



VIRGINIA LAW WEEKLY

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

Bagging Your Groceries? Be Prepared to Pay.....2
Another *White Lotus* Ranking.....3
Court of Petty Appeals.....4
Barrister's Picture Collection.....5

Wednesday, 15 February 2023

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

Volume 75, Number 15

Celebrate This Valentine's in Small Claims Court

Anna Brniski '23
Features Editor

Happy Valentine's Day! If you are looking for a way to fund your romantic dinner (or you simply enjoy having slightly more money, at the expense of digital sexual harassers), let me offer you a potential source of income: Va. Code § 8.01-46.2 (2022), Civil Action for Dissemination of Intimate Images to Another; Penalty.

This new provision in the state code was introduced to the General Assembly last year by notable Law School alumna Jennifer McClellan '97 and took effect on July 1, 2022. I recommend reading the provision in full, but here's subsection B, which gets to the gist of the law:

Any person 18 years of age or older who **knowingly transmits an intimate image** by computer or other electronic means to the computer or electronic communication device of another person 18 years of age or older **when such other person has not consented** to the use of his computer or electronic communication device for the receipt of such material **or has expressly forbidden the receipt of such material** shall be considered a **trespass** and shall be liable to the recipient of the intimate image for actual damages or **\$500**, whichever is greater, **in addition to reasonable attorney fees and costs**. The court may also enjoin and restrain the defendant from committing such further acts. (emphasis added).

"Okay, great," you may be thinking. "Someone sent me an unsolicited dick pic. Can I get \$500 to purchase high-tier chocolates, and maybe a whole rosebush and a very large stuffed bear?"

The answer, of course, is: It depends. Section 8.01-46.2 doesn't have a specified statute of limitations, so it falls within Virginia's general two-year statute of limitations for civil actions.¹ (Also, a mere thirst-trap-type image is unlikely to fall within the statute and yield damages for an offended recipient, as the code defines "intimate image" as "a photograph, film, video, recording, digital picture, or other visual reproduction of a person 18

1 See Va. Code § 8.01-243 for statute of limitation information, in the event that you're really interested.

Professor Citron Interviews Digital Privacy Scholar



Andrew Allard '25
Staff Editor

This past Thursday, February 9, the Law School's LawTech Center and Law, Innovation, Security & Technology (LIST) hosted an interview with Chris Gilliard, a writer, speaker, and inaugural member of the Just Tech Fellows at the Social Science Research Council. Gilliard's scholarship focuses on digital privacy and the intersections of race, class, and technology. The interview was led by the Law School's own Professor Danielle Citron, whose scholarship also centers on privacy and civil rights. The two discussed the proliferation of products that monitor us and our activity, such as smart home and fitness tracking devices, and their implications for privacy.

To give you a sense of Gilliard's views on these devices—which he pointedly terms "luxury surveillance"—he has compared Apple Watches and Fitbits to ankle monitors. "What is the difference between an ankle monitor and a Fitbit?" asked Gilliard, facetiously. "One of them collects a lot more data." Spoiler alert: It's not the ankle monitor.

I found myself surprised at my own skepticism while listening to Gilliard and Professor Citron's conversation. For my own part, I suppose I'm somewhere in the middle of the Luddite-tech bro spectrum. I own a Fitbit, which I wear daily. I don't understand the point of having an Echo. But still, I found it difficult to accept what Gilliard was saying. Could my beloved Fitbit *really* be that harmful?

This, I suppose, is what worries Gilliard so much about these technologies: They're insidious. It is difficult to convince those who are already invested in these technologies, particularly when they think they have nothing to hide. "There's a segment of people who think they're always going to be on the right end of the camera," explained Gilliard.

This acceptance is facilitated in part by something called the "Borg Complex," Gilliard explained. The term was coined by L.M. Sacasas, another tech writer. *Star Trek* fans will quickly understand, but for the *Star Trek*-uninitiated, think of it as a kind of tech fatalism. The Borg Complex is a criticism of the modern tendency to assume that resistance to new technologies is futile because they will be inevitably incorporated into our lives. But is this necessarily true? "We don't walk around with plutonium!" Professor Citron quipped. So why do we so easily accept other (potentially) harmful technologies?

Maybe it was just the *Star Trek* reference that won me over, but the Borg Complex seemed to me a well-placed criticism. Gilliard cited the recent fervor over ChatGPT as an illustrative example. In a recent article in *Slate*, he chided the slew of articles declaring ChatGPT's inevitable destruction of our education system: "The End of High-School English," "The College Essay Is Dead," "AI will almost certainly help kill the college essay," and so forth.¹ An exasperated Gilliard asks, "Why do we keep doing this?"

On its face, what Gilliard argues for is eminently reasonable—that we should actually consider whether we want to accept new technologies into our homes and our daily lives. It is at least plausible that we can refuse these intrusive new gadgets. We ban things all the time—or at least attempt to. But while Gilliard's warning against blind acceptance of the new is easy to accept, his cost-benefit analysis is probably less palatable to the general public. Asked whether there are ways in which surveillance *could* be beneficial to society, Gilliard was quick to say no. "The idea that we're going to somehow leverage these

1 <https://slate.com/technology/2023/02/chat-gpt-cheating-college-ai-detection.html>.

systems that are in the hands of very powerful institutions with a seemingly endless supply of money is pure fantasy."

This seems like an awfully lofty thing to say about a watch that tells me how many steps I've walked. To be sure, there are some serious legal consequences to sharing your personal data with tech companies. Your smart watch data can be used to determine your health conditions. Were it not for the Affordable Care Act's protections for those with pre-existing conditions, that data could be sold to health insurance companies and be used to deny you coverage.² And under the third-party disclosure rule, established by *Smith v. Maryland* and *United States v. Miller*, cops may be able to access the data you've shared with your fitness app.³ Professor Citron also mentioned concerns about law enforcement accessing health data from apps that track menstrual cycles—concerns that have proliferated in the wake of *Dobbs*.⁴

Fortunately, we do have the Affordable Care Act. The third-party disclosure rule has been narrowed in recent years, with Justice Gorsuch even suggesting it should be overturned.⁵ And Congress may well extend HIPAA to apply to health and fitness apps.⁶ But Gilliard argues that these problems are beyond

2 <https://blog.avast.com/what-fitbit-knows-about-you-avast>.

