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Call for Dicta: Professors, We Want to Hear From You

Jacob Smith '23
Professor Liason Editor

Long-time reader of the Law Weekly? New to North Grounds and joining us for the first time? Either way, thank you for reading us! I want to remind you that the Law Weekly and its staff are always very glad to receive letters to the editor. Letters need not be in response to one of our articles.[1] though such letters are certainly welcome. (Rather, letters on any topic of interest to the Law School community may be sent to editor@lawweekly.org.

This invitation goes out to all members of our readership, even brand-new 1Ls embarking on their legal careers. As we wrote in our inaugural 1948 issue, "This school is here primarily to encourage the development and dissemination of ideas. Let not one of our readers ever discard the notion to publicize his thoughts with the alibi that no one would be interested in receiving them!" We really do want to hear from you.

But the main reason I am writing today is to assure our legal professional readers, and especially our amazing Law School professors, that we are especially eager to hear from them. Professors can and do write letters to the editor, but we also have a space specifically set aside for their learned insights—our Dicta column.

Dicta began in our inaugural 1948 issue with the ambitious goal of considering "basic aims of the law and [the] role of [law] schools." Dean F.D.G. Ribble wrote about the role of the law school in the first Dicta column. The rest of that year's column focused on criminal justice. Dicta ran on the front page every single week that year, featuring the opinions of judges, attorneys, professors from multiple law schools, and at one point even the Head of Scotland Yard. Where necessary, the Law Weekly published distillations of pertinent law review articles. The final column of that year was written by (or taken from a writing by) Supreme Court Justice Felix Frankfurter.

Since then, Dicta has had its ups and downs. The column probably reached its peak when it was cited by the Supreme

1 Such letters are certainly welcome (we like knowing people actually read what we publish).

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New Film Highlights Need for Sentencing, Self-Defense Reform

Pictured: Film by Directors Natalie Pattillo and Daniel A. Nelson

Anna Bninski '23
Features Editor

[Content warning: discussion of abuse and interpersonal/sexual violence]

On April 6, the Domestic Violence Project at UVA Law hosted a screening of the new documentary *And So I Stayed*, which looks at the passage of New York State's Domestic Violence Survivors Justice Act (DVSJA) through the lives of three women who were, or are, incarcerated for the homicides of physically abusive partners.

As folks may remember from 1L Crim, the self-defense doctrine typically requires that a party respond with reasonable force—and get out of a dangerous situation if possible. This structure tends to be weaponized against survivors of domestic abuse, as people ask them, "Why didn't you just leave?" while disregarding the factors that keep victims in abusive relationships. Factors include financial control, isolation, emotional manipulation, difficulty bringing up or providing for children, and immigration status issues—not to mention the fact that leaving is the most dangerous time in an abusive relationship.

The DVSJA was introduced in the New York State Legislature in 2011 and finally signed into law in 2019. It allows judges to deviate from the regular sentencing scheme when they find that domestic abuse was a "significant contributing factor" to a crime committed by a survivor. Under the DVSJA, a judge can impose a shorter term of incarceration or, if appropriate, an alternative-to-incarceration program. The statute disqualifies third-time felony offenders and second-time violent felony offenders, as well as those convicted of first-degree murder and a few other serious crimes, such as terrorism. (The documentary doesn't get into the statutory weeds, but these exclusions do a fair amount to undermine the opposition to the statute, depicted in the film, that characterizes the statute as a soft-on-crime, get-out-of-jail-free card).

The film traces the statute's path to passage, and its high stakes for survivors, through personal stories.

Kim Dadou Brown, a central figure in the documentary, served seventeen years for shooting a partner with a history of physical abuse who was attempting to smother her. After her release, Brown became an advocate for the DVSJA and spent years collecting signatures and lobbying the state legislature while also struggling to maintain employment with a felony record.

Tanisha Davis was sentenced to fourteen years for the death of her child's father, whom she stabbed once when he was attempting to choke her. The film includes her frantic 911 call, in which she begged the dispatcher to send help immediately and follows the dispatcher's directions about how to stanch the blood flow. Under the DVSJA's retrospective clause, which allows for re-evaluation of cases prior to 2019, Davis's sentence was reduced to eight years—time served, essentially—and she was released to reunite with her son and the rest of her family, coming home in the midst of the COVID pandemic.

Nikki Addimando was sentenced to nineteen years to life for shooting her longtime boyfriend and the father of her children. Addimando had documented years of horrifying physical and sexual abuse, including medical records, and had tried to leave her abuser before. Her case, coming after the 2019 passage of the DVSJA, seemed like exactly the type of situation that the bill was written for. However, the judge in her case determined that there was no reason to believe that her partner was the one committing the abuse—this after the judge excluded evidence that the abuser had filmed his rape of Addimando and uploaded it to a porn site—and that Addimando was not eligible for a reduced sentence under the DVSJA.[1]

Mercifully, a pro bono appeal overturned this misreading both of the evidence and

1 During her sentencing hearing, the judge told Addimando that it seemed like she didn't want people to know that she "reluctantly consented" to sexual acts she was uncomfortable with…and maybe that was why she killed her partner and needed to spend two decades in prison? I guess it made sense to him.

Film page 2

around north grounds

Thumbs up to Student Affairs quickly responding to student concerns over seats for Justice Breyer's lunch. ANG appreciates a timely backtrack.

Thumbs up to Professor Thomas Frampton for posting his texts with Professor Orians on his Twitter. ANG appreciates when professors humanize themselves before crushing ANG's soul during finals.

Thumbs up to the new carpets in the Law School. ANG thought it was about time that this building saw some real change.

Thumbs down to the weather getting nice. ANG enjoys solitude and misery. Spring being sprung brings none of that.

Thumbs down to heavy textbooks. ANG hasn't read at all this semester and doesn't plan to start now, but the weight makes the guilt much more tangible.

Thumbs sideways to the library coffee machine. The ability to be caffeinated at all hours of the day is great but ANG would like to taste something other than what ANG assumes are the tears of 1Ls.

