



# VIRGINIA LAW WEEKLY

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

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## COVID Class Says Goodbye

Law Weekly Triumvirate '23

**Sai Kulkarni**  
Production Editor

It's hard for me to say goodbye to this paper. My two compatriots, Dana Lake '23 and Jon Peterson '23, and I have been doing this from the very start of our time together at the Law School. At a time when everything was under lockdown, the paper provided an outlet that evolved into something I truly care about. Under Dana's stewardship, the three of us have been able to create something really special. I'm so proud of the great work our fellow writers and editors have done during our time here. I genuinely enjoyed being a part of this, and it's been an influential part of my Law School experience. I am assured in the notion that the team that takes over now will continue the storied tradition that the *Law Weekly* stands for. We play an important role here, covering important issues and staying plugged into the social pulse of the student body—I am confident that will continue.

With all that out of the way, I wanted to use the rest of my final word budget to talk about the crazy things I've written about here. As Jon so accurately described at last week's planning meeting, I tend to use my space every week to talk about my social life. I've done that for two years, and I'm sure many can say it adds no value. To those people I say: Chill. I've enjoyed writing about the party side of the Law School experience and adding some levity to the zeitgeist. But I've done some serious writing, too. I'm glad to put a spotlight on trans issues, as I did at the start of the year. I enjoyed covering and discussing former Justice Breyer's visit to the Law School. Most importantly, I've enjoyed adding a witty tone to my COPA opinions exploring issues students have with the administration.

Although I'm proud of the few well-written and serious articles I've produced, I still take pride in my unserious articles. I hope that they've brought a smile to some people's faces. I hope that another writer finds that niche in the future. I think we often forget, in the midst of the conditions of the world and the intensity of our program, that life

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## Meet the Candidates



Grace Stevens '24  
Presidential Candidate

At its core, I believe SBA's dual purpose is advocacy and events. Accordingly, as I run for SBA President alongside Vice President candidate Kennedy Williams, our platform is two-fold: advance UVA Law's community and restructure SBA as an organization so that SBA can better accomplish its purpose through its programming. Ultimately, SBA must focus time and energy into ensuring the organization becomes a stronger source of advocacy for all law students and must be intentional with respect to event planning and execution so that everyone feels welcomed into our community. To do so, I hope to rely in part on my prior experience within SBA, where I have served as the Vice President of the First-Year Council, a 1L Senator, and SBA Secretary. My experience in each role will allow me to pinpoint areas in which SBA can improve to be better advocates and organizers for the Law School community.

With respect to restructuring, I find that SBA struggled to meaningfully involve and solicit comprehensive feedback from its Senators, incorporate committee chairs into the organization's structure and delegate to them a healthy amount of work, and strike a balance between professionalism and approachability. Kennedy and I also recognize the importance of accountability within SBA and its advocacy, and we intend to keep SBA and its members accountable to the student body, while also utilizing standing meetings with administration to keep administration accountable to the concerns of the greater student body that we ultimately serve as a voice for.

Furthermore, SBA has made

strides towards strengthening the UVA Law community, but we will continue to work towards building a wider community where everyone feels welcomed. Our platform contains two specific goals with respect to fostering community at the Law School. First, SBA must continue to support student organizations and uplift sub-communities within the Law School without infringing on their core events. Kennedy and I hope to continue the partnerships SBA developed with student organizations for monthly socials this year, while also building upon an internal program connecting Senators to student organizations to develop stronger touchpoints and find areas for support, advocacy, and collaboration. Second, it is important that SBA focuses on improving and expanding SBA's own programming to continue building our wider community, while also refining our execution of traditional events like Fauxfield and Barrister's Ball. Specifically, we hope to expand options for students who would prefer to attend events without alcohol and collaborate with affinity groups and other student organizations to determine how we can make classic events, like Bar Review, more exciting for everyone.

Lastly, I intend to be an organized, attentive, and passionate leader. I sincerely want to assist SBA in reshaping the organization's presence on Grounds and what it means to participate in student government at UVA Law. I hope you consider providing Kennedy and I with the chance to lead SBA forward for the 2023-2024 academic year—we intend to stay true to our platform and serve you all to the best of our abilities.

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James Hornsby '24  
Presidential Candidate

Rowan and I are both highly experienced student leaders, and as queer people, we both know what it's like to not be heard or seen in the legal world. We want to use our experience to give back to the law school community and give a voice to those who need it most. James served as his college's student government President, and at UVA Law serves as interim President of Lambda Law Alliance, Law School Ambassador, Peer Advisor, and 2L Senator. Rowan served as a Student Senator and Vice President of their college's student government, was UVA Law's First Year Council 1L President, and now serves as a 2L Senator and Co-Editor-in-Chief of the Virginia Journal of Criminal Law. We both have the experience it takes to be your SBA President and Vice President.

In office, we plan to act in three spheres: amplifying student voices within SBA, amplifying the school's voice within the Charlottesville community and beyond, and of course, amplifying the fun.

In amplifying students' voices, we intend to rethink the way SBA has worked in the past. Namely, we would reshape the Senate branch of SBA. This Senate would include the class Senators, but have the Senators take on a more active role. The Senate would be run by the Vice President and meet weekly to organize/plan as committees, write and pass legislation, and speak with administrators about issues that arise at the school. In this way, Senators would have a greater voice in SBA and in turn give students not in SBA a greater voice at the law school. Too

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## around north grounds



Thumbs up to threats of snow this week. ANG loves late February cold snaps to make spring all the more sweet when it finally arrives.



Thumbs down to the Copeley power outages. ANG had flashbacks to ANG's youth in a totally different dumpster, and inconsiderate people closing the side vents.



Thumbs up to the Copeley power outages. There's nothing like a romantic candlelight dinner for one in an apartment that bans candles.



Thumbs sideways to the SBA debate on Thursday. ANG absolutely loves arguing, but hates democracy.



Thumbs up to journal tryouts and the LRW appellate brief overlapping. ANG finally has all the 1Ls sequestered in the library so the rest of the school is free.



Thumbs down to the chalkboards. ANG knows they're tradition, but dry erase whiteboards are so much better.



Thumbs down to the admin bathrooms. ANG is shocked to learn that the student bathrooms have far less water flow from the sinks than the glorious flood that emerges from the hidden admin bathroom taps.