3 Thank you, Professor Armacost. Unless I'm wrong, in which case, sorry.

4 <https://www.propublica.org/article/period-app-privacy-hipaa>.

5 See *Carpenter v. United States*, 138 S.Ct. 2206 (2018).

6 <https://techcrunch.com/2022/07/08/house-over-sight-letter-abortion-period-apps-data-brokers/>.

around north grounds



Thumbs up to the commercialization of Valentine's Day. ANG is collecting human-sized sloths, and can't wait until ANG has enough to fill a small auditorium for a captive audience TED Talk.



Thumbs up to the Barrister's DJ preventing anyone from making small talk in the main room. ANG hates talking to law students anyway, and loud music is a great excuse.



Thumbs down to the joyless Redditor who hates meeting Law Spouses. ANG talks to law students all day, every day and it makes ANG so so sad.



Thumbs down to the lack of snow this year. Who thought freezing rain was better?



Thumbs down to the price of eggs. ANG wanted to drunkenly egg cars after Barrister's, but even sloshed ANG knew that \$4 a carton was too much.



Thumbs down to professors who gave assignments over the weekend. Between the Duke game, Barrister's, and the Super Bowl, ANG spent the weekend in a hazy, dreamlike state.



Thumbs down to the Super Bowl commercials. ANG was deeply disappointed not to see the Clydesdales for more than a half-second.



Thumbs up to half-priced Valentine's candy. ANG is raiding the shelves while you're still on the couch reading this.



Thumbs down to the Kansas City Chiefs. ANG knows who the true winner of the Super Bowl was: Rihanna.



Thumbs sideways to SBA elections. ANG doesn't vote but does love complaining about the shallow pandering coming to the Law School over the next week.

Three Years of Valentines: A Law Student's Guide to VDay

Devon Chenelle '23
Prose Style Editor



To my shock and bewilderment (time gets weird once the semester begins), I was informed last week that this Tuesday is Valentine's Day. Although the holiday originated as a feast day honoring the Blessed Saint Valentine,¹ following Christmas's lead, it has become a more pagan festival dedicated to the commemoration of romantic love. For this piece, I shall explore what the day's celebration reveals about each year of law school by memorializing how I chose to celebrate the day as a 1L, 2L, and 3L.

Valentine's Day 2021: All is darkness and cold. I am wracked with anxiety as I reflect on the fact that I am barely 75 percent of the way done with my outlines, and finals are a mere three months away. I see my dreams of legal

1 Precisely *which* Saint Valentine is meant to be honored by the day is historically unclear, though my Catholic education demands at least a cursory review. There are apparently two competing candidates to be "the" Saint Valentine, both of whom were martyred by the Romans during the Third Century A.D.

success fluttering about wildly in the wind, as I desperately strain to grasp at them before they permanently elude my ample wingspan to secure my future and my mother's pride. I trudge through the Charlottesville weather on my way to the Law School, each bite of the wind slapping at my pride and ignorance. Having moved south of the Mason-Dixon line for the first time in my life mere months earlier, I had anticipated a new tropical lifestyle and neglected to bring a single coat or hat to Charlottesville in favor of Hawaiian shirts and swim trunks. The cold winter air of a Central Virginia February reminded me of how little I knew about North American weather patterns, as well as the law, only six months ago, and I shudder to think of how much still lies before me. As I check Reddit before delving into hours studying the ever-elusive Rule Against Perpetuities, I see that it is apparently Valentine's Day. I shrug and descend into my studies, equally ignorant of the fact that the RAP would never factor into my life again and of the wonders future Valentine's Days would hold.

Valentine's Day 2022: The gloom has lifted and the snow has cleared (metaphorically,—last winter was pretty rough). I am now an accomplished and confident

2L, with not only a Big Law summer offer in hand but, more importantly, a beautiful and intelligent woman by my side. For the first time, we make a traditional romantic evening of the holiday, as my newfound professional and romantic success emboldens me towards experiencing the finer things in life. We head to Fleurie on the Downtown Mall for a multiple-course *prix fixe* menu and carefully selected wine pairings, with each explained to us by the restaurant's resident sommelier. The check reaches the table, and I look with horror at a three-digit number that, I believe, started with a 4. "It's strictly egg ramen from now until June for me," I think. This was the finest meal I'd had in years, and I couldn't possibly conceive how normalized fine dining would soon become, as within a few short months, my summer co-workers and I would blithely order every appetizer on the menu to "try things out."

Valentine's Day 2023: Life has continued moving quickly, as have my commitments. As my new professional life approaches, my romantic life continues to reach higher peaks. I am now, it seems, a grown man, with romantic and professional commitments to boot, far from the callow youth terrified of his 1L professors. My lovely and

intrepid partner and I have resolved to surpass our culinary excellence from the previous year with an experience sure to satisfy even our refined cultural tastes. In between fielding the never-ending emails flowing into my inbox (I resolve that my commitment to responsiveness will begin now) and the research project I have made my major goal for 3L, I find myself headed to Manhattan, where my date and I will attend one of the first shows of a major Broadway production featuring an American movie starlet cultivating her acting chops by turning to the stage instead of the silver screen. Yet I have not completely outgrown what Charlottesville can provide: I was able to find a delightful, artisanal gift on the Downtown Mall, evincing the taste and artistry that truly makes Charlottesville such a wonderful place to spend three years. I love that, as I have spent time here and, in truth, grown up, this town has been able to keep pace with me, providing me a wonderful first location for a romantic Valentine's Day dinner, and, even as new commitments draw me to other locales, still offering wonderful opportunities for development and, yes, shopping.

dncghu@virginia.edu

Surveillance

continued from page 1

regulation. "Often, when we're talking about policy, there's a discussion about how to ameliorate something. There are things I don't think are best made less harmful. I think they're best smashed into bits."