Thumbs sideways to the 21st Amendment. ANG appre- ciates the repeal of prohibition, but has been shocked to learn that ANG may have been in violation of Section 2 by bringing booze into a certain state that has absurd restrictions.

Thumbs up to everyone who played Magic the Gathering in ScoCo on Sunday. ANG loves the idea of disappearing into fantasy worlds instead of studying.

Reptile Tort Law: Faculty Scholarship Review

Jacob Smith '23
Professor Liason Editor

What does tort law have to do with reptiles? "The reptile," or "reptile theory," is how tort practitioners refer to a plaintiff-side strategy that, strangely enough, encourages plaintiff's counsel to treat jurors like reptiles. If you, an intelligent member of the law school community, have never heard of it—well, that is what this column is about. Professor Kenneth S. Abraham's new paper, "Shadow Tort Law: Lessons from the *Reptile*," explores the reality that reptile theory has received little attention in appellate courts and tort scholarship, despite being infamous among tort practitioners. In Professor Abraham's words, the reptile is a creature of "shadow tort law," law that exists primarily at the trial level and is easy for tort scholars to overlook.

The reptile strategy can be described as an effort to reduce the jury to their animal instincts for physical safety. Disciples of the reptile seek to frame the defendant as a threat to the community that the jury must protect themselves against. The herpetological label comes from a book called *Reptile: The 2009 Manual of the Plaintiff's Revolution*.[1] Professor Abraham describes the book as arguing that tort plaintiffs can win big by "appeal[ing] to the reptilian part of jurors' brains, which (like threatened snakes) reacts with anger at threats to their security."[2] In practice, disciples of the reptile try to raise the stakes of a tort case. Instead of focusing on the facts of the plaintiff's individual injury, the plaintiff's lawyers want to make the case about the devastating harm that the defendant's practices could have inflicted on the community, including the jurors and their families.

Defense lawyers generally view the reptile as an illegitimate distortion of the appropriate legal standard. The reasonableness of the conduct that caused the plaintiff's injury is what

1 David Ball & Don Keenan, *Reptile: The 2009 Manual of the Plaintiff's Revolution* (2009).

2 Kenneth S. Abraham, *Shadow Tort Law: Lessons from the Reptile* (forthcoming) (manuscript at 1) (available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4042230).

Professor Abraham wants us to treat our juries like this fabulous creature here.

matters—the defendant's conduct on other occasions is irrelevant. The jury is not supposed to see itself as a guardian of society or to put itself in the plaintiff's shoes. And the jury should not think that safety is the only thing that matters. The standard is "reasonable care," not "perfect safety."

However, the point of Professor Abraham's paper is not to describe the reptile. Plenty of practitioner articles do that already. The point is that the reptile is not well-known among tort scholars, the people who make it their vocation to study the law of torts, despite being well-known among practitioners. Based on an informal survey of his colleagues, Professor Abraham concluded that most tort scholars "have never heard of the reptile."[3] Upon asking Professor Abraham how this could be, he explained that there is a gap between the "law on the books" and the "law in practice." Law professors generally do not read practitioner materials, and practitioners generally do not write law review articles. Further, as Professor Abraham describes in his paper, there are a number of reasons why "reptile" issues may not be appealed, from harmless error doctrine to page limits on briefs.[4]

3 *Id.* at 3.

4 *Id.* at 16-17.

Professor Abraham concludes that studying shadow tort law (like the reptile) can lead to a "richer" and more complete understanding of tort law.[5] My biggest takeaway from the paper was that, somewhat surprisingly to me, there is a significant knowledge gap between practitioners and the academy in at least one area of law. Moreover, in economic terms, we might think of this gap as offering an opportunity for arbitrage—for well-rounded law professors, lawyers, and law students to gain an edge by transplanting ideas from one realm to the other.

Practitioners can benefit from closing the gap because judges have a foot in academia. They tend to be well-read in legal theory and occasionally cite to law review articles, so a persuasive law review article could conceivably make a difference in motions practice or on appeal. For example, as Professor Abraham points out, tort theorists have argued that tort law is supposed to reflect the conscience of the community and send a message to defendants, but lawyers are generally not al-

5 *See id.* at 17-18.

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LLM Spotlight

Gregory J. Gianoni

LCDR, JAGC, USN

Greg is an active duty Lieutenant Commander in the U.S. Navy currently serving as an LL.M. student with a focus in National Security Law.

Greg received his B.S. in economics and finance with minors in law and psychology from Bentley University in 2008. He was a financial advisor with Prudential before attending California Western School of Law. Greg passed the California Bar in July 2013 and received his military commission in August 2013.

Greg first served in Norfolk, VA, where he assisted in criminal prosecutions, drafted wills and powers of attorney, conducted debt negotiation settlements, and practiced consumer law, landlord/tenant law, and divorce law.

Greg then deployed with the WASP Amphibious Ready Group for six months at sea aboard the USS Wasp (LHD 1), providing rules of engagement, intelligence, and national security law advice in support of Operation ODYSSEY LIGHTNING – air strikes against terrorist organizations in Sirte, Libya.

Upon returning from deployment Greg was the Officer-in-Charge of the Defense Service Office in Lemoore, CA, where he served as a defense attorney representing clients in criminal trials and administrative proceedings. Notably, Greg was the military defense counsel for Navy SEAL Eddie Gallagher, acquitted of premeditated murder of a captured terrorist.

Following the Gallagher trial Greg served as the Assistant Force Judge Advocate for Commander, U.S. Naval Forces Central Command in Manama, Bahrain. Among other operations, Greg was in the Maritime Operations Center to provide legal advice following the U.S. led death of Soleimani, as well as multiple maritime interdiction operations resulting in the seizure of illegally smuggled advanced conventional weapons, drugs, and small arms weapons.

After graduation Greg is expected to be stationed in the D.C. area.