Thumbs sideways *Lost in Translation* (2003). ANG hates Nepo babies, but does love movies set in Japan.



Thumbs up to the 2022-2023 *Law Weekly* Editorial Board putting together their last edition. Get these old coots out of here already.



Thumbs down to the 2022-2023 *Law Weekly* Editorial Board putting together their last edition. ANG will dearly miss joining in editing on Mondays while listening to the Virg playlist.

## Farewell

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has some true joy. I've found friends and amazing experiences here at our Law School. I hope my articles have inspired you, dear readers, to put yourselves out there so you can do the same. But what do I know? I'm just another student finishing their writing assignment in the middle of the night.

**Jonathan Peterson**  
Co-Executive Editor

The *Law Weekly* has been an important part of my Law School career these past three-ish years. I believe I have contributed to the paper forty-two separate times, including this piece, since I've been here. It has been so much more to me than just a fun group of people, although it fits that role as well. For me, the *Law Weekly* has been a cathartic way to build relationships and have open conversations about the Law School in a creative format. And getting to head the paper with two close friends from my 1L section, who I have worked with on the paper these last three years, was nothing short of ideal.

Law school is generally not an environment that fosters creativity, especially not the kind of creativity that isn't "productive." By that, I mean that law school creates hierarchies of importance in our life: class, readings, sleep, food, friendship, exercise. Whatever the hierar-

chy is, many people struggle to see the point in doing things that don't fit directly into those categories. This was something I was feeling acutely at the start of my 1L—I was isolated because of COVID, living at home, and just generally adrift. I had the time to do most of the things above—sometimes food, friendship, or exercise might not be prioritized—but I was getting it all done. Still, though, I felt lost in the law. I didn't feel like myself—I felt like I wasn't living to live.

Obviously, being a writer on the *Law Weekly* didn't suddenly show me the meaning of life. But I do think it was an important experience to help me live well. While friends were asking me how I had the time to step away from my readings to write one or two articles a week, I would wonder how they could mentally handle the stressors of law school without that sort of creative outlet. For me, writing for the *Law Weekly* has never been extra work. It has always been an opportunity to be creative in an environment that I believe stifles creativity. It is a way to show that I value my own values as much as those imposed on me by my current situation. It was a way to show myself where my priorities were, and that felt good.

And despite spending those two-ish hours per week on writing articles, I've done well in my three years here. I've had fun, I've succeeded

academically, and I have a job lined up that I am excited for. In fact, the *Law Weekly* was one of the *only* extracurricular employers actually asked me about. So, if you're thinking about whether it's a good idea, it is! Come out and make the paper your own.

**Dana Lake**  
Editor-in-Chief

This paper has survived for seventy-five years because somehow, despite all odds, every new Law School class has a handful of people who want it to succeed. The *Law Weekly* is a kind of self-selecting sieve, where people who wouldn't otherwise say hello to each other in the hallway find they have a lot in common—namely, that they are the kind of people to pour their hearts into a labor-intensive project for nothing more than the fact that it is fun to do it. The time our editors invest in researching, writing, editing, and planning editions is no small thing—and it is totally voluntary.<sup>1</sup> They expose their messy personal lives, attend events that don't even have free food, and brainstorm article ideas they hope someone else will write, all in the pursuit of entertaining our loyal readers. This paper wouldn't exist without each and every one of you. Thank you for joining, and thanks for sticking around through short course due dates and

<sup>1</sup> Despite what some editors might tell you.

journal tryouts and memos and moot courts. I'm glad we got to meet.

I believe the paper is better when it has a large group of contributors from different backgrounds and social groups, keeping our obscure inside jokes to a manageable handful per edition. There are events different organizations put on throughout the year that don't get covered, not because they aren't important, but simply because we have no one to write on it. I hope more people will consider becoming staff editors, working together with the paper to bring different perspectives to our readers. I hope future *Law Weekly* Executive Boards will work to continue to improve the diversity of the organization and our management.

This paper is a labor of love, but it is definitely labor.<sup>2</sup> There is certainly no other Law School activity I have committed more time to.<sup>3</sup> I worry about this paper when I'm in the shower, when I'm making coffee, when I'm frantically refreshing my email at 5 p.m. every Sunday... If I was billing for all the emotional hours I

<sup>2</sup> There may be nothing that sums up my Law Weekly experience more than both of the above submissions, heartfelt and compelling as they are, being submitted late.

<sup>3</sup> I won't specify if this includes class readings.

spent on this thing over the last three years, it would have my firm rethinking my hourly rate. Maybe that's surprising to hear, considering the cool-guy, laid-back, laissez faire attitude the paper has carefully cultivated over the decades and also the amount of errors we make in publishing.<sup>4</sup> We sometimes make people unhappy; hopefully, more often than not, we have made you smile.

Despite all that, and despite the huge number of emails I have had to respond to because of the paper, there is no other organization I would rather have spent my time on. Working on the *Law Weekly* has been fun. I'm going to really miss it.<sup>5</sup> While I'm looking forward to saying hello 3LOL, I am a little sad to say goodbye *Law Weekly*.

<sup>4</sup> I myself have had my own articles printed with misspelled headlines, I have overseen editions where Dean "Golubuff" has offered her best wishes to the student body, and I have egregiously conflated Washington State University with the University of Washington.

<sup>5</sup> Though I will move on far more gracefully than some former EICs I could name.

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## Experts Discuss *Lochner* & Future of Economic Liberty Under the 14th Amendment

Nikolai Morse '24  
Managing Editor



Last Thursday, the Federalist Society at UVA Law hosted a discussion entitled "New *Lochner* Era? Economic Liberty in the 21<sup>st</sup> Century." Andrew Ward, an attorney for the Institute for Justice, and Professor Julia D. Mahoney spoke. The participants discussed the reputation of the infamous Supreme Court case *Lochner v. New York*<sup>1</sup> and assessed the chances of a reemergence of economic liberty interests in the twenty-first century.