With such broad adoption of these technologies, it's hard to imagine the complete rejection that Gilliard describes. Indeed, he noticeably made comparatively little mention of the data collected by our smartphones, perhaps because he knows he would need a crowbar to pry them away from most people. Ultimately, although it is descriptively useful, the Borg Complex is deceptively simple. It's not as though people accept these technologies without agency and without weighing their costs and benefits. We do that every time we choose to buy—or not buy—the latest gizmo. Certainly, it wouldn't hurt to think more carefully about which technologies we do and don't want to adopt. And admittedly, there is an illusion of choice when it comes to those technologies that everyone is expected to use. But I remain skeptical that smashing these technologies to bits is the most plausible or even the most effective solution to our contemporary privacy woes.

Personally, I won't be taking a hammer to my Fitbit. But perhaps when its battery finally gives out, I'll consider a conventional watch.

tya2us@virginia.edu

Left Holding the Bag: The Albemarle County Bag Tax

Caleb Stephens '23
Technology Editor



When I returned from winter break, I had a number of things I had to do. Acquire textbooks, check the mail, do laundry, and, of course, restock on perishable food. As per usual, I visited Sam's Club, where business proceeded normally. Unfortunately, I had some items I needed to buy elsewhere, so I drove across the street to Walmart. All was calm until I reached the self-checkout, only to be rudely asked how many bags I needed. The screen had the audacity to charge me a whole five cents per bag that I used. Now, I'm not one to begrudge "nudge" methods for getting people to change their behavior. But I do strongly dislike having to pay for something that was formerly free. I like it even less when it's a tax.

Looking at this tax charitably, it's intended to encourage reuse of the bags. A Danish study in 2018 looked at a number of alternatives to the standard plastic grocery bag.¹ It's a fascinating

1 Danish Env't Prot. Agency, Life Cycle Assessment of Grocery Carrier Bags (Feb. 2018). The UN also did a meta-analysis of grocery bags, but the Danish study seems to be the most reliable overall. See U.N. Env't Programme, *Single-Use Plastic Bags and Their Alternatives* (2020), <https://www.lifecycleinitiative.org/wp-content/uploads/2021/03/SUPP-plastic-bags-meta-study-8.3.21.pdf> for the meta-analysis.

read, but the conclusion was that across most environmental factors, the standard plastic grocery bag had the lowest environmental impact, followed by the standard paper bag. Most reusable grocery bags have to be reused at least forty times to have the same environmental impact as a standard plastic bag. Shockingly, cotton bags are among the worst on this scale, having to be reused over 7,000 times before having the same environmental impact as a single plastic bag.² Organic cotton is even more resource-intensive to create, requiring 20,000 uses to match a single plastic bag.³

Even aside from the environmental concerns, a change like this doesn't come without side effects. In a study that examined what happened when San Francisco banned single-use bags, emergency room visits for E. coli increased by one-fourth.⁴ Of course, this isn't a ban, but the bag tax is definitely intended to increase use of reusable bags. Reusable bags are fine, as long as you keep them clean. And by clean, you pretty much have to wash them after every use, particularly if you buy meat or produce, both of which tend to carry contaminants. The prob-

2 *Id.* at 17–18.

3 *Id.*

4 Jonathan Klick & Joshua D. Wright, Grocery Bag Bans and Foodborne Illness (U. Pa. L. Sch. Inst. for L. & Econ., Research Paper No. 13-2, 2012), <https://ssrn.com/abstract=2196481>.

lem with this is, first, it's a pain to remember to do, particularly when you need to remember to put the bags back in the car (not to mention the fact that leaving bags in a car trunk substantially increases the growth of bacteria in the bags).⁵ Second, washing bags substantially adds to their environmental cost. Third, it decreases the usable life of the bag, which, again, adds to the environmental cost. Most people simply don't wash their bags. Which, unfortunately, increases cases of sickness and even death.

Not only do reusable bags cause public health concerns, but even just a bag tax adds 3 percent to checkout time.⁶ While that's not a lot of time, it does add up, particularly when there's a long line of shoppers. Fortunately, there are exceptions to the tax that the store won't tell you. Before I explain the exceptions, I have to give the disclaimer that this is not to be construed as tax advice in any way, shape, or form, so if you get prosecuted for tax evasion for following my explanation, it's not my fault. That said, the Charlottesville website says the tax does not apply to "[p]lastic

5 Cleaning Reusable Bags, A Clean and Vibrant Future, <https://www.cleaninginstitute.org/cleaning-tips/clothes/fabric-care/cleaning-reusable-bags>, (last accessed Feb 13, 2023).

6 Rebecca L.C. Taylor, A Mixed Bag: The Hidden Time Costs of Regulating Consumer Behavior, 7 J. Ass'n Env't & Res. Economists 209 (2020).

bags solely used to wrap, contain or package the following types of goods in order to prevent damage or contamination."⁷ This is followed by a list of items that includes ice cream, meat, produce, or perishable food items. Presumably, this is intended to apply to those thin bags on a roll that are provided to put meat or produce in, but the inclusion of ice cream on the list is confusing, and the plain text of the rule provides no description of the bags which would indicate a difference between the bags provided on a roll and the bags provided at a checkout.⁸ The intent behind this exception is obvious: to prevent contamination or damage to the products, as the rule says. I suspect this was added to prevent lawsuits for potential E. coli or salmonella cases arising from mingling items in the grocery cart, as that risk was explained above.

So, what's the conclusion? What should you do? Well, if you want to have the lowest environmental impact, use the standard plastic bags, and try to reuse them as much as possible (reuse as trash bags is highly recommended, and more environmentally friendly than regular trash bags). Recycling grocery bags, while potentially benefi-

7 Disposable Plastic Bag Tax, Virginia Tax, <https://www.tax.virginia.gov/disposable-plastic-bag-tax>, (last accessed Feb 13, 2023).

8 Plastic Bag Tax, City of Charlottesville, <https://charlottesville.gov/1620/Plastic-Bag-Tax>, (last accessed Feb 13, 2023).

cial, is not nearly as efficient as reuse. I recommend getting a bag of bags, a container of some sort to store old grocery bags, and simply trying to avoid trashing the bags unless they've been used for meat or something else perishable. Standard plastic grocery bags are great for what they do, and they're a miracle of modern engineering. I, for one, am incredibly grateful that I can use those bags to line my rubbish bin and avoid the mess of having to clean the inside of a wicker basket.⁹ I'll be doing as much of my shopping as I can at Sam's or at the Ruckersville Walmart, which is outside of Charlottesville's jurisdiction. If you want to use the nicer reusable bags, you're just going to have to eat the environmental cost and wash them. Best practices are to store reusable bags in your home, wash them after each use, and never mix meat and produce in the same bag.¹⁰ Food poisoning is absolutely no fun, and avoiding it should be a high priority.