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Dicta

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Court in 1977. However, as the Law Weekly gradually became less stuffy and more entertaining, Dicta became less of a focus. At some point Dicta stopped (for the most part) covering one topic at a time and turned into a general forum for thoughts on any legal topic. In 1987 and 1988 the since-discontinued Vanguard column took shots at its popularity, claiming that "Dicta is read about as often as the Boston Red Sox win the World Series." The 1990s saw efforts to "revive" Dicta. The Law Weekly even tried to get students involved, hosting a student essay competition in 1995 and urging 3Ls to submit excerpts from unpublished journal articles in 1996. But Dicta finally reached its nadir in the 2005-2006 academic year when Volume 58 of the Law Weekly failed to publish any Dictas at all. Dicta was resurrected in 2008, flickered out again from 2011 to 2014, was briefly restored in the 2015-2016 academic year, dropped out again in 2016-2017, featured one column in 2017-2018, and then was silent until last year, when Leah Deskins '21 managed to get two columns published.

Now, today, as the editor who has received the Dicta mantle, I am determined to prevent this from becoming another Dicta-less year. Professors and alumni, I want to hear from you! At this point, Dicta has evolved to more generally feature recent developments in your scholarship, as well as your views about current events in the law. It's basically an outlet to share your research or thoughts with the legal community. Writing a Dicta column is a great way to explore a new idea in a less formal medium, get the word out about recent scholarship, or just communicate something that's on your mind.

Writing a column is ridiculously easy, too: we publish online and in print every week during the semester, ending a few weeks before finals. No need to get pencilled in for a particular

Take the chance to join a storied Law School tradition.

week, just send us 800 words whenever you are ready and we will fit it in. You don't even have to cite your sources. Past Dicta columns have discussed a wide variety of topics: lessons from the life of the late legal philosopher John Garnder, the Takings clause, *Obergefell v. Hodge*, and D.C. voting rights. UVA professors—I WILL read your law review articles and hunt you down if I have to, but please do give it a shot this year. And non-UVA lawyers, professors, judges, justices, and Heads of Scotland Yard—this invitation is for you too! Regardless of your affiliation, we thank you for your readership and would love to hear your insights.

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Film

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of the statute.[2] But Addimando remains imprisoned, and New York remains one of few states to have a statute equivalent to the DVSJA.

And So I Stayed is not a cheerful viewing experience. But, it's a moving, educational look at the importance of legislation in real lives. Given the sad prevalence of domestic violence in our society, the film provides a beneficial perspective to anyone with the privilege to advocate for legislative change—and DVP plans to hold a second screening next October, during Domestic Violence Awareness Month.

2 Coverage from the Poughkeepsie Journal quotes the prosecutor in the case as stating that, "It appears the court simply believed everything the defendant said at trial about the abuse she claims came from her victim," whom he described as "by all accounts [] a loving father, son and brother, an eternally patient domestic partner — and the one who was really the abused in this case." Given the extensive documentation of Addimando's physical injuries, the prosecutor's statement is a sad commentary on the continued need to educate about, and move away from, the default of disbelieving victims of abuse. (https://www.poughkeepsiejournal.com/story/news/local/2021/07/14/murderer-nicole-addimando-sentence-reduced-domestic-violence-act/7967311002/)

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The Definitive Guide on How NOT to Study for Final Exams

Sai Kulkarni '23
Production Editor

As we get closer to the end of the semester, it is time again to talk about the unholy demon that we are all contractually required to face in a trial by combat (of wits) at the end of every academic period: final exams. Now, as an experienced 2L who has gone through three such events by now, I could dedicate this to talking about my experience and helping 1Ls by telling them the best tricks I picked up. But I refuse to do that. It's not because I haven't picked up anything useful.[1] Not at all. It's because I am known by my dear readers to be unhinged and comedic, and telling you the best things to do would run completely counter to that mandate. Instead, I decided to use all my experiences, and the things I've observed from my friends,[2] to advise you on things to avoid—it's just more fun for you, the reader. So, here's some things that you absolutely shouldn't do when attempting to study for finals.

Pictured: The Gunner Pit, a place you should avoid

First off, if you need to rewatch classes, do NOT watch them at normal speed. I promise you, your brain can process information faster than your professors talk. But more than that, rewatching class from start to end is not enough to get you there. I had a friend do that first semester of 1L, and I continue to be astounded by how he didn't hate watching all forms of video content by the end of it. You deserve better than torturing yourself with content you should have already seen in live form.[3] Next, it is important that if you do end up in office hours, you go with questions. I know, you are telling yourself, "I don't know what to ask! I will simply listen to other people ask questions and take notes on the professor's answers." Well, dear reader, as another one of my friends found out, that's how you get lost in the sauce, your wires crossed, and somehow find yourself waking up to the end of the Zoom. Don't be that friend.[4]

Another thing to keep in mind is that taking notes based on a professor's slides on Canvas or their end-of-class recaps, especially handwriting them so you remember, is not something that works for most classes or students.[5] The friend who inspired this tip is one I love dearly, but even she admits that she had zero fun handwriting those class recaps. Don't be like her,[6] and instead, simply print out or copy-and-paste that content into your computer notes. I know you want to be a hipster, and you think handwriting is "more efficient" and "better for learning" and that, "maybe you should do it Sai, you might get better grades," but you are wrong. Be better: Be lazy. You should also keep in mind that getting seventeen[7] different outlines for one class is probably not the answer, either. Not only is so much of the content crossover, but the task of putting it all together is not worth the energy. You are better off attempting to beg your transactional friends to "just throw in the towel" because they "definitely don't need this" and "better grades won't make that big hole in their heart where the BigLaw money will go any smaller" in order to make the curve easier to beat.[8]

Finally, and most importantly, do not isolate yourself in the library. I know it seems compelling—"Ah yes, I shall avoid everyone, be dedicated, and drown my stress and feelings in studying," but that isn't healthy. This one, you can take from me. The number one tool for success isn't shutting yourself out; it's letting people in. It might be going to the same friend's apartment every day for a month to party after a day of studying. It could be refusing to slow down your partying and hanging out with the same five people for the three weeks leading up to the end of finals. Either way, that's healthier than disappearing into the library every day and only giving yourself fifteen minutes of social interaction every two hours, combined with Snapchats to remind your friends that you are alive. It's an unhealthy way to study, and you deserve better. Or maybe this is me scaring you away from the best way to study so that I can beat you all on the curve. Anything is possible when you are reading an article written by me.