Mr. Ward spoke first, offering his insights into the legal recognition of economic liberty generally, based on his litigation experience. He offered a hypothetical in which someone who wants to open a hamburger restaurant must apply to a government panel for a permit, which then conducts an analysis to see whether there are already enough

<sup>1</sup> 198 U.S. 45 (1905). For all you 1Ls, this is the case where the Court famously invalidated a New York law which prescribed the maximum working hours for bakers, on the theory that the law violated the "liberty of contract" protected by the Due Process Clause of the Fourteenth Amendment.

hamburger restaurants in the region.<sup>2</sup> If the state decided there were, you could not open your burger shop. Mr. Ward said that this hypothetical illustrated the basic operation of Kentucky's Certificate-of-Need (CON) law, which he challenged in *Tiwari v. Friedlander*.<sup>3</sup>

Mr. Ward's clients, Dipendra Tiwari and Kishor Sapkota, were prevented from opening a healthcare agency they had designed to provide home healthcare services to the large community of Nepali-speaking refugees and immigrants in Louisville, Kentucky. His clients intended to help an underserved population, many of whom receive ineffective services because they don't speak English. Ward said that because the local branch of a large healthcare services company told the state department in charge of issuing CONs that it was able to serve these patients—though Ward noted they were not doing so—his clients were not issued a CON.

<sup>2</sup> The idea itself is blasphemy. #RonSwanson2024

<sup>3</sup> 26 F.4th 355 (6th Cir. 2022). The Sixth Circuit upheld the law as non-violative of the Fourteenth Amendment, and the Supreme Court denied certiorari in November 2022.

Before the Sixth Circuit, Mr. Ward argued that Kentucky's law violated the Fourteenth Amendment because it restricted his clients' rights to engage in a common occupation. In response, Kentucky argued its CON law was necessary to lower competitive pressure so that companies could pass their savings on through lower prices. Ward noted that this law arguably resulted in a system of entrenched incumbents. While his firm ultimately lost the appeal, he stated his optimism that the Supreme Court's embrace of the "history and tradition" test for defining rights under substantive due process would result in recognition that people's right to engage in a common occupation is deeply rooted in our nation's history and tradition.

Mr. Ward concluded by noting how many laws which are facially protectionist prevent people from entering into professions on the basis of arbitrary requirements. He said these laws disproportionately affect individuals with criminal records, who are often barred by vague "good moral character" requirements—even in fields whose workplaces are seemingly unrelated to any criminal past, including cosmetology and skincare. Yet even if these laws could be challenged as vio-

lating economic liberty interests under the Fourteenth Amendment, Ward said it would likely be insufficient if government actions continued to receive only rational basis review. Noting the prevalence of protectionist laws, he said, "There are far too many of them, and the constitutional standards are far too low."

Professor Mahoney spoke next and began by noting the hostility towards *Lochner*, which has translated to reluctance to recognize economic liberty as being protected under substantive due process. Mahoney noted *Lochner* was seen as reflecting the high-water mark of a time when the Court regularly struck down legislative acts and was seen as being too judicially unrestrained.<sup>4</sup> But in the following decades, this changed. "Put simply, by the end of the New Deal era, there is language in judicial opinions suggesting—with some notable limitations, such as the First Amendment—that the Supreme Court is just going to be out of the business of scrutinizing legislative actions for constitutionality," said Ma-

<sup>4</sup> Though as Professor Mahoney noted, there were a number of other legislative acts, such as the one in *Muller v. Oregon*, which the Supreme Court upheld.

honey.

Mahoney noted, however, that after World War II, the Supreme Court returned to the field in famous cases such as *Brown v. Board of Education*, *Williamson v. Lee Optical*, and *Ferguson v. Skrupa*. However, in the last two cases, the Court applied a "toothless" rational basis review to economic legislation. Mahoney said that while people will occasionally suggest applying a higher standard of review for economic legislation, the response is often a concern about returning to something like the *Lochner* Court. Noting the specific scorn which *Lochner* receives, Mahoney stated that when she attended law school, *Lochner* was regularly cited as being the worst Supreme Court decision ever—notwithstanding infamous cases such as *Dred Scott*, *Plessy v. Ferguson*, *Buck v. Bell*, and *Korematsu v. United States*. Mahoney pointed out that, while there was plenty of criticism about *Lochner*, there was not much consensus as to why it was so bad.<sup>5</sup>

<sup>5</sup> Mahoney referenced an article making this point. See generally David A. Strauss, *Why Was Lochner Wrong*, 70 U. Chi. L. Rev. 373 (2003).

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# Virginia Law Review Hosts Symposium on Right to Education After *Rodriguez*

Garrett Coleman '25  
Staff Editor



This past Friday, February 17, the *Virginia Law Review* hosted an online symposium, titled *50 Years After San Antonio Independent School District v. Rodriguez: New and Old Fights for Equity in Public Schools*. The event centered around the landmark Supreme Court case, which held that there was “no fundamental right to education” within the Constitution. But, where the federal government retreated, advocates at the state level were prepared to bear the burden of fighting for universal quality education. This approach was exemplified by Professor Al Kauffman of St. Mary’s University School of Law, who was the symposium’s keynote speaker. His work as lead attorney for the plaintiffs in *Edgewood Independent School District v. Kirby* “reversed *Rodriguez* in Texas.”

To kick off the event, the audience heard from Angela Ciolfi, '03, Executive Director of the Legal Aid Justice Center. As an education rights lawyer, she had seen firsthand “how the lack of a fundamental right to education played out on an indi-

vidual and systemic level.” And, as a Powell Fellow, she had much to say about the Justice who cast the deciding vote in *Rodriguez*. While Justice Powell was a man who worked to build bridges between an old southern aristocratic class and some segments of the civil rights movement, he came from an undeniably privileged background. That background then informed his understanding of the education system and arguably made for a blind spot that came to the forefront in his majority opinion.

Professor Kauffman began his address with a criticism of *Rodriguez* and the Powell majority opinion. Many of his problems stemmed from the tale of two fact patterns that the majority cherry-picked from. He explained how the majority used examples from California, Connecticut, and New Jersey—states that had a completely different educational landscape compared to Texas. In cities like Newark, it was possible for high-income school districts to have plenty of low-income students. Such a dynamic was not possible in Texas, for several reasons. The first was an “old style racism” against Mexican-Americans, who lived in the poorest districts. As a

native of Galveston, Texas, Kauffman has a good deal of personal experience to lean on. Having graduated from high school in the 1960s, he had only ever attended segregated schools. The next reason was that many Texas school districts were much smaller, with homogenous communities. This allowed for a severe gap in funding not seen in the other states used by the majority. Ultimately, Kauffman explained, the defense convinced Justice Powell that the federal courts would take over local school districts, thus jeopardizing the “local autonomy” that features so frequently in his majority opinion. And Justice Powell was also concerned with a slippery slope that led to equalizing funding among universities—a conclusion that Kauffman also came to and advocates for.