9 Not that I use wicker baskets. I'm not actually an octogenarian, even if I sound like one. I use one-gallon buckets, they're the perfect size, cheap, and easy to move around or clean in case of incidents.

10 The American Cleaning Institute has a great guide to bag care available on their website. Cleaning Reusable Bags, American Cleaning Institute, <https://www.cleaninginstitute.org/cleaning-tips/clothes/fabric-care/cleaning-reusable-bags> (last accessed Feb 13, 2023).

cs8ws@virginia.edu

Back by Popular Demand: Ranking *White Lotus* Season 1

Ethan Brown '25
Staff Editor



People say lightning doesn't strike twice, but as you might have seen in last week's issue, I feel very strongly about HBO's hit series *The White Lotus*—perhaps too strongly. After authoritatively ranking some of Season 2's characters, I now feel compelled to go back in time and evaluate where it all started: Season 1. So put on your best floral shirt and come with me to the sandy shores of Hawaii, where we met the original cast of horrible, despicable, absolutely-no-good characters that piqued my interest in the show to begin with.

Bottom Tier The Entire Mossbacher Family

I'm assuming at this point that if you—the humble reader—are committing to the bit of reading not one but TWO articles concerning a random gay boy's meditations on *White Lotus* characters, you've probably watched the show. So I'll cut to the chase: Every single member of the Mossbacher family is a stinker.

Matriarch Nicole, played by Connie Britton (love her work), comes off at first as a power CEO #girlboss but is actually an unsympathetic #badperson. She almost had me in the first half of the season. "Awh," I thought. "She's doing her best

juggling her stressful job and her family." Tender! But at every turn, Nicole takes the lazy way out. In dealing with her annoying-ass son, Quinn, who can't go two seconds without looking at a phone, does she try to engage with him and get to the root of his tech addiction? No. She just buys him a new iPhone and ships it to the resort. When her performative and vindictive daughter, Olivia, challenges her on what it's like to be a woman in the workplace, does she have a genuine conversation with her only daughter about removing barriers to access? No. She says straight white men, like Quinn and her husband Mark, are the ones *truly* suffering in the contemporary workplace. But honestly, who can blame Nicole for being a bit of a mess, cutting corners when it's easy for her? Her husband Mark is too busy crying about the fact that his dad was a receptive partner in gay sex (let alone that HE DIED OF AIDS, which, I don't know, seems a bit more devastating!). Honestly, I'd have been so happy to have let these four stew in their own dysfunction after the first episode and to have never seen them again.

Paula

Olivia Mossbacher's college friend joins the family on their trip, too. Maybe it's my guilt from having gone on some lovely trips before with the families of friends and significant others, but girl, respect the car-

dinal rule of travel: If someone invites you somewhere nice and pays for thousands of dollars of your accommodations, dining, and entertainment, don't be a spoilsport who sulks every meal and gets high in the living room. Etiquette, my dude.

Tanya

I have no more words to describe my contempt for this woman. See *Virginia Law Weekly*, February 8, 2023.

Middle Tier Rachel

Rachel, Rachel, Rachel. I have lots of empathy for her, because I imagine realizing that your husband sucks *while on your honeymoon* is a bit of a sticky wicket. But I can't put Rachel in the Top Tier because her realization begs the question: How on god's green Earth did it take you this long?

Shane is objectively an awful person—I couldn't even put him ON this list or I'd have gotten too feisty to do my readings afterwards. He's petty, petulant, and childish; there's also a one-in-one chance that he cheats on Rachel the instant she turns thirty-five. So I can obviously respect Rachel's deep disappointment and hurt at realizing her marriage is a mistake. But I have to cast some serious doubt on her decision making that it took her *this long* to wake up. And did she really think that going to fancy resorts in Hawaii and TAHITI with other rich people was go-

ing to make her anal retentive partner somehow *less* annoying? Her's is a tragic story, but one that she let herself roll right into.

Armond

Armond is such a mixed bag. Pros: Self-possessed. Witty. A relatable "every-man" character who effectively represents the audience's disgust with the resort clientele. Gay icon. Dope outfits. Cons: His rampant sexual harassment of his employees. The fact that I had to see his CGI-generated poop.¹ But as a big fan of *Looking*, another HBO show I would highly recommend, I already loved actor Murray Bartlett before this season, and it's hard not to adore Armond's character as a result. To be honest, he's only in the Middle Tier because it would have been simply too easy to put him in the Top Tier, and that is not the sort of rigorous journalism the *Law Weekly* is renowned for worldwide.²

Lani

Do any of you remember the resort employee in the first episode who gave birth, served as a focal point for the entire hour-long program, and then we absolutely never saw her again? Until I looked at HBO's

1 I hope it was CGI-generated...

2 Disclaimer: I was not paid by Editor-in-Chief Dana Lake '23 for this comment.

website to refresh my memory of the season's characters and saw her, I didn't. I hope she is well.

Top Tier Belinda

Belinda deserves everything. Watching her get led on by Tanya—who promises to support her bold idea for a holistic wellness center, only to crush her hopes when Tanya starts seeing Greg—was genuinely heartwrenching. While I bemoaned watching that, I cheered in equal measure when Belinda put her foot down later in the season, refusing to provide guidance to a sobbing Rachel after hours. From what we see of Belinda, she is kind, thoughtful, and fiercely competent. I was sad to only see her strictly through the eyes of the resort's guests, which I know was a conscious directing choice but disappointed me nonetheless. I live in a dream world where, after Armond's death, Belinda took over as manager, embezzled millions of dollars from the resort's coffers, and started a new life in a party city. Because she earned it.