1 This is why. I still don't know how to do finals properly. Please help.

2 I will not be mentioning anyone by name here; I love all of you and refuse to put a name to the roasts.

3 Don't expect me to outright tell you to pay attention in class, that goes against the theme.

4 I imagine this is not relevant for in-person office hours, but to the best of my knowledge, some professors are still offering Zoom office hours. Hence, this joke.

5 Except for classes with Professor Bamzai. A true leader of the people, most of his content is in the slides.

6 In this one way. She is a fashion icon, though, and more people should be inspired by that.

7 Yes, one friend actually got this many. Her dedication and existence terrify me.

8 These statements were said sarcastically by a friend, but part of me is sure that some part of him meant it.

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PalTrekkers Reflect: Panel on Palestine

Guest Writer
UVA Paltrek

On March 22, a panel of three law students gathered together to answer questions and share reflections about PalTrek, an inaugural trip that fourteen UVA graduate students took to Palestine over spring break. The purpose of the trek was for students to gain an understanding of Palestinian history, culture, and daily life—particularly how all have been shaped and impacted by Israeli occupation and military control.

The students panelists—Spencer Haydary '23, Bisma Mufti '23, and Sabrina Surgil '24—spoke from a variety of backgrounds and prior understandings about Palestine: Haydary had already been on two trips to the region with other organizations, Surgil grew up with pro-Zionist influences, and Mufti comes from a Pakistani Muslim family. All expressed a desire to circumvent past biases and knowledge—whether from organizations, communities, or the news media—as a chief reason for participating in PalTrek. They wanted to see and hear from Palestinians themselves about what the day-to-day reality of life under occupation entails, and their panel showed that they certainly succeeded.

The consensus among the panel was that Palestinians face great trauma in the forms of discrimination and segregation. Indeed, the panel shared many details that one would think came from history books discussing the Jim Crow era or South African apartheid: "In Hebron, Israeli soldiers said we could only use a certain restroom if we were not Muslim. Our guides were forced to stop at checkpoints throughout the city almost every thirty minutes, with some checkpoints even being a few hundred feet apart. Palestinians cannot fly their flags in Hebron, and their streets are ceilinged with chain link fences above in order to prevent Israelis from throwing garbage down upon them," Haydary attested. Mufti and Surgil also spoke of how Palestinians are not allowed to use Israeli roads and are instead forced to use separate ones that can be unpaved, littered with trash—often not their own—and made up of cumbersome routes. For instance, the Israeli road from Bethlehem to Ramallah cuts through Jerusalem and is about a forty-minute drive, while the Palestinian road takes two hours. The two also discussed other basic disparities, such as how Palestinians must collect rainwater in tanks on their roofs, while Israeli houses have indoor pipes and plumbing.

"Palestinians are also subject to random checks and searches, constant surveillance on the street via cameras that can see and hear conversations, and even facial recognition surveillance that can identify them in their cars on the road," Mufti shared. They are also required to get permits to enter certain areas of the region, such as the holy city of Jerusalem, which are scarcely granted, according to the PalTrekkers' guides. These restrictions on freedom of movement and invasions of privacy extend to all Palestinians and seep into even the most basic parts of life. Indeed, the tour guide described gunshots as white noise that Palestinians have learned to sleep through. Moreover, university students told the PalTrekkers that merely being a part of certain student organizations is enough to be jailed or interrogated for, and that class is never at full attendance because someone has inevitably been detained. Class topics, material, speakers, and faculty at Palestinian universities must also be cleared by the Israeli government. At one point in the panel, the three also shared an emotional anecdote of meeting with a Palestinian family that is involved in organizing peaceful protests in the village of Nabi Salih. These protests have resulted in the arrests of children as young as nine, illegal uses of tear gas by the Israeli Defense Forces (IDF), and even deaths in the village, underscoring how the occupation affects all, regardless of how pacific or young.

Despite the dark reality of Palestinian treatment in the region, Haydary, Mufti, and Surgil found hope in the strength, kindness, and resilience of the Palestinian people. "There's a misconception that life in Palestine is desolate, but it is in fact thriving with culture, generosity, humanity, and kindness," said Surgil. From sampling shawarma and coffee in homes, to being taught Dabke, a traditional Palestinian form of dance, the group experienced the personal generosity of their various host organizations and contacts daily. They opened their doors with hospitality and grace, always infusing the interactions with the humanity at stake. It is easy, the panel stated, to become desensitized to what is going on in Israel/Palestine and to shy away, but it is crucial to remember the very real human cost being paid each day by the Palestinian people. The panel urged all students, regardless of their beliefs, to come on PalTrek next year and see for themselves what is going on in Palestine. They are confident that anyone, regardless of background, would recognize that it is wrong and be moved to action.

Reptiles
continued from page 2

lowed to argue those purposes to the jury.[6] A law review article targeted at that discrepancy could conceivably make judges slightly more tolerant of reptile-type arguments.

Similarly, law students and professors can gain insights and paper ideas by looking to practitioner-side developments. (Newsletters from Bloomberg or the ABA may be a good place to start.) To close on an intensely practical point, the neglected reptile could make for a great note topic. It has received little attention in legal scholarship, but its ties to psychology, sociology, evidence, and tort law in general deserve further investigation.

6 *See id.* at 13-14.

