policies have become more controversial, the administration has consistently framed its COVID protocols as being mandated by the University at large and out of their control.

Petitioner alleges that this is a misrepresentation of the power the Law School administration has in the implementation and content of these policies. Petitioner also alleges that these policies are not being adopted for the reasons the administration says they are. We will take both of these allegations up for review.

Out of Our Hands

While the rules regarding social distancing practices, masks, vaccination status, and asymptomatic cases have evolved greatly over the last two years, communications regarding these rules have always come either from the Main Grounds Administration or attached with the disclaimer that these policies have been put together for the entire University.

While in most respects this is true—very few UVA

demic, but especially during the period of the most extreme COVID precautions, each update has included statements about needing to stop transmissions and to protect the Charlottesville community. And yet, no Zoom option has been offered, despite this being the single best way to keep students who feel uncomfortable safe—and the Charlottesville community has always had a far lower level of restrictions on it for gatherings than the University.

Once again, this is not to

requirement for students to return after winter break allows for an inference of a similar level of uptake of the third shot.³ When boosted, an individual's risk of severe illness or death from the virus appears to be lower than common respiratory illnesses or even driving a motor vehicle.⁴ While such data and estimates are preliminary, and numbers should

<https://news.virginia.edu/content/high-vaccination-rates-pave-way-students-move>.

continue to be scrutinized and considered alongside the exigencies of the current Omicron wave, this information would indicate that the UVA community, by virtue of its high boosted rate, should be reaching a point where it need not be overly concerned with the virus, and COVID policies can finally be put to rest. While, as Justice Brown notes, it is not the role of this Court to decide on issues of epidemiology or politics, or judge previous precautions taken at different points in the pandemic, it is its duty to ensure a showing of a rational basis for policies affecting Law School students.⁵ Communications to the appellant parties ought to include content sufficient to justify the paternalism they remain subject to on a daily basis, and should avoid passing responsibility or giving rhetorically attractive but substantively meaningless statements. This may help mitigate seemingly arbitrary policy choices, such as the continued presence of plexiglass screens⁶ or require-

⁵ See Law Students United v. Meatless Mondays 521 COPA (2017).

⁶ See Tara Parker-Pope, Those Anti-Covid Plastic Barriers Probably Don't Help and May Make Things Worse, N.Y. Times (Aug. 19, 2021), <https://www.nytimes.com/2021/08/19/well/live/>

"I write separately to encourage the Law School administration to EMBRACE and EXPAND its power, at all costs."

Law policies have ever not overlapped perfectly with those on Main Grounds—it is incorrect to claim that the administration has not taken any matters into their own hands. In particular, the ban on eating and drinking in classrooms is a law-school-only protocol.¹

This isn't to say that there shouldn't be a higher level of caution taken within the Law School than in the general community. But to have one of the most unpopular masking policies be a Law School choice, not a Main Grounds choice, and to frame it as something out of the administration's control, is not something that should go unnoticed.

Policies Adopted for Facially Hidden Reasons

Throughout the pan-

¹ Chief Justice T here. This claim hasn't been substantiated. Yet, "we do what we want."

challenge any of the policies that have been implemented. This is a Court of law, not epidemiology or politics, but the content of the communications deserves review so that it is a one-time error.

PAZWAK, J., concurring

Justice Brown is correct in finding that greater scrutiny of the administration's representation of its role in the design and application of COVID-19 mitigation policies, as well as its apparent reasons for adopting them, is needed. However, the inquiry he recommends on remand does not go far enough. According to publicly available information, approximately 97% of UVA's student community is fully vaccinated,² and the booster

² Caroline Newman, High Vaccination Rates Pave the Way as Students Move In, UVAToday (Aug. 18, 2021),

Faculty Quotes

C. Jaffe: "Please don't send that one to the *Law Weekly*."

K. Kordana: "I'm not sure if 'beggars can't be choosers' makes good Tort policy."

R. Verkerke: "That's a great strategy for deflecting a cold call. I commend you."

F. Schauer: "Don't write any of that down, I was just showing off."


R. Schragger: "Getting tested in the JC Penny...dystopia."

T. Haley: "It was awesome to see a car get its roof cut in half by a giant saw. Also, I didn't go to prom."

L. Szeptycki: "Not only did the people of the 19th century oppress the tribes, they also couldn't spell."

C. Hwang: "Yes. Laughter is participation."

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



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Virginia Law Weekly
580 Massie Road
University of Virginia School of Law
Charlottesville, Virginia 22903-1789

Phone: 434.812.3229
editor@lawweekly.org
www.lawweekly.org

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COPA

continued from page 4

ing masking for those using cardio machines at the gym that are already distanced six feet apart.

