



VIRGINIA LAW WEEKLY

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

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Regulating Facial Recognition

Andrew Allard '25
Executive Editor

This past Tuesday, March 21, the American Constitution Society (ACS) at UVA hosted a conversation with Professor Elizabeth Rowe to discuss her *Stanford Technology Law Review* article, "Regulating Facial Recognition Technology in the Private Sector."¹ JJ Citron '24, Programming Co-director for ACS at UVA, moderated the conversation.

Professor Rowe explained that she wrote her article in response to the convergence of two concerns—the diversity of interests in facial recognition technology on the one hand, and the lack of federal regulation of that technology on the other. The idea sprung out of her experience advising on data privacy issues in the private sector, including for "a very large amusement park." Professor Rowe saw that complex and ever-evolving facial recognition technologies were outpacing the law's ability to react and adapt.

In her article, Professor Rowe examines the "common interests and common areas of concern among the various stakeholders, including developers of the technologies, business users, and consumers."² She suggests that consumers and developers alike have good reason to support federal regulation.

Consumer concerns are familiar, ranging from the unwitting collection of biometric data to the potential for misuse, inaccuracy, or racial bias. Developers, too, may benefit from federal regulation—and some companies, including Amazon, are even advocating for it.

Professor Rowe said that the current state-by-state approach to data privacy law amounts to a regulatory headache for businesses. "The cost of compliance for this patchwork of state [laws] is just too high. Which then leads [businesses] to say, 'Please give us federal regulation. We'd rather have one law for the whole country.'"

But what federal regulation would look like remains an open question. The Commer-

1 Elizabeth A. Rowe, *Regulating Facial Recognition Technology in the Private Sector*, 24 *Stan. Tech. L. Rev.* 1 (2020).

2 *Id.* at 1.

Libel 115: Queens of Comedy



Pictured (left to right): Libel's Founding Mothers Georgina Wash-her-wig (Tristan Deering '24), Thomasina Dress-herself (Jonathan Peterson '23), and Jamie Mad-at-her-son (James Hornsby '24)
All Photo Credits: Julia Davis



around north grounds



Thumbs up to San Francisco for going after Little Free Libraries for encroachment. ANG cannot read, so these bastions of disorder must be curbed in the name of justice.



Thumbs down to law students appearing outdoors. Nature is supposed to be a safe place to relax, not to be met by blathering about *Ex Parte Young*.



Thumbs up to 1L LRW briefs being due. ANG is nothing if not a supporter of pointless exercises.



Thumbs sideways to the return of the Spies tent. ANG lives in fear of the Sun but only comes out at night, so ANG has no use for a tent.



Thumbs up to the cast and crew of Libel. ANG appreciates countless hours of hard work being spent for ANG's entertainment (and for the same three jokes every year).



Thumbs up to James Hornsby's inspired performance as the Honorable Reverend Shackelford V. Like ANG always says, the more unhinged, the better.



Thumbs sideways to the Gwyneth Paltrow trial. ANG loves legal drama but worries about what this could mean for ANG's history of skiing accidents. At least ANG's not the only one hitting the powder too hard.



Thumbs up to Libel letting VLR slide with only a couple jabs. Finally, someone is paying VLR the "respect" they deserve.



Thumbs sideways to the 23rd Amendment, ratified sixty-two years ago today. ANG looks forward to someday living in the capital of the free world and being rewarded with partial democratic representation.

Law Weekly Runs the Charlottesville Ten-Miler

Ethan Brown '25
Features Editor



Last Saturday, on March 25, more than a thousand runners took to the streets of Charlottesville to participate in this year's annual Ten-Miler road race. As a long-distance but admittedly not-very-fast runner, I was pumped. I love road races. I'm not a trail runner—never have been, never will be—both because I am afraid of wildlife¹ and because I trip over tree roots like it's my day job. So, my happy place running is on the pavement. Also, seeing familiar places but with the energy and adrenaline of a new race is always refreshing. So, when I learned about the Charlottesville Ten-Miler earlier this semester, I knew I had to sign up.

