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Flansburg and Takei Win 96th Annual Lile Moot Court Competition

Noah Coco '26
Managing Editor

On Thursday, November 14, in Caplin Pavilion, Jake Flansburg '25 and Malia Takei '25 won the 96th William Minor Lile Moot Court Tournament. They bested Benjamin Baldwin '25 and Nathaniel Glass '25, who was awarded the Stephen Pierre Traynor Award for best oralist. The two teams competed before a panel of three judges: Michael Y. Scudder, judge for the U.S. Court of Appeals for the Seventh Circuit; Kevin A. Ohlson '85, Chief Judge of the U.S. Court of Appeals for the Armed Forces; and Trevor S. Cox, former Acting Solicitor General of Virginia and current litigation partner at Hunton Andrews Kurth in Richmond.

The problem argued by the teams concerned the retaliatory treatment of a federal inmate for the exercise of his First Amendment rights. While still in prison, the litigant filed a Section 1983 claim against the prison warden. When he was subsequently released from prison, he filed a supplemental complaint to reflect his new custodial status. The specific issues addressed in the finals were (1) whether the litigant's suit was subject to the Prison Litigation Reform Act (PLRA) even though he was no longer incarcerated, and (2) assuming the PLRA governed the suit, whether the statute's physical injury requirement applied in a case alleging deprivation of a constitutional right.

Each competitor had fifteen minutes to present their oral arguments before the judges. Takei was the first to present her argument for the appellant on the first issue, followed by Baldwin for the appellee. Flansburg then presented his argument on the second issue for the appellant, followed by Glass for the appellee. The competitors all displayed adept mastery of the issues and exemplary

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Clinic to Argue Straight Client's "Reverse Discrimination" Claim Before Supreme Court

Source: Phil Roeder

Andrew Allard '25
Editor-in-Chief

Students and faculty at the Supreme Court Litigation Clinic are representing a straight client in a Title VII "reverse discrimination" claim. The Law School announced in early October that the Supreme Court had agreed to hear the case, *Ames v. Ohio Department of Youth Services*.[1] But the clinic's filings in *Ames* date back to February, suggesting that clinic members have been working on the case for almost nine months. According to *UVA Today*, the case involves "a state employee's sexual orientation discrimination claim."[2]

The Supreme Court accepted *Ames* for argument this term alongside another clinic case, *Cunningham v. Cornell University*, which involves the Employee Retirement Income Security Act. Securing two cert grants is a milestone for the clinic under its new director, Professor Xiao Wang, who joined the Law School last year. The clinic is also collaborating on a third Supreme Court case, *Perrtu v. Richards*, which is being defended by the Law School's Appellate Litigation Clinic.

The Supreme Court Litigation Clinic had only brought three cases before the high court in the five years before Wang became director, most recently arguing *Jones v. Hendrix* in 2022. Speaking to the *Law Weekly*'s Hot Bench in September 2023, Professor Wang said that he hoped to change the clinic's appellate strategy.[3] "I will be trying some creative ways to find more cases for students to work on," said Wang, citing a downturn in the federal government's appeals and law firm partners who are part of the Supreme Court bar as possible inroads.

But not all students are celebrating the clinic's newfound success. Members of the Lambda Law Alliance at UVA (Lambda) have questioned the clinic's decision to take on Ms. Ames's reverse discrimination claim. In a statement published to Instagram on October 31, Lambda criticized the clinic's decision to pursue a case that could use UVA resources to "undermine LGBT+ individuals' interests and opportunities." Lambda also criticized the clinic's perceived lack of transparency in its case selection and assignment process, calling for the disclosure of the rubric and "ethos" guiding the clinic's decisions.

Responding to an email inquiry on *Ames* and the clinic's case selection policies, Professor Sarah Shalf '01, the Law School's Director of Clinical Programs, said that how the clinic selects cases is a "question of academic freedom" and that "case selection is a matter for the faculty member to decide." Professor Shalf noted that the Supreme Court Litigation Clinic is guided by "several factors" in selecting cases, including the strength of legal arguments and pedagogical benefits.

Shalf also highlighted the educational benefits of clinics. "UVA Law's Supreme Court Litigation Clinic is designed to give students the incredible experience of working as appellate lawyers at the highest level of practice," said Shalf, noting that the clinic "represents a variety of clients on a wide swath of issues, covering the breadth of the political spectrum, as well as those with no political valence at all."

Shalf emphasized that representing a variety of clients is both an educational benefit and an ethical duty of attorneys. "[T]he Supreme Court Clinic can and should teach students to engage with and advocate for a position or client that may be personally challenging because this is what lawyers do in practice," she said. Professor Shalf encouraged students with specific questions about case assignment practices to speak to individual clinic directors for more information.