MORSE, J. and KULKARNI, J. concurring.

I concur with Justice Brown in the judgment that the administration should take greater responsibility for what is apparently a greater amount of autonomy in COVID-19 rule-making than they are willing to admit. However, I write separately to encourage the Law School administration to EMBRACE and EXPAND its power, at all costs. There is no basis for the Law School to be treated as the nerdy, bookish serf to the cool, preppy landed gentry of the TYRANNICAL MAIN GROUNDS.

For too long have we denizens of the North Grounds⁷ strained under the yoke of Main Grounds. Enough, say I! Now is the time for us to rise up and throw down those polo-wearing, Sperry's-sporting Main Grounds OVERLORDS! But why stop at independence? If we are to

coronavirus-restaurants-classrooms-salons.html.

⁷ Just to be entirely clear, Darden is NOT invited to the revolution.

enjoy the fruits of the good and efficient administration of government, would it not be a crime to deprive others of those same fruits?

Today shall mark the beginning of a new era, one defined by the JUST and BENEVOLENT rule of the Law School. Tomorrow we take Darden⁸, next the world!!

8 Darden will however have the honor of being our first conquest, which if I understand property so far (sorry, Professor Nicoletti) means their facilities will legally be our possession via the doctrine of acquisition by conquest.

jwb4bb@virginia.edu

mwp8kk@virginia.edu

cpg9jy@virginia.edu



Counsel's Counsel

Counsel's Counsel is the world's preeminent advice column for law students. Written by recent UVA Law graduate, Jane Doe, J.D.

Question:

I want to preface this with my gratitude that we get to do Feb Club this year. I'm a 1L, and I heard it got canceled last year because of COVID and everything.

Typically I think of myself as a pretty social person, but when I go to Feb Club parties (and events with law students in general), I feel a certain amount of distance between my classmates and I. There's this tension. I want to be friendly, but I also want to be viewed as a competent and professional person. I want to let loose and be silly every once in a while, but when I do, I can't shake the feeling that I am actively being perceived.

How do I balance being a social "party person" with having the people that I party with be my colleagues?

Answer:

Thanks for writing in! I'm sorry you've been feeling that distance, that can't be fun. You are right that there is a tension that comes with having your social universe be largely made up of your colleagues. It extends beyond law school. I currently work at a large firm, and that tension very much exists there.

Like you, when I first came to law school, I had a relatively higher proclivity for silliness.

I get why you wouldn't want that tension to exist. It could be fixed with a cultural shift, but since we're talking about lawyers, we know that will never happen. But you make trade-offs with all decisions in life, and choosing to go to law school is no different. Lawyers are not silly. Lawyers are serious professionals who handle serious matters.

Lawyers scrutinize everything, so rest assured that you are actively being perceived by your colleagues. Your colleagues are simply trying to suss out what they can get from you and the amount of effort it would take to get it. Based on these calculations, law students decide whether to talk to one other at parties. If you show any hint of silliness, they will see it.

My advice is to take comfort in the transactional nature of the social scene. There's an honesty to it. When people want to be friends, take it as a compliment. It means that they think you are or will be influential and important. Moreover, the "colleague-friend" distance allows you to be competitive with your classmates guilt-free.

So, never forget that you are first and foremost colleagues. There will always be a distance between you. You can never be unadulterated

friends, but learn to love it. Suppress any urge you have to be silly. Be risk-averse. Appreciate the fear that supports your career. As I mentioned earlier, I used to be a silly person, but I'm glad I made the trade-off. I would never go back.

For a serious response to your serious inquiries, please access the anonymous submission form using the QR code below.



HOT BENCH



Ashley Anumba '24

Interviewed by Julia D'Rozario '24

So, Ashley, where are you from?

I'm from Rancho Cucamonga, California, near Los Angeles.

What was it like growing up there?

It was great! All I remember is good memories. Just friends, family, fun, sun...obviously a lot of sports. Just a lot of happy memories.

You're an amazing athlete, which I wanted to ask you about! Can you speak to your athletic journey?

Sure. So, my family is filled with athletes—my cousins, siblings, everybody—we all did something, and we were all pretty good at whatever we did. I wanted to do soccer, that was my big thing. But I tore my ACL, broke my wrist, broke my tooth, had all these injuries... and I realized, I can't do this anymore; I need to find something else. So, I went to track. I wanted to sprint. My sister did throwing events, and I thought,

that's for her, let me do something by myself. But the coach saw me, and told me, "you're really strong, throwing could be good for you." I tried it, and it turns out he was right. I was good!