Professor Kauffman then went on to praise the dissent of Justice Marshall, who he said was not afraid to “talk[] about the politics” of this decision. Justice Marshall saw the Court’s holding “as unjustifiable acquiescence in a system which deprives children . . . of the chance to reach their full potential.”<sup>1</sup>

<sup>1</sup> *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 71 (1973).

Both Kauffman and Ciolfi intimated that it was the difference in background among these two men that either obscured or made apparent the ramifications of *Rodriguez*.

In the part of his address most suited to aspiring litigators, Professor Kauffman explained how he turned his understanding of and frustrations with *Rodriguez* into impactful advocacy. Better yet, he did so in the state from which *Rodriguez* came. In *Edgewood*, Kauffman scrutinized the theory of “local power” through the lens of two school districts in the same county. One was Alamo Heights, a “tax haven district” which spent more money on students. The other was Edgewood, a district with a much *higher* tax rate but much *less* money to spend. And by higher, he meant a tax rate that was *fifty times* higher than in Alamo Heights. Kauffman asked: *Who really has local power?* This style of advocacy necessarily embraced the political effects that the Powell majority steered clear of. Proper investment in students mattered to educational outcomes. Poor investment, dilapidated schools, and the resulting undereducated population perpetuated the cycle of

poverty. And it is impossible to ignore the historical discrimination against Mexican-Americans in this context. Kauffman was able to convince the Texas Supreme Court that these funding disparities did matter and that the state’s constitution mandated a remedy. Because of his work in *Edgewood*, the Texas Supreme Court held that Article VII, Section I of the Texas Constitution did impose on the legislature “an affirmative duty to establish and provide for the public free schools.”<sup>2</sup>

The keynote address was followed by a conversation with Professor Kimberly J. Robinson, as well as several panels on state responses, school choice litigation, and federalism in the realm of education. *Virginia Law Review*’s outgoing Online Development Editor, Sydney Stanley '23, was responsible for securing Professor Kauffman as the fantastic keynote speaker.

<sup>2</sup> *Edgewood Indep. Sch. Dist. v. Kirby*, 777 S.W.2d 391, 394 (Tex. 1989).

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# Virginia Law Is for Lovers: A Review of Valentine's Day Feb Club Events

Monica Sandu '24  
Co-Executive Editor



Every year, Valentine’s Day catches me off guard. Given retail’s obsession with selling holiday products as early as humanly possible, I’ve been inundated with chocolate hearts and giant teddy bears that say “hug me” on them since December 26, when stores take down all the Christmas gear they’d been offering since August. And then, all of a sudden, it arrived, and I had to confront the fact that I would be spending yet another Valentine’s on my own. Nevertheless, I was looking for a place to socialize and partake in the season’s festivities. As a huge chocoholic whose favorite color happens to be pink, I wanted to be swept away by hopeless romantic wonder. Discount candy and Netflix rom coms just wouldn’t do. Luckily, the Law School’s beloved Feb Club had my back.

Billed as a single’s night, LPS’s *Love Island* party,<sup>1</sup>

<sup>1</sup> I have never seen a single episode of *Love Island* and hadn’t even heard of it until recently. I’m still not 100 percent sure what goes on there, but I can infer some things from context clues.

hosted on Valentine’s Day, gave me high hopes for a fun and romantic night. Imagine my surprise when I showed up to the Rugby Road address in full themed wear only to discover that the house was, in fact, on Rugby Avenue, and I had just been parked by some random person’s driveway for several minutes, waiting for something to happen. Perhaps the fact that all of the lights were turned off should have been a sign that this was not the house I was looking for. Relief washed over me when I finally made it to the party a full fifteen minutes after it was supposed to start. Imagine my shame—as we all know, nobody ever shows up late to Feb Club parties.

One great thing about law school is that you learn so many new things. That evening, for example, I learned what the game “King’s Cup” was. Given that I was only drinking water,<sup>2</sup> however, I began aiming for cards that would let me drink, since I was—and eternally remain—quite dehydrated. After that, we tried to do a tame, Tuesday-night version of the *Love Island* game where people write down their secrets and then the group has to try and match the secret to the person. The fun of this activity

<sup>2</sup> Stay safe, kids.



Pictured: The show we all keep on while doing readings. Credit: The Current.

was dampened by the fact that I had no clue who most of the people at the party were. Still, there were shocking revelations made that night, potentially endangering one’s ability to pass the Character and Fitness portion of the Bar, like the fact that apparently somebody at the Law School makes cookies with premade dough but still calls them homemade. Once I decided to head out, I drove to Kroger in my red dress and heels and bought myself discount chocolate and stuffed animals to my heart’s content before the store inevitably cleared out the shelves by the next day.

While weeknight events are all good and fine, the real fun starts on the weekends. While I was feeling so clever for coming up with the title of this article, it turns out that the name was

already claimed by Virginia Law Women’s Friday-night party, “Virginia (Law Women) is for Lovers.” The theme was pink, glitter, hearts, and anything else cheesy and Valentine’s-themed that your heart could ever desire, paired, of course, with everyone’s favorite beer pong and dance tunes. It was as people kept pouring in and the dance floor got increasingly more crowded that I realized something about myself—I am really bad at mingling.

Whenever I’m at a party, I have a hard time talking to people I don’t know because I always feel like I’m intruding on their existing conversation and don’t have a reason to insert myself into their circle besides just wanting to be social. I feel like I need a reason to go and introduce myself to somebody new, but that means that parties

like this one can often feel as isolating as they are an opportunity for socializing. The advice I got was to just go for it, walk up to a circle, and ask if I could get in on the conversation. This was against everything in my introverted self, so I went with a tried-and-true method instead: sticking close to the people you know and letting them introduce you to new people. As you start to meet more and more people, the connections expand until you’ve been introduced to at least one person in any given circle of people. My night of dancing and new friendships ended with me finding my one true love—a beautiful milkshake from Cook Out.