There are three things that make for a good race: weather, route, and vibes. And honestly, I thought all three were pretty great this year. First, weather: I'll admit it wasn't everyone's cup of tea, but I loved it. When I rolled up to Grounds at 6:45 a.m. ahead of

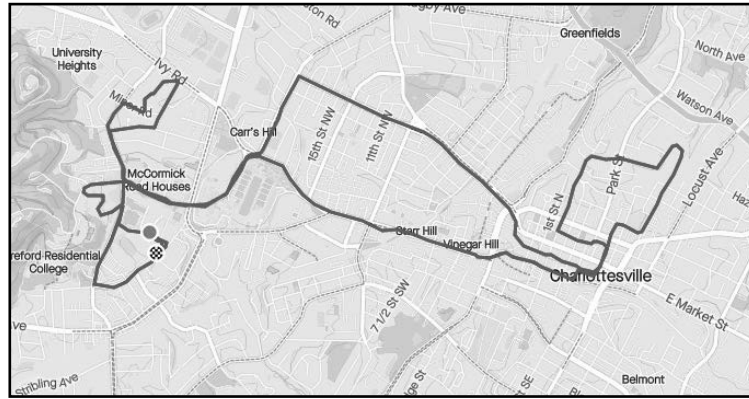
¹ I was stung by a bee for the first time in Spies Garden in January. This article is not about my insect-related trauma—have YOU ever had to sit through eighty minutes of Con Law with a stinger in your upper thigh? Because I have. Nonetheless, the incident cemented my decision to never go into a forest again, because in my head, that's where the bees live.

the race's 7:15 a.m. start time, it was 49 degrees and drizzly—by the time I finished running at 8:30 a.m., it was almost pouring, but the temperature had reached the low 50s. I'm always up for a rainy run, and since I was wearing three-inch running shorts and a long sleeve t-shirt, I'd have preferred the rain over the cold any day. I guarantee that if I had to run ten miles in 30 degree weather, the tone of this article would be significantly snarkier.

Second, the route: It was a great mixture of UVA sights, cute Charlottesville neighborhoods, and the Downtown Mall, with a few good hills and lots of audience participation along the way. While the Charlottesville Ten-Miler has been going on since 1976,² this year's route varied slightly from previous years. Still, Miles 2.5–9.0 took place along the original path, so the bulk of the race was familiar to those who'd run the Ten-Miler before.

When we crossed the start line at 7:15 a.m., we started with a loop around Scott Stadium before snaking up Alderman Road, doing a loop around one of the neighborhoods in between Alderman and Ivy Road, and then heading back down Alderman toward the Lawn. As I've already

² Check out <http://www.civil-letenmiler.com/> if you're interested to learn more about the race's admittedly pretty storied history!



Pictured: The Ten Miler's Route Map (Follow Ethan Brown on Strava) (Photo Credit: Ethan Brown '25)

mentioned in several articles with the *Law Weekly*,³ I'm a big Main Grounds runner, so the first few miles of the race were fun, but I was more excited for the portions through downtown Charlottesville because they're less frequent stops on my runs.

Luckily, those portions came quickly! By Mile 3, we had made our way past the Lawn, across University Avenue, and up Rugby Road. We turned on Grady Avenue and enjoyed a nice, long downhill until hitting Dairy Market—where there were lots of adorable families and friends cheering people on—and then headed up towards the Mall. The rain started to pick up during the next few miles of the race, soaking my bib and forcing me to abandon ship with listening to music, tucking my headphones in my pocket instead. So by the time we reached the Downtown Mall again around Mile 7, I

³ I need to get some new hobbies.

was having a great time but also felt increasingly ready to be done, because the appeal of the whole “running in the rain” thing can only last so long.

As someone who is deeply sentimental about different physical locations in my life, the last few miles of the route were awesome to experience as a UVA student. We ran west on W Main Street from the Mall to the Lawn, passing by the train station, Jefferson Park Avenue, and the Corner. Then we dove back into Main Grounds along McCormick Road for the final mile sprint briefly up Observatory Hill, around the Alderman Road residence halls, and then back to Scott Stadium for a triumphant finish. All in all, I thought the route was fantastic, with a unique blend of UVA and Charlottesville scenery. If I were in charge, I'd keep it for next year's race, too.

Finally, the most important question of any race:

How were the vibes? They were wonderful! I could tell this race has been happening since the 1970s based on how well-run it was. The start line was efficiently run, the course support was well-organized, and the post-race snacks (Trader Joe's bananas, Gatorade, water, Bodo's, granola bars, you name it) were great. And better still, it wasn't one of those races where you're shepherded through a long line after finishing, where different people give you a pre-ordained amount of food.⁴ From what I saw, we were free to grab as much as we wanted. And I also have to shout out the very cute finisher's medal, which—as someone chronically dependent on external validation—will look excellent on my fridge.

It is through this three-part balancing test⁵ that I deem the Charlottesville Ten-Miler to be a great road race, one that I heartily endorse and will look forward to doing both as a 2L and a 3L. I hope I see some of you there next year!

⁴ I'm looking at you, Richmond Half-Marathon. We have beef.

⁵ Call me Justice Breyer, because I friggin' love me a good balancing test.