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LAW WEEKLY FEATURE: Court of Petty Appeals

The Court of Petty Appeals is the highest appellate jurisdiction court at UVA Law. The Court has the power to review any and all decisions, conflicts, and disputes that arise involving, either directly, indirectly, or tangentially, the Law School or its students. The Court comprises eight associate justices and one Chief Justice. Opinions shall be released periodically and only in the official court reporter: the Virginia Law Weekly.
Please email a brief summary of any and all conflicts to dl9uh@virginia.edu

Loser Law Schools
v.
North Grounds Softball League
74 U.Va 23 (2022)

Smith, J. delivers the opinion of the court, in which Lake, C.J., Bninski, J., Morse, J., Pazhwak, J., Kulkarni, J., and Roscoe, J., join.

Tonseth, C.J. Emeritus, dissents.

Peterson, J., dissents.

Smith, J. delivered the opinion of the court.

This case arises from UVA's dominance of the 39th Annual UVA Law Softball Invitational. UVA won both the open and co-rec tournaments, and its co-rec winning team outscored opponents by a combined score of 209 to 15. The loser law schools ("losers") sued, and the lower court dismissed their claims.

The losers argue the North Grounds Softball League (NGSL) engaged in unfair methods of competition in violation of the Federal Trade Commission Act, the Sherman Act, and the Racketeer Influenced and Corrupt Organizations (RICO) Act. Harvard's complaint also raises a substantive due process claim, arguing that the Fourteenth Amendment "clearly" establishes a right not to suffer humiliation in sporting events. That sort of thing only works at Harvard, however, so that claim is dismissed.

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Turning to the legitimate arguments, plaintiff loser Columbia Law School claims that UVA enjoyed an unfair advantage by hosting the tournament "somewhere with breathable air." This claim fails. NGSL is not to blame because some plaintiffs have chosen to live in New York City.

Other losers claim that NGSL bribed the umpires it hired. Some umpires allegedly received free Libel tickets and recent copies of the *Virginia Law Review*. However, such valueless items were, if anything, likely to motivate the umpires to *disfavor* the UVA softball teams, so they do not plausibly suggest unfairness.

The losers also accuse the NGSL teams of taking steroids. But all they offer are conclusory allegations. For example, Georgetown's complaint expresses surprise that "UVA students were cooler, more talented, and better-looking than us." However, the insecurity of Georgetown students is not, in itself, surprising or cause for suspicion.

Finally, some loser law schools argue that NGSL is an elite "secret society" that actually exists not to play softball but to perpetuate a rule of terror in the highest echelons of society. With origins in Celtic Druidry, and tentacles in every governing institution, the NGSL is allegedly to blame for the Roman Empire's fall, the 2016 election, The Emoji Movie, Miley Cyrus, the price of gas, and colluding to make UVA a softball superpower.[1]

We cannot lightly disregard this claim. This Court recently admitted that Libel "ha[d] a point" in arguing there was no falsity in the 2022 Libel Show—and that show repeatedly described NGSL as a "secret society."[2] Still, this is a close case, and deciding whether to dismiss requires considering institutional factors.

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NGSL argues that the rule, "we do what we want" controls. However, that vacuous pronouncement is mere tautological dictum. Of course, in a literal sense, we do every act because we desire it, unless physically coerced.[3] But our desires or wants are associated with reasons, and in MOST of our opinions, those reasons are thought worth explaining.

For more substantive guidance, we turn to *Planned Parenthood v. Casey*, which is widely understood to stand for the proposition that courts should make themselves look good.[4] Given this Court's membership, it would look bad to unreservedly favor NGSL, so we must find for plaintiffs on SOME ground.[5] Perhaps more importantly, I want to send a message to whoever has been leaving dead guinea pigs on my front lawn: Stop it. I'm not intimidated. I don't even like guinea pigs.

REVERSED

Tonseth, C.J. emeritus, dissenting.

Everything alleged by the plaintiffs, "Loser Law Schools," is correct. UVA Co-Rec Gold did win the tournament by a combined run differential of 209-15 over seven games. UVA Men's Gold cakewalked through their bracket before beating Florida State on a walk-off home run by Trey Ratliff '24. But to steal/modify a quote from *A League of Their Own*, "there's no crying in softball." This case should have been rejected quicker than my application to Harvard was, and I implore Justice Smith to see the error in his ways.

Before I address the substantive matter of the case, I need to disclaim any bias I may have.[6] Was I a player on Co-Rec Gold? Yes. Did I actively contribute to the massacres over seven other teams? Check my insta for picture proof. Does that connection mean I am unable to separate my legal analysis from my personal life? My answer is the same as Justice Thomas.

My biggest contention with the majority is Justice Smith's offhand remark that a bedrock principle of this Court, the First Petty Rule of Civil Procedure, "we do what we want,"[7] is "mere tautological dictum." Absolute power corrupts absolutely, which both this Court and NGSL enjoy. Far be it from Justice Smith to try to legislate from the bench and remove that well-earned right.

Now to the causes of action. The only claim with any merit is the violation of the Sherman Antitrust Act. To that, I say woe to those who would stick their finger in a rattlesnake's mouth and hope they don't get bit. It is only logical that UVA Law would draft, hold practices, and field competitive teams for their own hosted national tournament. It is the fault of the Loser Law Schools that they put students before athletes in their prospective admits. Further, trusting that UVA would simply put average softballers out there was a mistake.

For these reasons, mainly the fact that UVA Law already won the tournament

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> *"Given the Court's membership, it would look bad to unreservedly favor NGSL, so we must find for plaintiffs on SOME ground."*

1 Why would a secret society care so much about UVA softball? Apparently Thomas Jefferson was a big secret society guy back in the day.

2 Comedy v. Libel Show, 74 U.Va. 21 (2022).

3 See Jonathan Edwards, The Freedom of the Will (1754).

4 See 505 U.S. 833 (1992).

5 See infra the dissents if you can stomach large quantities of bias.

6 I can use footnotes too, Justice Smith, supra note 5.

7 Law Weekly v. CoPA Copiers, 369 U.Va. 96 (2019).

Faculty Quotes

T. Haley: "If a raccoon opens trash in the forest and no one sees it, is there a search?"

P. Mahoney: "If you want to commit a crime, insider trading on hostile tender offers is the way to go."

J. Harrison: "And everyone got wildly drunk. It was a good time. This is diplomacy."

J. Monahan: "That's a lot of people committing a lot of crime. Wow."

K. Kordana: "I'm being driven out of business by this god damn YMCA."

P. Stephan: "He was a clown of a Justice. Well, they're all clowns but he was the biggest."

R. Schragger: "Just write everything down people, don't ask questions."

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

Virginia Law Weekly

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COPA

continued from page 4

via trial by combat, I find the majority's rationale pedantic and shortsighted.[8] Because winners win, I dissent.