Thank you for coming with me on this journey once more. I'll see you all again for a Season 3 recap, god willing, at some point in the near future!

buj2cw@virginia.edu

A 3L's Take on Barrister's Ball

Sai Kulkarni '23
Production Editor

This past weekend, I got to take part in my second and final Barrister's Ball. It was a joyous night and a great opportunity to see the Law School come together to have a great time. It is rare to find an event where law students of all ages, drinkers and nondrinkers, gunners and non-gunners, can have a good time on the same night and in the same place. The event was masterfully designed and executed by two of my dearest friends, Paige Kennett '23 and Ragan Minor '23,¹ with plenty of teamwork with SBA President Juhi Desai '23. The theme was Crystal Ball—an ode to the stars and all things magic. That magic was certainly present all night, from the pregames, to the transportation to the venue, all the way to the afterparty. Each person certainly had their own version of the night, but I think I speak for all of the attendees when I say that I had the time of my life.

Barrister's, for me, began much earlier in the week in debating which dress I would wear, figuring out how in the world I was going to keep my hair straight all night, and coordinating with my friends about when to get

our nails done.² The preparation was well worth it, though, because after a little help from a friend with my makeup,³ I was able to arrive in style to my pregame location.⁴ My friends had done a great job of booking a party bus to take us to the venue so that we could have a little extra time together. I have to recommend that to all of the current 2Ls for next year. Although the Barrister's Committee did a great job of organizing school-wide buses, I have never felt as bougie as I did coming out of a party bus to the Ball. You all deserve to feel that way.

Once we got to Boar's Head, I was surprised from the start. Even though it was the same venue as last year, it beat my expectations at every turn. The check-in process was smooth, and I was inside in under a minute. The professional photographer and iconic background in the entryway made all of us feel like celebrities. The real improvement came in the libations. With a number of bar stations, I was able to be in and out of line in five

2 To all of the men, I will take no criticism for including this, you have it easy. Also, it's my article.

3 Thank you to Brecken Petty '23, you absolute angel.

4 Morris House. The universe's gift to partying.



Pictured: Boar's Head Resort, the venue of Barrister's Ball. Credit: Booking.com.

minutes every time, a massive step up from last year. There was food on both sides of the dance floor that didn't run out within the first hour of our arrival. But the real kicker was the décor. The Crystal Ball-themed balloons at the tables and the actual tarot reader really met the theme. The DJ was great at his job and was able to keep the vibes up the entire time that people were dancing.

The party didn't stop there, however. As we all headed to Rapture for the afterparty, I was secure in the knowledge that, at the very least, the club room was open.⁵ But once we got there, I was still set to receive some surprises. It's one thing to read in an email that the afterparty has food and it is completely different to see it

5 No blame to anyone, but it is less than fun when we have a school-wide event there with only half the bar available.

placed in two different locations and constantly be refilled. Whether we got lucky or whether the entire venue was booked for us (still not sure which is true), it felt like a truly unique experience because I did not bump into a single undergrad that night. I was able to sneak out at my convenience and find myself in bed within an hour of reaching the afterparty—concluding my night.

My experience was amazing. The best part was, as it always is for me, the excellent pictures I got to take with all of my wonderful friends. But I am sure everyone had different things they enjoyed. I wanted to take some time to share some closing thoughts on the event and similar events, though. My time on this paper will soon be coming to an end. Over my years writing for the *Law Weekly*, I have become a bit of a heel, writing about parties, fun, events, and my friends, with

only a few brief deviations into the serious. But I did that, passionately, because I believe that such writing has its place. This Barrister's Ball was truly a night to remember—it's not the only one, however. Whether it's Dandelion, Bar Review, events led by student orgs, or any of the Feb Club events, I have always tried to memorialize the fun parts of law school. It's a stressful time that we go through during our precious three years here. The real world is hard enough as it is. But if we can have good nights, like Barrister's—and if we get to memorialize them in writing—maybe we can look back on these times with the fondness they deserve before our firms or public interest employers work us to the (mental) bone.

omk6cg@virginia.edu



1 Or as I affectionately refer to them, Peggy and Rae.

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

1L Plus Ones
v.
Barrister's Planning Committee
75 U.Va 15 (2023)

PETERSON, J. delivers the opinion of the court, in which LAKE, C.J., BNINSKI, J., WALSH, J., GRUBBE, J., BROWN, J., PAZHAWAK, J., and MORSE, J., join.

KULKARNI, J. concurs in judgement.

Peterson, J. delivered the opinion of the court.

Background

Barrister's Ball, recently deemed by this Court to be Law School Prom, is an event planned by the Barrister's Planning Committee ("Committee"), an independent committee created by the Student Bar Association ("SBA"). The Ball involves a dance with open bars, food, and a DJ at a venue selected by the Committee. The dance takes place between 8:00 p.m. and 12:00 a.m. The dance is followed by an afterparty at a bar rented out by the Committee which runs from 11:00 p.m. to 2:00 a.m. Transportation to and between the events is provided for by the Committee. Tickets to the Ball are purchased through an online ticketing portal. A ticket which includes access to the open bars costs students \$67.00. A ticket which does not include access to the open bars costs \$52.00. Tickets are only necessary for access to the dance—not to the afterparty. Students may purchase one plus-one ticket per person, no questions asked. Tickets were sold in a staggered format: first 3Ls, then 2Ls, and finally, 1Ls.

After a smooth release on the 3L and 2L markets, tickets opened up to the final group of students: the Class of 2025. Quickly, all of the plus-one tickets were purchased, and many of the 1L students report feeling victimized by their inability

to Ball with their long-distance boos, most of whom will no longer be in the picture come November of 2L. The 1L class sees this as a clear violation of their Equal Protection rights. However, because it is well-settled and established precedent in this Court that 1Ls do not have rights, the questions before us today are first whether the plus ones of the 1L class have rights that may be vindicated in this forum, if so, what those rights are, and finally, whether those alleged rights have been violated.

has no rights.¹ So, because this Court wants nothing to do with the 1L Plus Ones, the Court happily concludes that this question is one for nonjudicial discretion.