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Take a Hike: How to Get Lost and Find Yourself

Dana Lake '23
EIC Emeritus



Springtime is for panicking about finals, writing briefs, and being outdoors. While pure, natural fear will ensure the first two happen, getting outside and into the sunshine is something that takes a bit more effort. Luckily, the *Law Weekly* is all about lowering barriers to entry. Whether you have an hour, an afternoon, or a whole day, here are some great local hikes to get you out of your miserable apartment and into the woods.

For Those Who Want to Get Away from It All (For an Hour)

Ivy Creek Natural Area (Red Trail)

The Ivy Creek Foundation maintains a natural area off Earlysville Road (out towards the airport) with more than ten different trails of varying lengths and combinations. We recommend following the well-marked path of the Red Trail, which is a cool 1.7 miles and can be done in about an hour. It has short stints of elevation gain, but mostly meanders gently through beautiful second-growth forest and along the creek. This trail is dotted with benches at key vistas and has historical markers along the way to keep your urge to do readings in check.

Parking is plentiful, and there is a shorter paved trail in addition to historical buildings on the grounds.

Rivanna Trail (Old Ivy Stretch)

A favorite of tree huggers and dog-walkers living in Ivy Gardens, this portion of the Rivanna Trail starts right before the entrance to I-29 on Old Ivy Road and turns you out on Barracks Road if you follow it to the end. It has minimal elevation change and can be completed in about half an hour. This trail cuts through the woods behind Darden, the Law School, and the JAG School, making it an easy lunchtime break for library dwellers. You can turn off the main trail and exit into the parking lot across from The Park, or use this entrance as your starting point and follow the trail up to Old Ivy (or cut it even shorter by exiting onto Leonard Sandridge). Overall, this trail is well-shaded and close enough to the Law School that even the fussiest indoorsy folks can use it to appreciate some dappled sunshine before the humidity of summer rolls in.

For Afternoon Wanderers

Preddy Creek Park (Preddy Creek Outer Loop)

This park is over 500 acres of wilderness, located north of town, just off Seminole Trail. It

has over sixteen miles of hikes, including routes for equestrians and mountain bikers. We recommend the 3.5-mile Preddy Creek Loop for the perfect afternoon break, but there are plenty of oxbows you can tack on along the way to make it a longer walk. The loop brings you over gentle rolling hills, under towering pines, and back to your car (and its AC) in around two hours. Dogs are welcome and parking is ample.

For Folks on the Verge of a Mental Breakdown Who Want to Drop Out and Move to Alaska

Shenandoah National Park

The call of the mountains is strong this time of year, especially when the afternoons turn toward the wrong side of 75 degrees. Shenandoah National Park's higher elevation means it stays cooler longer, usually with a nice breeze to accompany you on the trail. If you are looking to feel like you have actually accomplished something amongst the endless drudgery of moot courts and interviews, a rock scramble is the answer. Shenandoah has several options, depending on your hiking ability.

Hard: Old Rag

Probably the most popular hike in Virginia, Old Rag is almost ten miles of tough walking interspersed with excellent rocks to clamber over. Let the inexorable march to-



Pictured: Ivy Creek - A hike so easy, even my parents could do it!



Pictured: Bearfence - Beautiful in all kinds of weather! (Photo Credits: Dana Lake '23)

takes two—almost every year, one or two hikers find themselves injured on the trail and in need of medevac, which can require a night outdoors if it is too late for the helicopters to fly in. Bring plenty of water, and don't attempt it if you haven't done a long hike before.

Moderate: Bearfence

My personal all-time favorite, Bearfence is only about a mile and a half and includes some extremely satisfying rock scrambling to reach a 360-degree view of the valley. It's a great hike no matter the weather, though rain can make some parts a bit too slick for the faint-hearted adventurer. Fun to do on both clear days, when you can see for miles in every direction, and foggy days, where you feel entirely alone at the top of the world, Bearfence is short enough that you can do it in the morning and then move onto a second trail after lunch. You do not have to be extremely fit to do this trail—there are inclines, and there is some climbing, but as long as you wear proper shoes and don't have a fear of heights, you should be able to manage. Parking is limited, so definitely plan to start early.

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ward graduation fall away, and replace it with the simple falling of footsteps in the woods. This hike will really take you all day, and for some people it

Discussion with New Jersey Secretary of State

Jordan Allen '25
Professor Liaison



This past Wednesday, March 22, the American Constitution Society and the Black Law Student Association hosted a conversation with New Jersey Secretary of State Tahesha Way '96. Secretary Way is the thirty-fourth Secretary of State for New Jersey, having been appointed by Governor Phil Murphy and sworn into office in 2018. Way is also the President of the National Association of Secretaries of State (NASS). Prior to being appointed Secretary of State, Way spent time as an administrative law judge (ALJ) and as an elected representative on the Passaic County Board of Chosen Freeholders.