PETERSON, J., dissenting.

Is this really what the law has become? Kowtowing to the whims of other schools, many of which are either not in the T-14 or, in the alternative, have been "reinstated" under suspicious circumstances, simply so this court may retain some semblance of institutional legitimacy? My brother in dissent, Chief Justice Emeritus Tonseth, touched on this question when assuring readers of his ability to separate his legal analysis from his personal life. But I believe he answered the question incorrectly. There is no separation; there never has been. The law is personal life, all the way down.

It is high time that this court embrace the true meaning of the phrase, "we do what we want," as our compatriots on the United States Supreme Court have. It's high time we abandon couching our decisions in rarified legal language and rules and accept our written opinions for what they truly are: mere opinions. And I believe that this court is, absent some odd desire to appease the lesser schools who attended our charity tournament, of the opinion that it is fun to win. As such, under the framework the majority uses, this should have been the basis of our opinion. It is fun to win. Therefore, we were right to win.

However, I believe the framework the majority employed in this case was wrong to begin with. This case is clearly one which should have been decided under the Privileges and Immunities Clause of the Fourteenth Amendment. And, had that clause been appropriately applied, the court would have reached the same conclusion that I reached above. It is a privilege of being a student at the University of Virginia's Law School to be absolutely immune to feeble attempts at victory from other school's softball teams.

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8 Even though their asides at each law school are apt and witty. Kudos.

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.

Subject: "I kissed a classmate and now her ex-boyfriend's friends are icing me out."

Question:

Hi Jane, I'm a 3L guy, and apparently, I made out with the wrong person. She's a 3L too, and I met her through mutual friends. We've become better friends through group hangouts. She is a fun-loving and downright jolly person.

A couple weeks ago, I went to a party at her place. The music was great, I had a nice buzz going, and everybody was in a dancing mood. She and I danced a bit, and, as fate would have it, we kissed.

I was aware that she had come out of a relationship recently, but I didn't think much of that fact. However, since that night, her ex and his friends have totally iced me out. Her ex and I are just acquaintances, but I am decent friends with his close friends. I'm not getting invited to hang out with them like I used to. I'm in some school organizations with them, and there has been more tension and politicking recently. I still communicate with her, and she said that I was excluded from a position that I otherwise would've gotten because of the situation.

It feels like I'm being blamed for something that isn't wrong. I made out with your ex, can you relax? I mean, she chose to make out with me, too. All in all, it feels petty and confusing. What should I do? I couldn't have foreseen that this small action would have such large social ramifications. Anyways, thanks for your help!

Sincerely,
A Lover Not a Fighter

Answer:

I appreciate you writing in! That sounds frustrating. I agree that this situation feels petty, but it can be explained fairly easily.

Toxic masculinity is almost invariably the manifestation of a man's insecurities. Perhaps the ex-boyfriend is compensating because he was waitlisted at Harvard, or because his firm is Vault #30 instead of Vault #10, or because he got a B in Government Contracts. No one knows, but it shouldn't be affecting you.

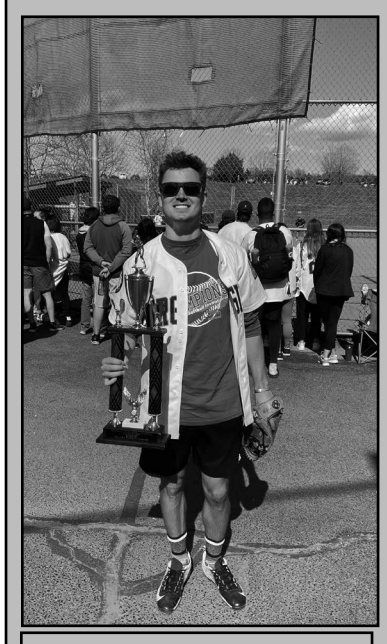
Despite the legal moves away from the coverture-influenced view of women as quasi-property in the 19th century, men generally have not progressed beyond a view of women as *social* property. Law schools are neck-deep in entitled narcissists, which exacerbates this view.

I've been around the block when it comes to jealousy-induced machismo. I'd say there's a good chance he tries to get back together with her—not because he cares about her, but because he feels emasculated and wants to reclaim his manliness. He feels slighted because he thinks she chose you over him. Because he subconsciously views her as his property, he is inserting himself into a situation that (1) has nothing to do with him, and (2) is a result of her individual sexual autonomy. He needs to feel reassured that he is still a man, since—as the mindset goes—what is a man without sexual prowess?

Men need to hold other men to higher standards, but since his friends aren't doing that, ignore it, and be a friend to all. By ostracizing you, his friends are upholding an outdated view of gender dynamics. Don't sink to their level. It seems like she and you get along, so I'd stay in touch with her so that she doesn't feel shut out by you. Cutting off communication with her would suggest that you implicitly agree with the ex-boyfriend's harmful mentality. Over time, people will see him and his lackeys for what they are—spineless and insecure boys. Jealousy is a tricky thing, so I wish you the best of luck as you navigate those waters.

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

HOT BENCH



Nate Wunderli '22

Interviewed by Sai Kulkarni

So, Nate, my wunderful 3L friend, where are you from?

Starting off strong with a hard one. I was in Potomac, Maryland until I was eight. I was in New York until I was fifteen. Then I moved to Utah, where I stayed for undergrad. I also lived in South Korea for a time and am proficient in Korean as a result.

So where did you go for undergrad, and are all the rumors about Utah schools universal?