Further, in this situation, there is clearly an unusual need for unquestioning adherence to the political decision already made by the Committee. This Court is made entirely of unelected 2L and 3Ls who directly benefited from this year's process of ticket distribution. Not only is this true this year, but this will remain to be true each

potentially embarrass the credibility and legitimacy of those authoritative bodies. The Committee's actions have evinced an unmistakable belief, held by the Committee, that 1L Plus Ones do not have rights. This fact militates against the Court undercutting what is otherwise a clear pronouncement from the Committee, and thus SBA, that 1L Plus Ones do not have rights, just like their 1L counterparts. Because our student government has already represented that 1L Plus Ones do not have rights, it is no longer within this

quo. And we know the 1Ls will too, in about four months.

Because the Court has dispensed with the jurisdictional question in this fashion, exploring any other issues presented at the outset of this opinion would clearly constitute simple advisory opinions.

Conclusion

The Court declines to answer the question of whether 1L Plus Ones have rights. This question is reserved for other branches of government. In so doing, we implicitly ratify the Executive's clear statement that 1L Plus Ones, like 1Ls themselves, do not have rights. Functionally, this ruling may be read to state that neither 1Ls nor 1L Plus Ones have rights.

Further, it seems necessary, thanks to my good fellow Justice Kulkarni's failure to comprehend the ramifications of this holding, to state that this opinion in no way disclaims jurisdiction over 1L Plus Ones. Instead, it disclaims jurisdiction over the question of whether those 1L Plus Ones have rights that may be vindicated in this forum. 1L Plus Ones may certainly be sued and be parties to a controversy in this Court—it is simply not within our jurisdiction to rule on whether the 1L Plus Ones do, or do not, have rights.

Kulkarni, J., concurring in part and dissenting in part.

It is hard to label what kind of majority opinion this is. The practical effects of the major-COPA page 5

"The Court may claim moral innocence in depriving the 1L Plus Ones of their rights, because the Court has not decided this issue."

Analysis

The first question that must be addressed is whether 1L Plus Ones have any rights that may be vindicated in this forum. In order to answer this question, the Court must first show that it has jurisdiction over the issue. The Court does not. The Committee, and thus SBA, has already decided the question. This is thus a political decision which is, for various reasons, not a question suitable for adjudication by the Court.

First, this question is clearly one meant for nonjudicial discretion. Despite the Court's willingness to involve many non-student parties in prior decisions, those entities were usually defendants, rather than plaintiffs. Were the Committee suing the 1L Plus Ones, we would have an unquestionable duty to adjudicate the dispute. However, it seems especially distasteful to extend this privilege to non-student entities that are so inextricably linked to a disfavored class of students that this Court has repeatedly stated

year into the future, indefinitely. Because of this unique feature of the Law School, it is unsurprising both that 1Ls do not have rights and that school-wide, student-run events have procedures designed to prioritize older students to ensure those students have one last chance to make memories in Law School that they will cherish forever. The current 1Ls and their Plus Ones—or those that make it past November of 2023—will be similarly benefited by the current process. Think of it like Social Security. Bad for you now, great for you later.

Finally, it is clear that multiple pronouncements on whether 1L Plus Ones have rights from various authoritative bodies, like this Court and SBA, could

Court's jurisdiction to rule on the issue.

By holding that it is outside of the jurisdiction of the Court to make binding decisions on the rights of 1L Plus Ones, the Court creates a legal fiction. The Court functionally ratifies the decision of another body of government, but the Court declines to do so openly. Instead, the Court may claim moral innocence in depriving the 1L Plus Ones of their rights, because the Court has not decided this issue. The Court has simply decided that this issue is not one for the Court to decide. We feign innocence as to our role in establishing the status quo while simultaneously ratifying the status quo. Because we love that status

¹ See generally *2Ls Who Are Way Too Eager to Post on LinkedIn v. Everyone Else* 75 U.Va 2 (2022); *1L Gunners v. Everyone Else*, 324 U.Va. 22 (2019); *Snowman v. Student Admin.*, 73 U.Va. 15 (2021) (Tonseth, J., concurring in part and dissenting in part); *1Ls v. God*, 73 U.Va. 16 (2021).

Faculty Quotes

M. Livermore: "It would be rational for that guy to kill those cats."

J. Mahoney: "Google is not the government...yet."

B. Ross: *referring to previous *Law Weekly* Professor quote* "Unlike the Supreme Court, we will get to the bottom of this leak."

A. Woolhandler: "Just because I'm boring doesn't mean I'm irrelevant."

K. Abraham: "As sometimes happens when you have teenage children, my car got totaled."

K. Kordana: "If we beat him off at 55, that's good for shareholders."

C. Nelson: "That label doesn't have confusing baggage because people don't use it."

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

Virginia Law Weekly

COLOPHON

<p><i>H. Johnson</i></p> <p>Nikolai Morse '24 Managing Editor</p> <p>Jack Brown '23 Sports Editor</p> <p>Rachel Martin '23 Copy Editor</p> <p>Anne Reyna '23 Pop Culture Liason Editor</p> <p>Clint Roscoe '23 Entertainment Editor</p>	<p>Dana Lake '23 Editor-in-Chief</p> <p>Jon Peterson '23 Co- Executive Editor</p> <p>Sai Kulkarni '23 Production Editor</p> <p>Sarah Walsh '23 Editing Editor</p> <p>Jackson Grubbe '23 Satire Editor</p> <p>Caleb Stephens '23 Technology Editor</p> <p>Devon Chenelle '23 Prose Style Editor</p>	<p>Monica Sandu '24 Co- Executive Editor</p> <p>Anna Bninski '23 Features Editor</p> <p>Julia D'Rozario '24 New Media Editor</p> <p>Mason Pazzhawk '23 Hand of the EIC</p> <p>Will Holt '23 Opinions Editor</p> <p>Jacob Smith '23 Professor Liaison Editor</p>
--	---	---

Published weekly on Wednesday except during holiday and examination periods and serving the Law School community at the University of Virginia, the *Virginia Law Weekly* (ISSN 0042-661X) is not an official publication of the University and does not necessarily express the views of the University. Any article appearing herein may be reproduced provided that credit is given to both the *Virginia Law Weekly* and the author of the article. Advanced written permission of the *Virginia Law Weekly* is also required for reproduction of any cartoon or illustration.