Last week, Lambda's President, Marissa Varnado '26 met with Professor Shalf to discuss Lambda's concerns about *Ames* and the clinic's

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1 news.virginia.edu/content/us-supreme-court-agrees-hear-three-uva-clinic-cases.

2 www.law.virginia.edu/news/202410/supreme-court-takes-3-clinic-cases.

3 www.lawweekly.org/features/2023/9/29/hot-bench-professor-xiao-wang.

around north grounds

Thumbs down to *Law Weekly* EIC for dabbing in the office. ANG hates second-hand embarrassment.

Thumbs up to UVA alum and future Secretary of HHS RFK Jr. ANG also believes in the lifesaving power of a Big Mac.

Thumbs down to William & Mary Law School for producing such high quality alumni. I mean, UVA Law would never let someone like Matt Gaetz get a J.D., right?

Thumbs up to Gary Larsen. Please direct questions on this subject to bjs4u@virginia.edu.

Thumbs sideways to the death of the Royal Dog. ANG is always sad to see a furry friend go. But bad things happening to King Charles is funny. Also, ANG got fooled by the headline into thinking the King had died, not his dog. Total bait and switch.

Thumbs up to *The Onion* buying Alex Jones' *Infowars*. ANG can think of another paper that is in the market right now...

Thumbs down to coups against Editors-in-Chief. ANG thinks the *Law Weekly's* EIC is unimpeachable in multiple senses.

Thumbs sideways to turkey. ANG does not enoy eating it but loves to use it as an insult.

Thumbs down to the dastardly raccoon that was justly executed by a courageous Charlottesville police officer. ANG has heard rumors that the raccoon was making furtive movements. One thing is certain—justice was served.

Thumbs down to pecan pie. ANG can't stop eating it. Help.

Thumbs up to George Santos, who is looking like a great contender for DOJ Inspector General.

LILE

continued from page 1

appellate advocacy. "Any of [them] would be welcome in the Seventh Circuit," remarked Judge Scudder. Takei and Flansburg will be honored with a plaque to be hung in Slaughter Hall, joining the esteemed list of past winners.

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SCOTUS

continued from page 1

case selection policies. Citing her conversation with Shalf, Varnado told the *Law Weekly* that clinics do not generally consider the impact on students when selecting cases. While Shalf reportedly reassured Varnado that clinics would consider student impact in "extreme" cases, she did not explain what would count as an extreme case.

Reflecting on the meeting, Varnado reiterated the need for transparency. "Our concern is that this will continue to be an issue: the Clinic in the dark takes a case that may constrain minority rights, the community finds out about it in a press release, and people continue to question whether they have a place in this community, at this University, or in this field."

For her part, Professor Shalf expressed openness to continued dialogue about clinic practices. "I appreciate [Lambda's] willingness to share their views about how to improve the clinical experience at the Law School. I look forward to ongoing conversations with Lambda, and I welcome conversations about clinical programs from any student or group." Still, Shalf was careful not to suggest that clinics would be able to respond to all student criticisms, noting that "professional ethics rules prohibit us from having a community-wide discussion of the specific reasoning behind taking [*Ames*] or any other individual case."

Professor Wang declined to comment, citing ethical and professional obligations. Clinic students assigned to the case likewise declined to comment, citing a general direction from clinic instructors to refrain from speaking publicly about ongoing cases. A disclaimer on the clinic's webpage states: "The positions that the clinic takes on behalf of its clients are independent of the views of the University of Virginia or the School of Law." Speaking to *UVA Today* in October, Professor Wang said of the case "We think that whatever the test is for discrimination, it should apply equally across groups and across individuals."[4]

The Supreme Court Litigation Clinic is no stranger to controversial cases. Its recent appeal in *Jones v. Hendrix* also prompted criticism. *Jones* addressed the availability of post-conviction relief for criminal defendants whose conduct was later determined to fall outside the scope of the criminal law under which they were convicted. Critics noted that recent Supreme Court opinions had narrowed post-conviction relief, making it likely that the clinic's appeal would resolve a defendant-friendly 8-4 circuit split unfavorably. The Court ultimately ruled against Jones, the prisoner.

Despite the fervor around *Ames*, Professor Joy Milligan, who teaches Civil Rights and Anti-Discrimination Law at the Law School, said that a win for Ms. Ames in the Supreme Court may not change the outcome of her case. "I don't think the structure of the prima facie case is driving outcomes in these cases, whether they involve reverse discrimination claims or traditional discrimination ones," said Professor Milligan, referring to the legal issue before the Supreme Court. "Much more important is simply whether the court thinks the plaintiff has made enough of a showing on their ultimate burden of persuasion to reach a jury."