I went to the University of Utah. Utah is only like 20 percent LDS and definitely not dry, especially in the athletic department.

Speaking of athletics, what did you play in college that led you to being such a sports guy now?

Golf, all four years. I was also a tour guide, and I majored in economics. But mostly, I played golf. I want to make sure people know I mostly traveled and played golf.

Why did you decide on law school despite your interest in economics and all the golf you played in college?

I did some ski-instructing, but I thought if I was going to have a family one day, I needed to make a better financial decision for my future—so law school was it. I also started a dance club at an old Urban Outfitters before law school, and we were profitable—but not quite enough to make it my career. I did it for a few months and gave it to someone else.

Do you know what you are doing after law school, other than attempting to relive your glory days for years to come?

Capital markets at Cadwalader in Washington, D.C.. D.C. and California were my two choices, but for some reason, the California firms didn't believe I wanted to do anything other than surf—so D.C. it was.

What do you do for fun—is it still golf, and if so, where do you play the game?

I hardly golf anymore. While I enjoy golf still, it was a bit more fun when the University was paying for it. I love to Latin dance, mountain bike, rock climb, play basketball, ski and surf, obviously.

Speaking of sports, you won an incredibly rigged tournament at the Law School recently, right?

I told Alex Castle a week before the softball tournament with absolute confidence that we would win, and we did. Shoutout to Trey Ratliff '24 for hitting the game-winner. Getting to captain a lot of teams has been the highlight of my law school experience.

I'm assuming your whole life, other than a certain former EIC, doesn't revolve around playing beer-league softball. So what other sports have you participated in here at the law school?

I've captained several intramural teams in flag football and basketball. I also won the intramural one on one basketball tournament, facing the entire undergrad.

That's actually impressive. On another note, as hard as it is to admit, I have been inspired by your approach to facing law school as a 3L. What's your best advice for incoming UVA Law students?

The Law School is busy, but you can also pick up a lot of extracurricular skills while here. Three of my favorite things—Latin dancing, mountain biking, and rock climbing—I learned while in law school. Also, utilize the undergrad, they have a lot of cool clubs and cheap things to do, which a lot of people don't take advantage of.

When you show up to the meetings (i.e. whenever there is free pizza), you have contributed some great stuff. What have you enjoyed most writing about on the *Law Weekly*?

I liked covering the sports, especially when my section would do really well in softball and I would have reason to trash talk the other sections in the 3L class.

Lightning Round:

So obligatory first one, what's your pet peeve?

Any time there's a lack of free food in the Law School.

Family?

I have six siblings, five sisters and a brother. Three of my siblings we adopted from Haiti a few years after the major earthquake there.

Favorite Charlottesville spot?

My favorite club is South & Central on Thursday nights because that's when they do Latin dance.

Favorite professor (assuming you went to class even once)?

Dean Kendrick for Torts, because she's very logical in how she teaches. She lays it all out there very clearly and isn't out to trick you, which is why everyone seemed to know the material by the end.

Favorite food?

Indian food. I've liked Indian food since I was a kid. My family used to go to this nice place every Sunday in New York when I was younger. We were such loyal customers, they gave us free mango ice cream each time.

I thought that would be pandering but it actually turned out really sweet. So with all of your athleticism, what's your ideal sports weather?

I'm getting a little older so I prefer it to be warmer. I can't just play in the rain or snow anymore without a good warmup. Unless we're talking Thanksgiving football, then I want a foot of snow on the ground. Tackle of course.