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

EDITORIAL POLICY: The *Virginia Law Weekly* publishes letters and columns of interest to the Law School and the legal community at large. Views expressed in such submissions are those of the author(s) and not necessarily those of the *Law Weekly* or the Editorial Board. Letters from organizations must bear the name, signature, and title of the person authorizing the submission. All letters and columns must either be submitted in hardcopy bearing a handwritten signature along with an electronic version, or be mailed from the author's e-mail account. Submissions must be received by 12 p.m. Sunday before publication and must be in accordance with the submission guidelines. Letters and/or columns over 1200 words may not be accepted. The Editorial Board reserves the right to edit all submissions for length, grammar, and clarity. Although every effort is made to publish all materials meeting our guidelines, we regret that not all submissions received can be published.

#EATPIZZA

MIX OR MATCH ANY 3 OR MORE

- MEDIUM 2-TOPPING PIZZAS
- BREAD TWISTS
- STUFFED CHEESY BREAD
- OVEN BAKED SANDWICHES
- 8PC BONELESS CHICKEN
- 8PC BONE-IN WINGS
- SPECIALTY CHICKEN
- MARBLED COOKIE BROWNIE
- 3PC CHOCOLATE LAVA CRUNCH CAKES
- PASTAS OR SALADS

\$6.99

EACH

9222

- CHOOSE FROM:
- CINNAMON
- PARMESAN
- GARLIC

Delivery & pickup may apply. Offer valid with any other offer. Limited time only. Excludes 2Ls, 3Ls, & 4Ls. Excludes 2Ls, 3Ls, & 4Ls.

We Are HIRING DRIVERS

Flexible schedule
Work as little as 4 hours per week!
Drivers take home cash daily!

Drivers average \$15-25 per hour

APPLY ONLINE AT
JOBS.DOMINOS.COM OR
TEXT "PIZZA" TO
(434)404-4400

FREE KINDNESS ORDER

CHARLOTTESVILLE
434-971-8383
1157 MILLMONT ST.
CHARLOTTESVILLE
434-970-7777

ORDER ONLINE
from DOMINO'S

COPA

continued from page 4

ity's opinion are to affirm the decision of the Committee: 1L Plus Ones have no rights. I agree with such a result. What I dissent from is the move by the majority to disclaim jurisdiction over these individuals. At my core, I am a strong believer in justice. And there is no justice in ignoring the tough issues. I am not moved by the majority's contention that our decision would undermine the Committee. Instead, I believe our decision would bolster theirs. Our precedent is clear. 1Ls have no rights. The only connection to the Law School that the Plus Ones have comes from their relation to the 1Ls. Ergo, 1L Plus Ones have no rights. With even a rudimentary understanding of the situation and the precedent involved, anyone would come to this conclusion, but I want to take my opinion a step further.

Three 3Ls put their efforts into organizing the event. And the 1Ls got to enjoy the fruits of their labor. It makes sense that in the same way that college football ticket sales (at any school that is actually good at football) work their way down classes, with upperclassmen having the highest priority, Barrister's tickets sell the same way. The 1Ls know this and choose to complain anyways. They will have two more chances to have the Barrister's of their dreams. At the end of the day, the 1Ls don't know how easy they have it. Last year's Barrister's had many disputes over ticket sales,

nepotism, and a lack of food. This year's ran smoothly. Last year, some students had to miss Barrister's despite having tickets due to the still-high prevalence of Covid-19. But above and beyond that, the fact that the 1Ls have the gall to complain that 3Ls have priority over them is frankly astounding to all of the members of this esteemed Court. There was no Barrister's Ball during the 2020-21 academic year. There was no Dandelion, no Fall Break, no Thanksgiving Break, no Feb Club, no Spring Break, no PILA Auction, no Bar Review, and no hanging out with more than five people at a time.²

You all know this. The 1Ls know this. Although these measures were for the health and safety of the student body, there is no doubt that the lack of social interaction had a negative effect. The 3Ls are owed grace, understanding, and sympathy for losing the most formative social year at the Law School. With all of this in mind, if I were the majority, not only would I claim jurisdiction, I would dismiss any 1Ls' complaints on the issue with prejudice. I would demand reparations in the form of another fully paid-for, similar party for 3Ls only.

Accordingly, I concur.

2 At times, this number was limited to quite literally zero. The only people students were permitted to interact with were their roommates.

jtp4bw@virginia.edu
omk6cg@virginia.edu

Follow Your Path

Dana Lake '23
Editor-in-Chief

Note from the Editor: Scott Meacham '04 was the Editor-in-Chief of the Law Weekly for the 03-04 editions. As EIC he expanded the Law Weekly's online presence, setting the groundwork for what would become the lawweekly.org you know, love, and read during class. A lifelong lover of architecture and urban design, he earned his Master's in Architectural History at the same time as his JD. After graduating from the Law School, Meacham went on to work with the National Legal Research Group here in Charlottesville, before working as a legislative attorney for the General Assembly. He served both the House and Senate Natural Resource Committees. Meacham passed away from pancreatic cancer this last January, leaving behind a wife and daughter. We have republished our favorite piece of his here (unedited) for you to enjoy, first published in edition 55.23, April 4, 2003.

It's not a metaphor; it's a literal command. You need to stop walking exclusively on the pavement, obeying the wooden stakes and their little ropes scattered around the Law Grounds. Strike out across the grassy expanses of Spies Garden and the Green Lawn. Try taking the shortest route between two points.

Soon, a footpath will emerge.

Look at the great urban and collegiate spaces of this country—Boston Common, the Dartmouth Green, Harvard Yard. Each is crisscrossed with a network of footpaths that is perfectly suited to moving residents to all the places they want to go; yet few of these paths are the products of a planner or an architect who sat down with blueprints and cost estimates. When you see a shortcut—an unpaved, irregular path—you know exactly what the person who created it had in mind. I had a professor who called these good, fast paths “Lines of Desire.” Perhaps a path shows what people aren't thinking as well—real paths are instinctual, primal, and biologically efficient. These paths grow out of real people's actions, sort of a common law of foot transportation as compared to statutes that the architects lay down in concrete. Real paths, while ungoverned, are not unordered.