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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](mailto:dl9uh@virginia.edu)

*Gay Section H Law Weekly Staff*  
v.  
*Dana Lake, et al.*  
75 U.Va 16 (2023)

ALLARD, J. delivers the opinion of the court, in which COLEMAN, J., ADEL, J., D'ROZARIO, J., SANDU, J., ALLEN, J., and MORSE, J., join.

BROWN, E., J., concurs in part and dissents in part.

LAKE, C.J., concurs in judgment.

**Allard, J. delivered the opinion of the court.**

**Background**

Andrew Allard and Ethan Brown are 1Ls in Section H. The two joined the *Law Weekly* as staff editors in 2022. They have attended probably most of the *Law Weekly* meetings and have contributed a combined sixteen articles, all of impeccable quality. And yet, the *Law Weekly's* esteemed Editor-in-Chief, Dana Lake, recently confused Allard and Brown for the umpteenth time. This suit followed.

Plaintiffs request an emergency injunction to prevent Lake and all other Law School students and faculty from repeating the error of calling each by the other's name. In considering Plaintiffs' request, this Court must determine whether it is properly within our jurisdiction to enjoin the Law School community from making honest mistakes, and further, whether Defendant's mistake was, in fact, reasonable.

**I.**

Defendant objects that this action cannot properly be brought before this Court. Upon notice of Plaintiffs' intent to file suit, Lake protested, "No, please! I'm, like, totally face blind! It

was an honest mistake!" Defendant's argument cannot stand. Even taking for granted that Defendant's mistake was an honest one—a very generous assumption, indeed—this Court has a long history of exercising jurisdiction over "many petty complaints . . . between individual students."<sup>1</sup> I mean, it's in our name, for heaven's sake. This Court has even gone so far as to annex entire federally-owned properties in order to complain about them in the auspicious pages of

to prospectively identify all other Law School students and faculty who may make this ridiculous error would be unduly burdensome. Also, while my colleagues may know enough about civil procedure to figure out how to join all of those other parties, I sure as hell don't, and I'm the one writing this thing, dammit. Thus, a Law School-wide injunction is Plaintiffs' only adequate remedy.

It is lastly objected that two of the Justices presiding in this case are the plaintiffs

See Appendix A. Plaintiffs also note that they have contributed many articles to the pages of this paper and even in this very Court. Thus, in light of their distinctive appearances and their towering contributions to the *Law Weekly*, we agree with Plaintiffs that Lake's mistake was unreasonable.

**Conclusion**

Because the issue in this case is exceedingly trivial, it is naturally within our jurisdiction. Further, because

by Justice Allard in Part I, I endorse this Court's exercise of jurisdiction. The Court of Petty Appeals will remain today and forever more a venue for vocalizing *petty* claims, and there is nothing more petty than two catty homosexuals purposefully starting chaos in the waning days of Chief Justice Lake's tenure as she begs tearfully to ride into the sunset. As masterfully illustrated by Justice Allard, the instances of incorrect naming are frequent and widespread enough for this Court to exercise general jurisdiction. And while I apologize to Chief Justice Lake that she bears partial responsibility for the sins of Professor Mitu Gulati, it is an insurmountable feat for me to open up my Federal Rules of Civil Procedure from last semester to check Rule 20's policies on permissible joinder. So, she fights this battle alone.

But I dissent from Justice Allard's assessment regarding the reasonableness of Chief Justice Lake's mistakes in Part II. Reviewing the evidence *de novo*, I reiterate that Justice Allard and myself are flavors of the same person: gay, white, dark-haired, short-to-medium height men who worked in the Washington, D.C. area before graduation; enjoy David Bowie music; use too many emoticons in text conversations that do not require them; have first COPA page 5

*"It is mere silliness to confuse Plaintiffs simply because they are dark-haired, gay 1Ls in Section H who both write for the Law Weekly."*

this paper.<sup>2</sup> So likely are we to assume jurisdiction over even the most trivial disputes that it appears nearly certain that a jurisdictional argument serves only to assist this Court in reaching its word count requirements.

It is next argued that even if this Court has jurisdiction to hear the case, Plaintiffs have no basis upon which to request a Law School-wide injunction. This, too, we must reject. Plaintiffs note that renowned contracts scholar, Professor Mitu Gulati has also made the mistake of calling one by the other's name.<sup>3</sup> To require Plaintiffs

who brought it to begin with. It is argued that based on the fundamental legal principle, *nemo iudex in sua causa*,<sup>4</sup> those Justices should have recused themselves. We need only note that if Justices of this country's Supreme Court are under no obligation to avoid obvious conflicts of interest, then, under the doctrine of whataboutism, neither are we.

**II.**

Having clearly established our jurisdiction over this case, we turn to the merits. Plaintiffs argue that Lake's apparent confusion of their identities is negligent, discriminatory, and unreasonable as a matter of law. On prior occasions wherein Lake confused their identities, Plaintiffs have objected to their treatment as "the fungible Section H gays." Lake has persisted in confusing the two despite their utter lack of visual similarity.

<sup>4</sup> "No-one is judge in their own cause."

<sup>1</sup> *Students v. Parking Enforcement*, 75 U.Va. 13 (2022).

<sup>2</sup> *See In re Suspicious Military Exercise(s) at the Park at North Grounds*, 75 U.Va. 7 (2022).

<sup>3</sup> Professor Gulati has, in fact, confused Justice Allard with two of his Section H classmates. On multiple occasions. But no hard feelings.

they could not look any less alike and are both very unique individuals, it is mere silliness to confuse Plaintiffs simply because they are dark-haired, gay 1Ls in Section H who both write for the *Law Weekly*. Okay, having put it that way, I kind of see the other side's point now. But I digress.

\*\*\*

IT IS ORDERED that Plaintiffs' request for a Law School-wide injunction preventing the confusion of their names is GRANTED.

**Brown, J., concurring as to Part I and dissenting as to Part II.**

For the reasons stated

## Faculty Quotes

**B. Ross:** "The leak continues! I should have brought my *Virginia Law Weekly*."


**A. Woolhandler:** "Things you don't want to hear during surgery: Oops."

**K. Kordana:** "I'm not Mormon but I'm incredibly pro-Mormon. I would tell the federal government to back off because I'm pro-Mormon."

**M. Collins:** "I always laugh when I see a message from Microsoft. It's always at that point you want to exercise your Second Amendment rights on your computer."