Opening the event with prepared remarks, Secretary Way began with the story of a medical emergency at nineteen which motivated her to seek out a career in which she could help others in return. After completing her undergraduate education at Brown, UVA Law was her top choice for pursuing her goal. Besides the education itself, her time at the Law School allowed her to connect with the community, clerking for the Virginia Legal Aid Society and the United Steelworkers of America—and to meet her husband Charles Way, a former fullback at the University.

Secretary Way, as the chief elections officer for New Jersey, spent much of the event discussing elections in the current political environment. During her remarks, Way highlighted the importance of such a position as the nation deals with an “upheaval of democracy.” Invoking the efforts in many states to limit voting rights and access under the guise of “election integrity,” a consequence of the Supreme Court’s decision in *Shelby County*, Way drew a sharp contrast with efforts to expand the electorate and access to the polls in New Jersey. Pointing to the 2020 general election, Way spoke of the importance of her role in clarifying election procedures and guidelines, such as the question of curing mail-in ballots. Turning to the upcoming arguments in *Moore v. Harper*, Way highlighted the dire consequences which would follow if the U.S. Supreme Court were to embrace the independent state legislature theory, giving legislatures immense power over administration of elections. Several questions revolved around electoral issues, with one student wondering what someone outside of elected office can do to support access to the polls. While Secretary Way emphasized that electoral politics often change quickly, imploring those in attendance to consider running for office, she also directed students to other avenues for involvement, both in the public and



Pictured: Tahesha Way '96
(Photo Credit: <https://www.state.nj.us/state/>)

private spheres.

Though discussion of voting rights constituted the bulk of the event, Secretary Way also spoke of some of the other areas she has overseen as Secretary of State. While responsibilities within the Secretary of State’s authority vary from state to state, Way outlined some of the work done in addition to overseeing elections. This included chairing New Jersey’s Complete Count Commission, a non-partisan commission established to achieve a complete count in the 2020 census. Way also oversees the state government offices supporting New Jersey’s arts, culture, history, and business communities, a great source of

enjoyment for the Secretary.

Secretary Way also highlighted the importance and impact of her identity as a Black woman. Being the first African American in the Association’s 118-year history to hold the presidency of the NASS, Way is conscious of the fact that a century ago, she would not have been able to hold her position. This history of disenfranchisement and alienation for

people such as herself has fueled a desire to have everyone vote and participate in the political process. Way also emphasized the importance of representation, highlighting an experience from her time as an ALJ. An African American litigant whom Way ruled against came up to her afterwards and thanked her, as seeing someone like himself in such a position reinforced his perception of having received a fair hearing.

A sizable contingent of New Jerseyans came to the event and, in typical fashion, made their presence known throughout the Q&A portion.¹

¹ I say this with pride, having spent my undergraduate years in New Jersey.

Asked about the effects of the political climate on elections in New Jersey specifically, Secretary Way identified misinformation campaigns in the 2019 election and threats against election officials in the 2021 election as troubling issues facing the state.

While the talk revolved around many of the problems facing the Nation and individual states, the overall tone and message remained optimistic about the prospect for progress and the ability to make change, both through positions such as Secretary of State and the efforts of individuals on the ground. “No matter where you live, you can make a difference,” Way emphasized, whether through litigation, volunteering in elections, public interest work, or partisan involvement with party organizations. In times where various factors are “threatening our democracy,” it is integral for those capable to do their part and defend the electoral process.

“It is great to know my state has a champion like her,” said Nolan Edmonson '25.



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A 1L's Guide to Clinics

Ryan Moore '25
Law Weekly
Historian



To be completely honest, I had no idea what a clinic was when I was assigned this article. As a first-generation law student, a law school clinic sounded like where one would seek medical treatment for drinking too much library coffee. So I am glad I attended the Experiential Learning Fair last Tuesday, which featured representatives from all twenty-four of the clinics UVA Law has to offer. Additionally, members of the Externships Program, different skills courses, and Student Records were there to answer all my questions. Overall, the fair is designed to introduce students to clinics, which help them to develop their much-needed professional skills before entering real world legal practice. I now have a much better sense of the role clinics will play in our 2L life.¹

1. What are clinics?

Clinics offer law students the opportunity to develop practical skills under the mentorship of experienced lawyers. Students work with real clients under the direction and mentorship of practicing lawyers. There is a classroom component as well. In addition to real cases, students attend classes to develop professional

¹ At least I hope so...

practice skills and discuss any issues that arise in their cases.

There are two main styles of clinics: yearlong and semester-long. When comparing different clinic options, be sure to check if a yearlong clinic conflicts with both the fall and the spring semester classes you want to take. Some clinics might not conflict with a fall semester class, but come spring semester, you may be unable to take a class you really want.²

UVA currently offers twenty-four clinics, ranging from prosecution/defense to international human rights law to youth advocacy.³ As I was attending the fair, I was overwhelmed with the variety of choices. With so many clinic options to choose from, there is something of interest for everyone.