UVA seems to have few such paths. Now that most historic uses have departed Jefferson's Lawn, leaving the center of the campus as a hole in the doughnut of University activity, the small numbers of hurrying students that remain fail to create a vibrant network. The absence of paths at the Law School is striking as well, but easier to explain since the School was created after the advent of concrete

and the professional architect. One surely cannot blame the docility of law students—are we so easily corralled by ropes and pavement and the threat of reprimand that we can't crumple a blade of grass in order to get to class quicker?

Once enough people disobey the ropes, something permanent will emerge. A set of nice paths crossing Spies Garden diagonally in a variety of directions will appear. The quickest way to get from the north end of Slaughter to the library is through the center of Spies, and the shortest route from the faculty parking lot to Brown is across the Green Lawn—and students will express this with their feet. Because people will naturally stick to a few routes once they emerge, this new set of paths will not destroy the precious lawns of the Law School's two outdoor spaces. Instead, a lattice of living walkways that represents the denizens of the law school will emerge, enlivening the campus.

--

dlguh@virginia.edu



HOT BENCH



Mason Pazhwak '23

Hand to the EIC

Interviewed by Jacob Smith '23

Mason, where are you from?

I'm from Fairfax, Virginia, so not far away, just two hours north of here.

How are you enjoying 3LOL so far? How many LOLs would you give it on a scale of one to five?

I'll give it three LOLs. I'd say it's not as relaxing as everybody promised it would be, but it is good to be in the last semester.

As you think back, now in your final semester, how would you describe the general trajectory of your law school experience?

We started 1L mostly behind our computers, not in class much, six feet apart—it almost seems like another age. Now we're around the Law School, maskless, able to go to events. Everything feels way more normal. So that's one of the great trajectories of law school. We started out in one of the hardest times, and now we're ending on a good note, which is really nice. I'm glad we got one completely

normal year in Charlottesville.

As a 1L, what made you want to start coming to Law Weekly meetings?

I wasn't involved in my undergrad newspaper at all, but there wasn't much going on at the Law School, due to the pandemic. I just got in on an interest meeting, and I thought it was a fun group of witty, interesting people. I was like, “Oh, you know, it might be fun to have some way of writing about what's going on here—some way to occupy the time that I felt like I had too much of—so I might as well give it a chance and write something more creative, as opposed to just doing schoolwork all the time.”

So, talking about the Law Weekly, I noticed that your role is listed as the “Hand of the EIC.” You wanna explain what that means?

I honestly don't know how that happened. I've been the Current Events Editor for the last two years. This year, I was going to be studying abroad, so I was supposed to be the Foreign Correspondent Editor. But I decided to back out of that program, and it's kind of hard to be a foreign correspondent if you're in Charlottesville. I thought I'd revert back to Events Editor, but I tend to stay at the meetings longer and hang out with the Executive Board, so I feel like they wanted to give me a role that reflected the fact that I was around doing odd jobs for them. That, along with the current popularity of *Game of Thrones*, probably explains the title. It was just thrown in there one day, I think by Sai Kulkarni '23.

As a 3L looking back from your final semester, what's your favorite memory since

you started law school?

That's a good question. I still think it's super cool that I got to do my 1L internship in Alaska, at the State Attorney General's Office. Alaska has always had a mythic quality in my mind. It's far north, there are tons of mountains, glaciers, bears, moose, and all that. The fact that I got to spend a whole summer there and have a phenomenal time with the other interns was one of the highlights of law school, and I would definitely encourage people who have flexibility with their 1L experience to pick something that they wouldn't normally do. I think Alaska was an awesome place to live. Of course, I saw it in the summer, when it's a gorgeous kind of wonderland—I know how it is in the winter. But I'm so glad I had that experience.

Were there any practical aspects of life that were different in Alaska?

The long days just completely change how you feel about a lot of things. Me and the other interns, we would wake up, go to work from 9 a.m. to 5 p.m. at the office. And then we could leave the office by 5 p.m., change our clothes, start hiking at 6 p.m., and hike until 11 p.m., all with the sun still out. And there's this massive mountain range right up against Anchorage. You could drive to it in fifteen, twenty minutes and find yourself at a glacier peak within a couple of hours, so it was really cool. They always call the rest of the contiguous United States the lower forty-eight, and that kinda describes how it's a different world up there.

mwp8kk@law.virginia.edu

Legal Valentines

continued from page 1

years of age or older² who is in a state of undress so as to expose the human male or female genitals.” (§ 8.01-46.2.A))

So if you suffered the arrival of an unsolicited or unwelcome explicit visual within the last two years, you might think it's time to hustle and get those papers served! (Best of luck tracking down a physical address for that random internet person.)³ However, given that the law took effect last July 1, and since we have a pesky constitutional provision⁴ forbidding *ex post facto* laws, you'll do best to concentrate your demands on images received within the last seven months.

On a more positive note, venue for this action “may lie in the jurisdiction where the intimate image is transmitted from or where the intimate image is received or possessed by the plaintiff.” (§ 8.01-46.2.D). So, wherever you are in the Commonwealth of Virginia, if you

2 Images of people under eighteen are, of course, a separate and serious criminal matter. See Va. Code § 18.2-374.1:1.

3 No shade to the dating apps; I met my husband on Bumble. I also opted into a Bumble class action settlement and received a princely \$37 payout, so it's been a win-win for me.

4 U.S. Const. art. I, §10, cl. 1, for those who are invested in the citations of this predominantly silly article.

still have an unsolicited or unwelcome pic, or if you are still in the area where you received it in the first place, you can just utilize your local court.

You may want to note that Virginia small claims courts have jurisdiction over civil actions when the amount claimed is under \$5,000. (Va. Code § 16.1-122.2). So, those doors are open to you.

But since the new statute allows for (reasonable) attorney's fees, why head to small claims court, representing yourself, when you could throw a bone to a friend recently barred in Virginia by engaging them to represent you in general court? The Law School is famous for its collegiality, after all. What's more collegial than bringing a fellow UVA alum a little business in the form of salacious litigation? I struggle to think of a higher form of friendship than together utilizing state law to extract money from overenthusiastic “photographers.”⁵

I hope this information is mildly useful, and I wish you all the most heartwarming and lucrative of Valentine's Days. Happy filing!

--

amb6ag@virginia.edu

Belles of the Barrister's Ball