I started in my sophomore year of high school, so I actually started pretty late. But even that year, I was one of the best in the nation. It got me thinking, if I took this seriously, how good could I be? And that's been it ever since. I found a lot of success in it very early, and I just kept going. It was fun. Some of the best memories in my life so far have been with my throwing team.

That's awesome! So, you're intending to take part in the Olympics—you must have an intense training schedule! What's that like, and how do you balance it with school?

The way I see it is: whatever happens in terms of making the Olympics or not, I've kind of been training for it for seven years! Even though I only train for about three hours a day, I've been doing this for seven years. It's the accumulation of your time, your experience...that's what really matters. So, balancing sports and school is much easier than I think many people would imagine. But yeah, I might be more tired than the average person...maybe!

The way that school is set up, especially in our first year, we have time built into our schedules for lunch. So, I always leave during that break to go train. Then, after our last class, I go train. I try to keep my practice for when I'm feeling best; my peak ability times are usu-

ally in the early morning or afternoon.

Long story short, I just make sure that I stick to a schedule, and that I don't stray from it too often. Of course, I don't socialize as much as the average law student. It's usually just school and track. I'm in and out of this building!

What about your law school journey? What drew you to law?

I didn't go into undergrad knowing I wanted to be a lawyer. I thought I wanted to work in local government. If anything, I thought I'd get an MPP. Things changed when I realized this wasn't the path for me. In my first semester of undergrad, I took 'Intro to American Politics.' It was the worst class I've ever taken...so I had to switch gears. Still, law wasn't really in my mind.

But I started working at this job—a student-run business—just to make some money. Eventually, I became the executive director. Within that position, I worked with the school's compliance officers. They taught me what I could and couldn't do, and how to make sure the business was compliant. I was in the head position for a little over a year, and, when it was time for me to think about next steps, I just wanted to know more about what they did. I knew they were lawyers, but my understanding of the law was mainly litigation, which was not me. But seeing what they were doing piqued my interest, because I appreciated the work they did for me, and I liked the counsel role that they took on.

It was a little, student-run

business; kids doing their thing, making some money. It wasn't that important in the grand scheme of things, but they took the time to talk to me about what it is that they do, and I felt that it was something I'd like to do too. That was a big turning point for me. I did also study Health Policy and Law, so I had the academic side, but I had the practical side through my job. Those experiences combined made me feel that law school was it for me.

Time for a fun question! What is the best advice you've ever received, whether in sports, in school, or in life?

First is that everyone is on their own path. I've really held onto that for the past few years. I never wanted to be the best at anything, period. I just wanted to do my best, move along, and stay in my lane. And doing that has opened up so many opportunities for me. I think that a trap that a lot of people fall into is comparing themselves to others. I think it's detrimental. So, I'm happy that this piece of advice—that everyone is on their own journey—has stuck with me for so long.

Also, be happy...celebrate the small wins. Since the pandemic, I've been more grateful for my life. Even though things are hard, I'm just so happy to be alive! To be doing what I'm doing, chasing my dreams. Even though this is absolutely wild, this position that I'm in, I'm just so amazed at myself. If there were a clone of me, and I could see myself as a third person, I'd be in awe of what I'm doing, and the life I've lived so far.

I'm just happy. I'm grateful. And I hope I always will be, no matter what I'm doing in the future. My life has been great so far, I have no complaints!

I think that's something a lot of law students need to hear.

Yeah! Law school is hard. But it's been fun! We're learning so much; this is some fascinating stuff! I'm happy to have the opportunity to learn about something that's so applicable to so many people's lives.

Lightning round! Favorite restaurant in Charlottesville?

Citizen Burger Bar.

What song is on repeat recently?

Let's go with *I Drink Wine*, by Adele (I actually don't drink wine).

Favorite song of all time?

Anything by *Anderson .Paak*.

What is your favorite food?

It depends on my mood!

What about your favorite thing to cook?

Seafood!

Are there any shows that you've been watching recently?

I've been watching everything under the sun. 2022 has been dropping some very good shows. I just started *Ozark*, which is good. *Love is Blind* just dropped season two, and I watched the first episode today, so that's on the list. Also *Abbott Elementary*.

Pet peeves?

People who aren't grateful.

jkd2dd@virginia.edu

Tweedle Dum and Tweedle Dee: What Makes a Gym Bro?