2. Why join a clinic?

Clinics are an opportunity for law students to get a taste of what being an actual lawyer is like. Students often hear from practicing attorneys that law school is nothing like practicing law. However, in a clinic, law students represent actual clients and do real legal work that changes lives. Kiera Goddu '24, who is enrolled in the Health and Disability Law Clinic, says, “In the wake of

² Before I graduate, I WILL take Privacy with Professor Danielle Citron.

³ <https://www.law.virginia.edu/clinics>.

Dobbs, this [clinic] might be one of the most timely clinics you can join.” Goddu notes that the Health and Disability Law Clinic offers students the opportunity to both represent individual clients and to conduct impact litigation that improves the health and wellness of all Virginians.

3. How are the clinics graded?

Clinics are either a letter grade, credit/no credit, or “honors/pass/fail.” Yearlong clinics are credit/no-credit for the first semester, but that grading changes in the second semester. For the second semester, students receive either a letter grade or honors/pass/fail. Semester-long clinics can be graded either with a letter grade or honors/pass/fail. Be aware that letter grades for yearlong clinics are not based solely on second-semester performance. Professors grade based on a student’s “preparation for and engagement in clinic work throughout [the year].”⁴

Controversially, some clinics are graded on a curve.⁵ This seems like an odd choice, given the fact that every student in a clinic is on the same team, fighting for the same outcomes, for the same clients. Coming from a background in academia, the grading curve

⁴ <https://www.law.virginia.edu/clinics/faqs-about-clinics>.

⁵ Yes, I can read the UVA Law subreddit too.

always has been, and always will be, a weird practice. I approached a 2L about this concern and they gave me a useful tip: Students can check how a clinic grades on LawWeb. Each course description contains a section stating if the clinic uses letter grades or not.

4. How do students enroll in a clinic?

Every 2L and 3L I talked to at the fair expressed how lucky us 1Ls have it, because apparently the old way of enrolling in clinics was a pain. Now, students enroll in a clinic lottery process well in advance of our regular course lotteries. Like other courses, students rank clinics in order of interest. Students can rank as many clinics as they want, but some clinics also require a separate application, which is submitted directly to the clinic’s directors. Student Records then runs a lottery to fill clinic seats based on student rankings. Students can participate in only one clinic per semester and will be enrolled in their chosen clinic before selecting the remainder of their semester classes. Any remaining clinic seats are opened up during the open enrollment period after course selection.

While most clinics are open to both 2Ls and 3Ls, be aware that some clinics requiring court appearances are only open to 3Ls. The deadline to submit applications for fall semester and yearlong clinics are due no earlier than the last Monday in June; spring

semester clinic applications are due no earlier than the last Monday in September.⁶

5. What clinics are you interested in?

Thanks for asking! After attending the Experiential Learning Fair and researching for this article, I think I am most interested in the State and Local Government Policy, Appellate Litigation, and Criminal Defense clinics. State and Local Government Policy offers students the opportunity to work directly with state and local legislators to draft and provide input on pending legislation around Virginia. The Appellate Litigation clinic is vaguely similar to the 1L Legal Research and Writing course, which I have loved.⁷ And the Criminal Defense clinic offers 3Ls the opportunity to work on three actual misdemeanor cases.

⁶ <https://www.law.virginia.edu/clinics/faqs-about-clinics>.

⁷ Although ask me again after oral arguments in April.



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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

3Ls

v.

Graduation Requirements
75 U.Va. 20 (2023)

KULKARNI, J. delivers the opinion of the court, in which COLEMAN, J., ADEL, J., BROWN, J., SANDU, J., ALLEN, J., and PAZHAWAK, J., join.

MORSE, C.J., dissents.

Senior Justice Kulkarni delivered the opinion of the court.

During this past term, this Court has dealt with issues that have divided its members, the student body, and interested parties. It is high time, then, that we return to our roots as a forum for adjudicating the disputes between the students of the University of Virginia School of Law and the administration of this institution. Throughout my three years on this Court, we have gotten lost in petty disputes over the reputations of our members, suits against parties outside our jurisdiction, and other nonsensical subjects. Oftentimes, I myself would be the one falling prey to such temptation. Here, however, we return again to an issue over procedure—a field that traditional appellate courts (which we claim to be a part of) deal with most frequently. Today, we are faced with a complaint from 3Ls at the Law School who brought suit against the administration for the numerous burdens placed in their path to graduation. The burdens alleged in the complaint are three-fold: (1) having to care about classes in their final semester; (2) the existence of required coursework after 1L; and (3) the sheer amount of administrative tasks that must be completed prior to graduation.