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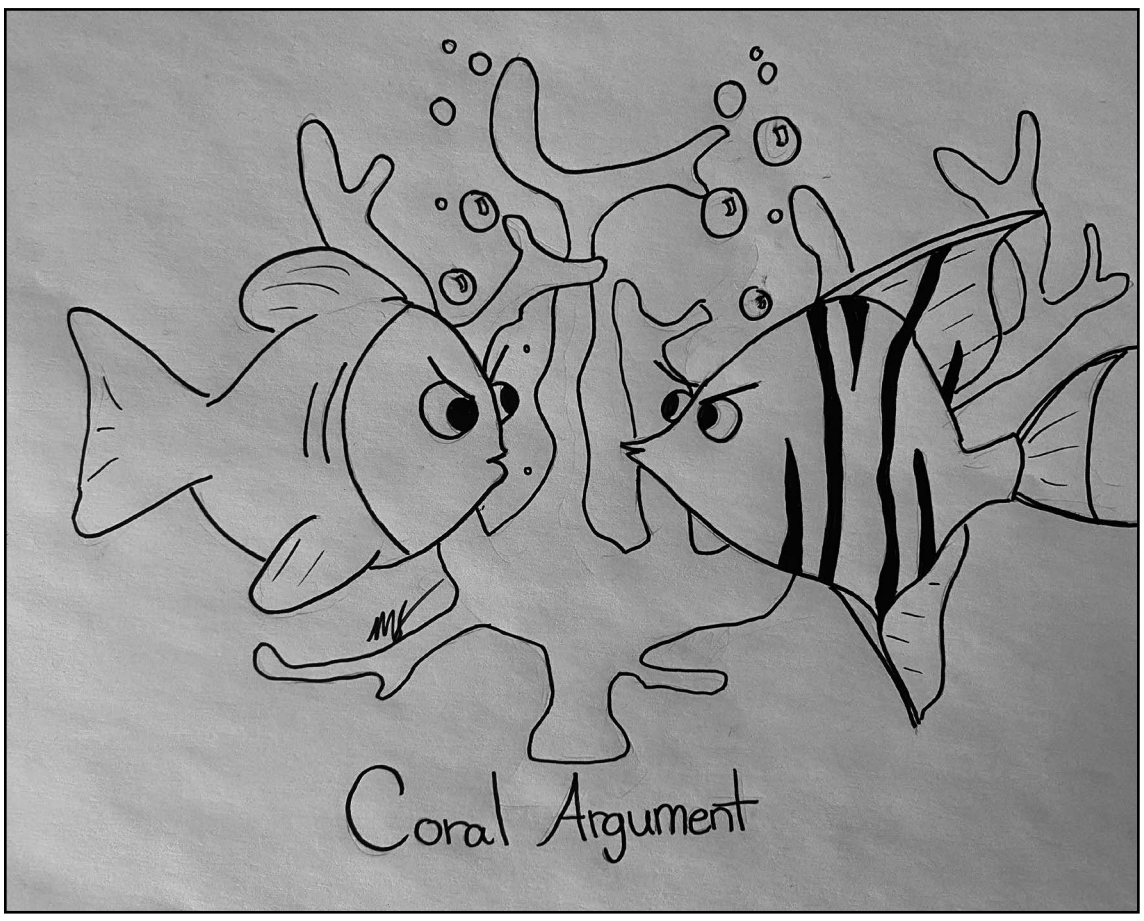
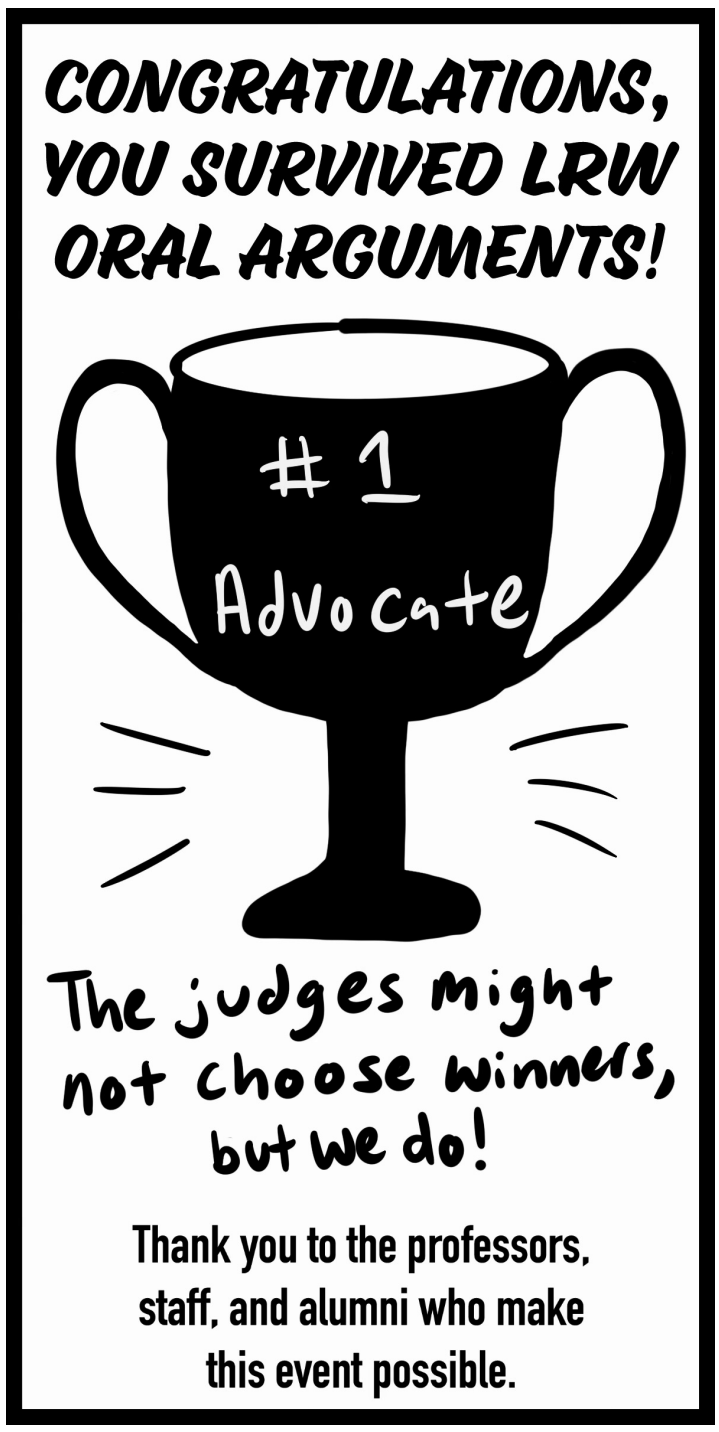
Cartoon



Comic by Monica Sandu '24



Solutions

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3	9	7	8	1	2	5	4	6

Sudoku

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The Docket

Time	Event	Location	Cost	Food?
	Wednesday – April 13			
13:00	1L Intro to OGI Session (Optional)	WB152	Free	☹
17:30	Class of 2023 Midway Toast	Caplin Pavilion	Free	☺
17:30	"Diversity on the Bench," With U.S. Judge Darrin Gayles	SL258	Free	☺
	Thursday – April 14			
9:30	Democracy Dialogues: Social Media vs. Democracy	Rotunda/Online	Free	☹
12:00	"James Madison: America's First Politician," With Jay Cost	Purcell Reading Room	Free	☺
13:30	William Minor Lile Moot Court Semifinal Competition	Caplin Pavilion	Free	☹
17:00	"A Broken House" Screening	WB101	Free	☺
	Friday – April 15			
12:00	"Pathways to the Federal Bench," With U.S. Magistrate Judge Zia Faruqui	Purcell Reading Room	Free	☹
14:45	Dean Donovan's Professionalism Class: Are You a "Keeper"?	WB152	Free	☹
	Monday – April 18			
17:00	Talk Legal Scholarship Over Dinner With Cathy Hwang	Class of 1950 Dining Room Terrace	Free	☺
18:00	Black Law Alumni Community Connection	Online	Free	☹
10:00 – 17:00	VLW Clothing Swap	Caplin Pavilion	Free	☺
	Ongoing Events			
17:00 – 9:00 (next morning)	Ramadan Snacks	Hunton Andrews Kurth Hallway Table	Free from 4/1 – 5/1	☺
24/7	Book Project: Donation Box	Donation Box Outside Student Affairs	Books for elementary school students requested!	☹