**J. Harrison:** "There are still some torts and crimes I might commit, including securities fraud."

Heard a good professor quote? Email us at [editor@lawweekly.org](mailto:editor@lawweekly.org).



## Virginia Law Weekly

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continued from page 4 names starting with vowels; at least nominally identify as Unitarian Universalists; and, finally, write for the *Virginia Law Weekly*.

The similarities listed here are surely only a small fraction of the overlaps in personality, demeanor, and appearance that Justice Allard and myself share. And since there are at least five 1Ls on the paper—perhaps even six on a particularly dull Monday evening, when everyone cares enough to show up—who can blame Chief Justice Lake for mixing us up? If three’s a crowd, then six is a hellish mix of skin and bones. Requiring Chief Justice Lake to have the ability to tell us fungible gays apart is an intrusive standard for this Court to set, one that exceeds the wisdom of this Court’s jurisprudence and erodes the federalist principles this nation was built on.<sup>5</sup> Thus, it can be rationally construed that Chief Justice Lake’s confusion was sufficiently reasonable.

Still, despite my disagreement with Justice Allard’s analysis in Part II, I concur in his final judgment issuing an injunction against Chief Justice Lake for her conduct. What would the *Law Weekly* be if not a place that rewards trivial drama at the expense of our beloved

5 Is this how one does Con Law?



Appendix A: Mr. Allard (left) and Mr. Brown (right). Credit: Jared Tay '25

staff members? Thus, despite my deeply held reservations about Justice Allard’s comments regarding our non-fungibility, I sign onto his judgment.<sup>6</sup>

**Lake, C.J., concurring.**

While I may concur with this ruling under the long-established but almost never-used *mea culpa* doctrine,<sup>7</sup> I will go a step further. This case presents the Court with the chance to evaluate a truly existential question: Are

6 Sorry, Dana.

7 Andrew and Ethan have been active members of the paper, writing several wonderful and iconic pieces. Much, much, much more importantly, they always submit their articles early. It is this fact which has earned them my concurrence.

there circumstances under which 1Ls may win?

We have long held that a class of persons with no rights (such as 1Ls) do not ever have standing to bring suit against upperclassmen, no matter how direct and targeted the petty slight they face may be.<sup>8</sup> That this Court frequently allows such cases to proceed to discovery instead of granting summary judgment says more about the amount of free time our Justices have than anything

8 See *1L Plus Ones v. Barrister’s Planning Committee*, 75 U.Va. 15 (2023). But also I want to emphasize that this is NOT TARGETED. I love all the *Law Weekly* 1Ls equally, if not accurately.

else.<sup>9</sup> There is certainly precedent for belligerent and underappreciated Justices suing the Chief Justice, as seen most recently in *UVA Law Student Body v. Chief Justice Tonseth*.<sup>10</sup> While consisting almost entirely of straight dicta, this case raised several important issues: 1) whether this Court may exercise its authority over the *Law Weekly* Executive Board;<sup>11</sup> and 2) whether, and how, the precedent of “1Ls always lose” can be binding when we frequently find in favor of plaintiff groups which incidentally include 1Ls. Focusing only on this second question, we must find in favor of 1Ls for one simple reason: There is nothing more vital to the exercise of justice than committing to the bit.

We find that—under an exceptionally narrow, tailored, case-by-case evaluation—1Ls may have rights when it is funnier for them to win than it is for them to lose. We expect this rule to be rarely enforced, since there is almost nothing this Court finds funnier than ruling against the objectively correct party (multiply by 100 if the party is a 1L). Even now, I must

9 A suspicious amount of free time for a group of people who must be voluntold to write every week...

10 *UVA Law Student Body v. Chief Justice Tonseth*, 74 U.Va. 10 (2021).

11 It may not, for the record.

fight the urge to tell Plaintiffs/Justices Allard and Brown to go kick rocks.

Am I wrong for misidentifying them? Perhaps.<sup>12</sup> Do I reject their attempts to hold me responsible for my actions? Almost implicitly. Will I stop mixing them up now that I have had to write 400 words in penance? No. I can’t change my nature.<sup>13</sup> The only option available to me to comply with the injunction<sup>14</sup> is to resign from the Executive Board of the *Law Weekly*. That my resignation coincides with the election of a new E-Board and my graduation is a total coincidence.

12 I SAID I WAS SORRY!!!

13 As long as you dress in a distinctive way, do not change your haircut, and do not interact with me in a place where we have not spoken before, I can guarantee a 50 percent chance I will be able recognize your person and a 20 percent chance I will correctly use your name in conversation.

14 Which I am doing voluntarily, not because the Court told me to.

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HOT BENCH



Nishtha "Sai" Kulkarni '23  
Production Editor  
Interviewed by Bryanna Lindberg '23

Hi Nistha! I would welcome you to the *Law Weekly*, but you’re the current Production Editor, so that seems a bit unnecessary. So, let’s get right into it! What is your best quote from your running quote document?

My best quote that I can actually publish in the paper is from two weeks ago: “Who among us isn’t a little into lung play?”

What is the most memorable thing you’ve witnessed in a class? Weren’t you there when Kordana had a stroke?

I was there for that, yes. It was the first Tuesday of classes, at 8:30 in the morning. I am sitting front and center.

In the last thirty minutes of class, Kordana started gripping the podium and staring into space. And we all thought that he’d run out of material. But, after he didn’t say anything for a while, we started to get concerned. Then, some of the students who knew the signs of a stroke ran up, got him to sit down, and called 911. It was really harrowing. And it’s crazy that he was back teaching the next week. He was back on his feet that afternoon! He spent the rest of his first class back apologizing to us, and we were all just like, “But are you okay?”

**How has class been since he got back?**

Well, he has a lot of opinions about Mormons. He thinks they have too much money. Someone said they are hoarding money for the second coming of Christ, and he was like, “Good! So we should tax them, then.”

**Wait, can we put that in the paper?**

Oh, we can definitely put that in the paper. I think everyone in the Law School knows how to take a joke by now.