The first prong of the complaint is easy to compre-

hend. These 3Ls are trying to exercise their right to relax, as embodied in the vaunted legal term “3LOL.” As countless students have in the past, these students seek to enjoy their remaining six weeks of semi-childhood before being forced to face the elements of a “real job.” This claim, however, can be dismissed out of hand. There is no need to even discuss the rebuttal from the administration. There is a complete lack of standing for such a claim. Standing has

they needed in the first year with the standardized curriculum and should be able to graduate based on “vibes” alone. The administration responded by stating clearly that they are simply trying to comply with ABA requirements and doing their best to produce well-rounded graduates. The Court disagrees with both parties. Vibes alone are not enough. Even though law school doesn’t really teach you the content you need to work at a firm, the administration

students to perform in order to graduate. Between attempts to 3LOL and half-hearted focusing on studies, such things can fall by the wayside. No student should be prevented from graduating because of a simple form. There is already so much stress, these 3Ls argue, with signing up for the Bar, the MPRE, and finding a place to live next year. More tasks create undue stress, in their words. I completely agree with these students.

There is no doubt that

fully in favor of this Court being openly biased, J. Kulkarni ought to remember that even though the First Petty Rule of Civil Procedure is “we do what we want,” we still need to do it in style. But, out of an abundance of respect and affection for my esteemed colleague, I will do my best to play along with J. Kulkarni’s “full send” of a majority opinion.

As I understand it, the harms alleged by the 3L class consist generally of the “numerous burdens placed in their path to graduation.” So, the harms are...graduation requirements? While I could just stop here and note that if there were no requirements to graduate law school, the credibility of our profession would be obliterated, and the practice of law would be exposed as an elaborate façade designed to insulate people who can’t do math, have limited social skills, and an inability to do manual labor, from having to face the broader job market... but that would be too revealing. Since the majority opinion appears to falsely conflate pettiness (the primary virtue of any successful litigant before this Court) with abject laziness, I respectfully dissent. I will address each of the claims which J. Kulkarni did not dismiss outright, in turn.

The second claim is the most laughable on its face: namely, that the Class of 2024 doesn’t think there should be any requirements for total credit-hours, upper-level writing requirements, or professional skills courses, to graduate. Look, I’m just as disillusioned as anyone about what an extractive industry law school (and higher education in general) has become. But, even for the Court of Petty Appeals, this is a stretch. Furthermore, the remedy ordered by the Court, further discovery to determine whether stu-

“Vibes alone are not enough...[b]etween attempts to 3LOL and half-hearted focus on studies, such things can fall by the wayside.”

three elements: (1) injury in fact; (2) causation; and (3) redressability.¹ There is no injury suffered here. No one is stopping the 3Ls from enjoying their last bit of joyful times but themselves. They need to simply have the self-awareness to admit that this is the end of law school and that no one is stopping them from taking it easy and smelling the roses. Grades don’t matter now—even SCOTUS clerkships have largely been decided. If we had the power, I would order any 3Ls not resting and relaxing to do so. Stressing out now does nothing to help anyone.

The second claim the 3Ls present is that the graduation requirements—particularly the number of skills credits required, total credits required, and the upper-level writing requirement—are especially cumbersome. Here, the students in question claim that they learned all that

¹ I truly have no idea what to cite here. Leg Reg? Con Law? Civ Pro? Admin? Who even knows where I picked this up. All I can say is that it is proof that I learned something in law school.

can fairly argue that 2L and 3L are intended to teach students how to deal with content they don’t care about and how to develop load-management skills—important components to success in the legal field. But the administration is also wrong that courses are the only way to develop well-rounded law students. Skills courses are great and all, but until they add a requirement to attend a certain number of social events (either school-sponsored or *wink, wink* school-sponsored) in order to graduate, this falls on deaf ears. As such, this claim is remanded to the lower courts to conduct a more detailed analysis on whether all students are truly developing the thinking and social/networking skills that are required for success in the legal field.

Finally, the most meritorious of the three claims comes at the end of the 3Ls’ complaint. They argue that with such requirements as the OPP graduation survey, random things from Dean Dugas, and who knows how many forms on SIS, there are simply too many administrative tasks for

the administration could take a cue from law firms on such subjects. In the first week, at least at my firm, summer associates are shown a number of videos, sit and fill out forms together, and participate in many activities, similar to college orientations. By the end of the first Friday on the job, these new recruits are ready for proper indoctrination I mean training. What stops the administration from taking a few days to sit the whole class down and do the same? Thus, the best solution is for the administration to reduce their own headache of tracking down delinquent students, putting all the 3Ls in Caplin Auditorium on the first day of the spring semester, and knocking this all out. For the sake of sanity, IT IS SO ORDERED.