In the Law Weekly office, controversies result in pointless disagreement between two equally unimportant editors. These are their arguments. *dum dum!*

Nate Wunderli '22
Sports Editor



Without big, Popeye muscles you cannot be a “gym bro.” In this day and age, there are plenty of people that hit the gym regularly. Clearly, just being a regular gym-goer does not make you a “gym bro.” So, is it how often you hit the gym, or for how long you stay that makes you a “gym bro?” Hardly. You can hit the gym all day long, drink raw eggs mixed with creatine and protein powder for breakfast, lunch, and dinner, and follow every bodybuilder on Instagram and still not be a “gym bro.” So what makes a “gym bro” a “gym bro?” I’ll start with the obvious: big muscles.

Sure, big muscles alone does not make one a gym bro. That is just one of several indicators of gym broeiness. But being a gym bro is a lot about the vibe someone gives off, and if you do not have big muscles, you simply cannot give off a gym bro vibe. I’ve tried.

Gym bros must also be relatively unathletic. Being a good athlete is an automatic exemption, because it means you are actually using your muscles for another purpose besides just looking good. Gym bros are always after the look. Exactly what that look is depends on the gym bro, but they have one in mind, and it usually involves, you guessed it, excess muscle.

Gym bros also tend to talk about things, like, you guessed it, muscles. One cannot discuss muscles if one does not have muscles. Case in point: SpongeBob Squarepants. SpongeBob tried to be a gym bro before he had muscles, but it wasn’t until he transformed into MuscleBob BuffPants, with the infamous blow-up anchor arms, that Spongebob actually became a gym bro. Was anything else different about SpongeBob besides the massive arms? No. And would anyone dare to argue that MuscleBob BuffPants was not a gym bro? Definitely not.

I rest my case.

Sai Kulkarni '23
Culture Editor



What makes a gym bro? This is a question that has plagued society for eons.

Or perhaps just me for the last week, but just go with the bit, dear readers. Some would say that a gym bro is defined by their physique and the clothes they wear. This is the view taken by some other members of this esteemed paper. But I choose to disagree with society. I like to push boundaries. So here’s my hot, bold take of the week: being a gym bro has more to do with how you talk about your workout habits than your actual looks.

Let’s not be limited, it’s 2022. Even men’s fitness magazines have bulky guys on the cover rather than just well cut guys. How we think about bodies, regardless of gender, has changed over the last few years (for the better). So focusing only on looks is rather reductive, my dear readers. Instead, I find myself perplexed by our societal perceptions of gym bros. Do we not all immediately think of the phrase “gym bro” when people talk about their workout habits?

It’s not about how many protein shakes they drink, it’s about telling you the number and describing the gross ingredients. It’s not about the fact that they go to a gym, it’s about where they go to the gym (looking at you, patrons of The Gym™). And above all else, it’s not about how often they go, it’s about how many times they can mention that they go. Most of us are unlikely to ever really think about how long other people hit a lift session until they tell us.

At the end of the day, thinking about gym bros gives them power. Talking about them gives them power. This article gives them power. But in understanding where that power comes from we can change our perspective. Much like the age old discussion of “if a tree falls in the woods and no one hears it...,” the new question should be: “if a gym bro brags about his workout and no one hears it, is he still a gym bro?” In reading this article, this blazing hot take, I hope you take the chance to change how you look at your gym bro friends. Give them a listening ear, that’s what they want. Or don’t, if that’s the kind of friendship you have. At the very least, I hope this article makes you reconsider who you define as a gym bro.

nw7cz@virginia.edu

omk6cg@virginia.edu



Cartoon courtesy of Monica Sandu '24

BROWSER continued from page 2

cently purchased by a group of Chinese investors, which has raised concerns among some privacy groups. Opera also offers a gaming version, Opera GX, which basically is a dark mode Opera (unless you want to go in and customize how much RAM, CPU, and network bandwidth you want to use, in which case, this is a great option).

Vivaldi: My personal favorite, Vivaldi, offers a ridiculous amount of customization. Do you want the address bar on the bottom of the screen instead of at the top? You can do that. Do you want to make elegant mouse gestures like Opera? That’s an option too (mainly because the developer team from Opera left and started Vivaldi when Opera was purchased). Do you want a custom color scheme, set up in literally whatever colors you want? You can do that too. Do you want to open the link you have open on your computer on your phone? Just hit the QR code button, and it’ll generate a QR code for your phone to scan. Vivaldi is the home of any new innovative features in browsers, as well as being more secure, based in Norway, which has pretty strong privacy laws. It even offers a quick setup with default options for those of you who don’t want to choose which options you want.

cs8ws@virginia.edu

Sudoku

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

Solution

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