**What is the most unhinged thing you’ve witnessed at Feb Club, since you’ve been Iron Manning?**

So, I don’t think I’ve witnessed anything too unhinged this Feb Club, but the summer after our 1L year, during Summer Series—which was our Covid version of Feb Club—I went

to this party called Strawberry Moon. That class of then-3Ls were interesting people. It was a nighttime bonfire schtick in this 3L’s backyard, and the party was infamous because he had advertised it as the night that he would reveal the response to his FOIA request of the person who had reported him for breaking Covid rules. So halfway through the party, he pulls out this yellow envelope and is like, “Who wants me to read this?” And then this other 3L in a black mask runs up, grabs the envelope, and throws it in the fire. And this was all done to symbolize that he didn’t want to embarrass the person who reported him, who I later found out was at the party. But it was the most theatrical performance of “stick it to the administration” that I’ve ever experienced.

**Wow. I think I blocked that entire year from my memory.**

I really think that what has defined our experience as 3Ls is the Covid year. I was getting dinner with some 2Ls, and they were asking me about that year, and I was telling them some of the crazier stories I have witnessed or been a part of. And I think the Covid regulations were both the cause of so much drama and something we never fully got past as a class.

**Do you think we’ve gotten better as a class?**

I think Covid caused us to revert to our worst middle school behavior. 2L brought out our worst high school drama.

**And now we’re in college! We’re emotionally stunted like all those kids who can’t read now because of their Covid educations. Are you feeling 3LOL right now?**

I take law school less seriously than I think a lot of people do. I spend a lot of time socializing and networking because I feel like now is the time for us to make friends and get to know professors. We’re going to have to hit our 2,000 billable hours next year, and law school should be about us learning to manage our stress so that we don’t burn out next year. Law school should be about stopping to smell the roses, learning to develop yourself and grow as a person, and having strong relationships. So that’s a long-winded way of saying I’ve been 3LOLing since spring of 1L.

**So, since you’ve had this philosophy during law school, how do you think you’ve grown as a person in the last two-and-a-half years?**

I think I’ve developed a lot as a person, and I’ve really come into my own in more ways than one. I mean, a lot of people wouldn’t choose to come out as trans during law school, but because I’ve taken the time to develop genuine relationships with people, it’s really helped me to feel safe and secure in myself.

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Fourteenth

continued from page 2

Professor Mahoney closed by suggesting that the picture for both *Lochner*’s reputation and its economic liberties might be changing. Pointing to work by Richard Epstein, David Bernstein, and Rebecca Brown, Mahoney said that the view of *Lochner* as an example of reactionary judicial overreach is being reconsidered. Yet still, she said, going forward, there is a generalized resistance to *Lochner* and, relatedly, to unenumerated economic rights. Mahoney said that a number of opportunities were available to address the current situation, including judicial recognition of the Privileges and Immunities Clause and the use of the Equal Protection Clause to protect the disparate treatment of similarly situated people’s unenumerated economic rights.

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## SBA

continued from page 1

often, Senators take a passive role in SBA, and their skills and experiences are not put to use. Rowan and I intend to change this.

As for the school's voice, this is where we are really excited. As you may know, a lot is happening within Virginia's legislature. As one of the best law schools in the country and certainly in the state, there is a lot we can do as law students to impact change that occurs at the state level. There is no reason we should wait until we've graduated to make an impact. We want to incorporate a legislative wing into SBA to give students a structured avenue to speak. This would include regular legislative updates, opportunities for students to call or write to legislators, and even trips to Richmond for students to speak at House and Senate meetings. When UVA Law students speak up, people listen. As your SBA President and Vice President, we want to give students the opportunity to have their voices heard.

Now, while we want to make changes to SBA, we don't want to stop the fun! We will continue to host events like Fauxfield, Barristers, Bar Review, etc. But we also want to add more events that provide students across classes the opportunity to build connections with one another. One event we want to implement is a Field Day, where all classes come together to compete with their sections in games like Tug of War or Capture the Flag. We also plan to host a family weekend where we can integrate those close to us into our law school experience and give them a taste of what law school at UVA entails. Additionally, we think that we can spice up Bar Review by incorporating theme nights periodically throughout the year.

The SBA that Rowan and I have planned is one that gives students greater voices inside and outside our school, while also having a lot of fun along the way. We hope to earn your vote.

—  
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Tommy Cerja '24  
Presidential Candidate

“Refresh. Empower. Celebrate. Join us in refreshing SBA events and programming, empowering student voices, and celebrating all the members of our student body! My name is Tommy Cerja, and I am running for President alongside my incredible colleague, friend, and hopeful future SBA Vice President, Nina Herth. My time at UVA Law has been well spent. I have found community, learned new hobbies, made lifelong friends, and discovered passions both personal and professional that were completely unexpected. It is my hope as SBA President that I will help cultivate an atmosphere where every student is able to take full advantage of their time at UVA Law.

REFRESH. SBA led events foster community by building shared experiences across the student body. These events allow us to take a break, develop friendships, and have fun—all of which are critical to avoid burnout. While SBA has staple events that many of us look forward to each year, we hope to re-vamp these events to keep the good and fix the bad. We will priori-

tize creating new events that cater to a wider range of interests (think: sports watch party, karaoke night, group hike, cultural holiday celebrations). Finally, we will ensure event logistics are smooth so everyone can enjoy them (venues will be big enough for everyone and events will not be planned on religious holidays).

EMPOWER. This campaign is not about us, it is about YOU. Together, Nina and I cover many different organizations and represent both private practice and public interest career paths. TL/DR: We have you covered. We guarantee to keep an open line of communication so anyone can call, text, or email us. As organization leaders, we empathize with how daunting it can be to create programming and work with the administration, and we are here to help. If you have something you want to accomplish, we are happy to help fuel that idea and, if necessary, to passionately advocate on your behalf. We promise to listen with open minds and hearts to all ideas—even ones we may not initially agree with—because encouraging diversity of thought makes our community richer.

CELEBRATE. Let's be real, being a student at UVA Law by itself warrants a celebration. It is an honor to be a part of a community with such impressive, hard-working, and thoughtful peers. It is easy to get caught up in the grind and forget to take a step back and celebrate all we accomplish as students at UVA. No matter what your law school path looks like, this campaign seeks to remind you just how important you are to our community. We are here to carve out time to properly celebrate not only your achievements, but your whole humanity.

We would be incredibly honored if you put your trust in us with your vote. In return, we promise to REFRESH the slate of SBA events, EMPOWER all students and student-led organizations, and CELEBRATE all that is accomplished by our incredible student body.”