C.J. Morse, writing in dissent.

There was a time in which an opinion from my esteemed colleague, J. Kulkarni, was sure to slap. But my goodness, 3LOL has hit hard. While I am

Faculty Quotes

C. Nelson: “POMEGRANATE BLUEBERRY.”

B. Armacost: “All kids look weird, right?”

Student: “This might be a dumb question.”

M. Livermore: “It might be. Let’s find out!”

M. Collins: “There’s certainly no need to look at page 67 if you’re not in the mood.”

A. Bamzai: “The Second Restatement tried to do some restating but then realized that wouldn’t work.”

J. Harrison: “Somebody involved in this process was able to do basic arithmetic, unlike me.”

A. Woolhandler: “How much reading can we take? We may find out.”

T. Nachbar: “What do these people know about education? Not much. They’re lawyers.”


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

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COPA

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dents are “truly developing” the skills “required for success in the legal field”, sounds like a TON of work. If the 3L class wants to avoid doing more work, and the Court of Petty Appeals DEFINITELY wants to avoid doing further work, this surely must be the worst of all possible outcomes.

The third claim attacks “such requirements as the OPP graduation survey, random things from Dean Dugas, and who knows how many forms on SIS.” I have to sigh. I mean, I’m sure you can all imagine me sighing, and heck, maybe you are sighing audibly yourself, but it is important to me that you know that my contempt has physically manifested itself. So, just so we are all absolutely clear: the 3Ls’ third claim is that they shouldn’t have to fill out forms, because... it’s kind of hard? The only profession that I can think of for which filling out boring forms is a core competency is that of tax accountants, and not by a significant margin. Accordingly, the only form of relief this Court should be willing to grant petitioners is an offer of an LL.M in Tax Law. Anything else is more than this Court should be willing to dispense.

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RECOGNITION

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cial Facial Recognition Privacy Act, introduced to the Senate in 2019, has yet to make it out of committee.³ And on the commercial side, Amazon’s policy team has drafted and lobbied for its own legislation.⁴ Amazon’s efforts have been met with some skepticism in light of their interest in the industry.

Overall, Professor Rowe recommends a differentiated regulatory framework, meaning that regulations should be tailored to each industry and use-case.⁵ Professor Rowe says that a similar framework has been adopted by the European Union.

To guide regulators, Professor Rowe suggested that trade secret law could serve as a model for data privacy protections. “If we flip the hypothetical, and what we’re talking about is the equivalent of company faces, company fingerprints—that’s trade secret law . . . That is, as the courts have said, a fundamental right to commercial privacy. Nobody can snoop at it.” But because the law does not currently treat biometric data as an individual’s property, consumers can’t assert the same

3 S. 847, 116th Cong. (2019).

4 See Rowe, *supra* note 1, at 37 (citing Kori Hale, Amazon Pitches Shady Facial Recognition Laws, *Forbes* (Oct. 1, 2019).

5 *Id.* at 48–51.



Pictured: Professor Elizabeth Rowe (Photo Credit: UVA Law)

privacy rights that companies can.

While consumers may benefit from increased regulation, Professor Rowe recognized that getting them to agree on a path forward is no easy task. “We have a love-hate relationship with these technologies,” said Professor Rowe. “If anyone tells us: ‘Put away your phone for just one day,’ we’ll all probably start shaking and having seizures from withdrawal.” With that challenge in mind, Professor Rowe suggested that “regulation in this area may merit reconceptualizing who the ‘public’ is and what ‘they’ want.”⁶

Hearing Professor Rowe talk about her research, one gets a sense of the daunting challenges of regulating in this area—and the potentially severe consequences of getting it wrong. Businesses and government actors alike already

6 *Id.* at 53.

have extensive collections of biometric data, explained Professor Rowe. “All of that is being stored somewhere. And we trust that it will be safe. It’s really not much a question of whether we’ll have these kinds of vulnerabilities, but when.”

Professor Rowe suggested that government actors should think of biometric data privacy as a national security concern. “Over the last few years, the U.S. government has elevated trade secrecy and the protection of commercial information to the level of national security . . . [The government] has spent a tremendous amount of resources, time, and regulation thinking about it from that perspective. We’re not there yet with personal data.”

After the event, I spoke with Professor Rowe about the Biden administration’s efforts to force a sale of TikTok, the social media app owned by a Chinese company, ByteDance. The Biden administration has expressed concerns about

“countries, including China, seeking to leverage digital technologies and Americans’ data in ways that present unacceptable national security risks.”⁷

Professor Rowe said that there are heightened concerns when Americans’ personal data is in the hands of foreign-owned companies. But she explained that transferring that data to an American company, without implementing nationwide data privacy regulations, would likely provide only a marginal benefit to consumers.