—  
dmk7kc@virginia.edu

Kennedy Williams '24  
Vice Presidential Candidate

My name is Kennedy Williams, and I am thrilled to be running for SBA Vice President, especially with an enthusiastic partner like Grace Stevens.

SBA serves the vital role of being students' representative body, which means it provides a platform for community building, as well as answering to, and being responsible for, the concerns of the student body. The Vice President is the chief programming coordinator and is responsible for overseeing SBA's many committees, graduation, and many other class-wide activities. My priority as Vice President will be to use the position to cultivate community within the law school. This will work in two ways – I plan to uplift and support smaller communities within the Law School and provide opportunities to foster community as a whole school. This will include engaging with different student organizations and supporting the events they already host, on top of improving and perfecting the quintessential SBA events. As Grace mentioned, we hope to continue to build upon the different re-

lationships SBA has already established with student groups to keep providing fun inclusive events (and hopefully bring kegs back to Spies!). I hope to make SBA's monthly socials a collaboration with student organizations to enable more groups to share their mission with the student body and allow more students to engage with organizations they may not yet have had the opportunity to. I also intend to collaborate with organizations to “co-host” Bar Reviews to make them more accessible and welcoming.

Moreover, Grace and I will keep ourselves and the rest of SBA accountable to all of you, our classmates. We intend to make approachability and access a focal point of our administration. By further developing our internal program that connects Senators to organization leaders, we can stay more attuned to the needs of different groups. We will host regular office hours to provide anyone and everyone an opportunity to have their voices heard. Furthermore, we intend to keep the administration accountable to student concerns by utilizing existing standing meetings, where we can address needs or concerns raised during General Body meetings, office hours, or casual conversations with our peers.

After spending two years on SBA's programming committee, serving on the Barrister's committee as a 2L Senator, and my tenure as Lone Star Lawyer's Vice President of Social Outreach, I have developed the skills necessary to organize large-scale events in a variety of formats. I would love to introduce (and, again, support the groups on the ground already doing this work) a range of social, educational, professional, and wellness programming. As a Peer Health Educator at Tulane, I worked closely with the administration, student organizations, my peers, and even local businesses to respond to sensitive issues plaguing our community; it required creating a collaborative environment that felt welcoming to all. I intend to continue that work here, as SBA Vice President.

Should Grace and I be elected to serve you, we will work to strengthen our community at UVA Law, restructure SBA to better serve students and organizations, and keep ourselves and the administration accountable to all of your concerns.

—  
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Rowan Adams '24  
Vice Presidential Candidate

James and Rowan are both highly experienced student leaders, and as queer people, we both know what it's like to not be heard or seen in the legal world. James served as president of his college's student government, and at UVA Law, he is Lambda Law Alliance's Interim President, a Law School Ambassador, a Peer Advisor, and a 2L Senator. Rowan was a student senator and vice president of their college's student government. At UVA Law, they were First Year Council President before serving as a 2L Senator and Co-Editor-in-Chief of the Virginia Journal of Criminal Law. We want to use our experiences to give back to the law school community and give a voice to those who need it most. We are both tested leaders ready to be your SBA President

and Vice President.

In office, we will act in three spheres: amplifying students' voices within SBA, asserting the school's voice within Charlottesville and throughout Virginia, and enhancing opportunities for fun and community.

In amplifying students' voices, we will rethink the ways SBA operates within the University's internal functioning and provide more leadership opportunities for students to apply their passions and lived experiences. Namely, we will reshape SBA's Senate. Our vision for the Senate will empower each class's Senators to take on a more active role. As Vice President, Rowan will run the Senate, and they will meet weekly with the Senate to organize and plan as committees, write and pass legislation, and speak with administrators about issues that arise at the school. Through this new approach, Senators will have a greater voice in SBA, giving students outside of SBA a greater voice into how the law school functions. Senators too frequently take a passive role in SBA, and their unique skills and experiences are not applied for the benefit of all law students. James and Rowan will change this.

We are extremely excited to use SBA in a new way to advocate for the law school. As one of the best law schools in the country and the most well-respected law school in the Commonwealth, we hold unique powers as law students to lead change at the state level. If elected, we will incorporate a legislative component into SBA to give students a direct way to advocate for issues they care about in Richmond. This new element of SBA will enable law students to participate in regular legislative updates, create opportunities for students to interact with legislators, and travel to Richmond to speak at House and Senate meetings. When UVA Law students speak up, people listen. As your SBA President and Vice President, we will give students the opportunity to have their voices heard.

While we want to improve SBA's internal functioning and its relationship with Charlottesville and Virginia at large, we don't want to stop the fun! We will continue to host events like Fauxfield, Barristers, Bar Review, etc. But we also want to add more events that provide students across classes the opportunity to build connections with one another. One event we want to implement is a Field Day, where all classes come together to compete with their sections in games like Tug of War or Capture the Flag. We hope to host a Family Weekend, giving students a way to show loved ones a peek into the law school experience. Additionally, we can spice up Bar Review by incorporating theme nights periodically throughout the year.

James and Rowan will lead SBA so students feel represented inside and outside of the law school, while having fun along the way. We hope to earn your vote.

—  
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Nina Herth '24  
Vice Presidential Candidate

Refresh. Empower. Celebrate. Join us in refreshing SBA events and programming, empowering student voices, and celebrat-

ing all of our student body! My name is Nina Herth, and I am running for Vice-President alongside with my incredible colleague, friend, and hopeful future SBA President, Tommy Cerja. The vibrant, collegial, and brilliant UVA Law community is truly unlike that at any other law school, and we both care deeply about not only continuing our beloved traditions, but also creating new ones. It is my hope as SBA Vice-President that I will help cultivate an atmosphere where every student is able to take full advantage of their time at UVA Law.

REFRESH. SBA led events foster community by building shared experiences across the student body. These events allow us to take a break, develop friendships, and have fun—all of which are critical to avoiding burnout. While SBA has staple events that many of us look forward to each year, we hope to re-vamp these events to keep the good and fix the bad. We will prioritize creating new events that cater to a wider range of interests (think: sports watch party, karaoke night, group hike, cultural holiday celebration). Finally, we will ensure event logistics are smooth so everyone can enjoy them (venues will be big enough for everyone and events will not be planned on religious holidays).

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—  
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