7 Press Gaggle, Olivia Dalton, Principal Deputy Press Sec’y, The White House (Feb. 28, 2023), <https://www.whitehouse.gov/briefing-room/press-briefings/2023/02/28/press-gaggle-by-principal-deputy-press-secretary-olivia-dalton/>.

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HOT BENCH



Caleb Stephens '23

Technology Editor

Interviewed by Stephen Foss '25

Caleb, congrats on (almost) having made it through law school. To start off, where are you from?

Thanks! I’m from a small, rural town called Quincy in North Florida, just outside Tallahassee.

Why and how did you find yourself at UVA Law?

I spent a while in undergrad trying to figure out what I wanted to do. I had a year-and-a-half-long flirtation with pre-med, but then I decided to double-major in economics and marketing. After that, law school felt like the right choice; I had enjoyed debate in high school and tended to be interested in legal subject

matter whenever it intersected with one of my other classes. UVA was one of the few law schools I managed to visit pre-Covid, and I just fell in love with it and the area (visiting in early spring, right when the air had that mountain coolness, was a huge selling point). Admissions let me in, the finances worked out reasonably, and the decision was made.

What is your favorite place in Charlottesville, and why?

Not really in Charlottesville, but I love the Bearfence Mountain summit. Bearfence is one of my favorite trails and somewhere I frequently revisit. Watching sunset from the summit is really spectacular, although the hike back down in the dark is not something I would recommend for the unprepared.

You’re stranded on a desert island. You get to pick three UVA Law professors to be your companions. Who are they, and why?

Hard question. I suspect law school professors would be some of the worst people to be on a desert island with in terms of survivability, but I think for great discussions, I’d have to go with Harrison, Kordana, and Johnston, so we could have a long talk about Admin Law.

Can you tell me about your worst or best classroom experience at UVA Law?

Probably one of the best and worst experiences was in 1L Torts over Zoom in fall 2020. The class met from 3:30–5 p.m., if I recall correctly, and my WiFi always crashed and had to restart at 4:45. Inevitably, I would get cold-called at 4:43, panic, start talking, talk for the next five minutes about the torts case, and then realize everyone was frozen and my WiFi had gone out. Fortunately, Professor Armacost was very understanding, and the third time it happened (according to my friends), she just went, “Oh, right, it’s 4:45, his WiFi is out again,” and moved on. It really illustrated how a professor could be both terrifying and understanding at the same time.

What is your favorite bar or restaurant in the Charlottesville area?

Afghan Kebab, probably followed by Martin’s. I’m very fond of Mediterranean cuisine, but I’m also sometimes in the mood for a solid burger.

Is a hot dog a sandwich?

Yes, technically true, so I have to uphold it, although I would caution against relying upon that definition. I would, however, argue that champagne doesn’t have to be from a region of France, and “oat milk,” while enjoyable, really should be called oat juice. Also, the items at the business formerly known as “Dunkin’ Donuts” are not doughnuts by any stretch of the imagination.

What’s your favorite piece that you worked on while at Law Weekly?

I always love working on the COPAs, but I think my favorite is the article I wrote on How to Avoid Studying to Study Better. I really loved deliberately rethinking the way I did my readings, and I’ve found several more tools since that really are beginning to look like a sequel.

What is your favorite law school memory?

As far as direct memories directly related to the Law School, I think probably walking out of class with my friends and arguing about administrative law and executive power. I don’t know that I have a specific instance to point to, but that’s been something I’ve had a lot of fun doing, and it felt like a quintessential law school experience. Other than that, just the friendships I’ve made over my three years here are really what I’m going to take away from my time at UVA.

Where will you be after graduation?

I’ll be clerking in Washington, D.C. on the Court of Federal Claims for Judge Somers. After that, I don’t have “firm” plans.

Lightning Round!

Favorite Florida Man Headline?

Florida Man Runs Over Self With Car (there’s a video of

that one, and it’s hilarious).

Pineapple on pizza?

Sometimes—nowhere near the first choice, though.

Favorite song right now?

“Riverside” by James Spaite.

Parallel parking skills?

Bad. Like I said, I’m from rural North Florida.

Student Affairs snack of choice?

Tax Review beverages.

Favorite zoo animal?

I feel like it’s got to be a zebra, cause they’re just enough like a horse to tempt me to try and ride them but far enough away that they’d probably kill me. Either that or giraffes, because they’ll occasionally eat rabbits.

How do you take your coffee?

Lucky Goat, Lucky 7 Espresso Blend through an AeroPress (sometimes a French press) with three teaspoons of turbinado sugar and a splat of half and half.

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