In this case, Milligan said Ms. Ames likely didn't meet that burden. "[M]y read of the [lower court's] opinion suggests that both the appellate and trial courts would equally have found that she failed to provide enough evidence to allow a jury to find in her favor, even without the finding on the prima facie case or the extra hurdle that their doctrine theoretically imposes at that stage."

The deadline for briefing in *Ames* is set for February 2025, with oral argument likely to occur shortly thereafter. *Cunningham*, the clinic's other pending case, is scheduled for argument on January 22. Wang is counsel of record in the filings for *Ames* and *Cunningham*, making him the most likely candidate for oral argument. They would be his first-ever oral arguments before the Supreme Court.

4 www.law.virginia.edu/news/202410/supreme-court-takes-3-clinic-cases.

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MUSHROOMS PART TWO!!!

Noah Coco '26
Managing Editor

Remember in October when we published an article listing several varieties of mushrooms you can find around north grounds? Well, that was just the tip of the iceberg, baby. There were so many shrooms that we had to cut those bad boys in half. In celebration of the fall decay, please enjoy the final five fungi…

1. Porphyrellus (*Porphyrellus sordidus*)[1]

I spotted this next species beneath the trees in the grassy area between the D3 parking lot and the Law School. These sad subjects apparently do not have a colloquial name; the app provides essentially no descriptive information concerning this species; and Wikipedia is of marginal utility for filling in the details. Perhaps I just got this identification wrong. However, the height of the stem and size of the cap do roughly match the typical dimensions of a *Porphyrellus sordidus*. In addition, it is typical to see the brown caps begin to crack as they age, which appears to be happening in the images above. The app does mention that this species typically grows under oaks or conifers— which is again consistent with where I found these subjects—and we are still within this species' primary growing season.

2. Grisette (*Amanita vaginata*)

I honestly feel most confident about this next identification because the app only returned one result. I also found these mushrooms under the trees next to the D3 parking lot. Grisettes have a moderately long stem and grayish-brown cap that is initially convex before flattening out as it matures. They are apparently a very hardy and adaptable species and can grow in coniferous or deciduous forests, or even in grassy areas in disturbed environments. They most commonly live symbiotically among tree roots, which appears to be where I found these subjects.

3. Saffron Bolete (*Leccinellum crocipdium*)[2]

The trees between the D3 lot and the Law School are apparently rich with diverse fungal life because this is the fourth species of mushroom I found thriving within the area's arboreal embrace. There were several contenders for this identification, many within the same genus, but I decided on this species because of the relatively muted yellow hue and lack of deep wrinkles, which were more characteristic of some of the top alternative choices. However, this species is apparently another rare one to find. As this mushroom ages, its yellow hue will fade to brown, so if my identification is correct this is a relatively young subject. They commonly grow symbiotically with oak trees (surprise). The most likely alternative, the wrinkled leccinum, is a relatively more common species also known to grow among oak trees. But I decided against this alternative because wrinkled leccinums look like they generally have a deeper orange hue and develop much deeper wrinkles as they age. Perhaps this is just a young subject, as noted above, that has yet to develop its deep hues and wrinkles, but as always I will leave that precise determination to the professionals.

4. Blusher (*Amanita rubescens*)

The oak trees between the Law School and the D3 lot continue to deliver with this next subject. The blusher is yet another species that grows in a symbiotic relationship with tree roots, especially with oak or pine trees. It derives its name from the pinkish-red pigment it develops when cut or bruised. These mushrooms grow relatively large hemispherical caps that flatten as they mature and are spotted with grayish or brown patches. This species

SHROOMZ page 6

1 Alternative: Red Cracking Bolete (*Xerocomellus chrysenteron*)

2 Alternatives: Wrinkled leccinum (*Leccinum rugosiceps*); Rugiboletus (*Rugiboletus extremiorientalis*)

What is Litigation Financing?

Emily Becker '27
Staff Editor

Litigation financing is third-party investment in legal proceedings. It is available to plaintiffs and defendants, organizations, and individuals. The investments themselves are nonrecourse, meaning that the funded party only owes the financier if they "win," distinguishing these transactions from traditional loans. For plaintiffs, the definition of victory is often clear: monetary damages. Financiers take a cut of a settlement or award, mimicking the contingency fee structure. For defendants, victory is less obvious: it involves the financier and defense agreeing on a maximum ideal settlement amount. The financier then pays the litigation costs and agrees to pay any portion of the settlement exceeding the agreed-upon ideal amount. Thus, the defendant can negotiate knowing that their exposure is capped at a certain value and can undertake litigation proceedings without worrying about risking a massive award. If the parties settle at or below the ideal amount, the defense pays back the financier with interest.

Plaintiff-side litigation financing, in particular, has evolved into a veritable industry. Burford Capital, the largest fund of its type in the Americas,1 touts its $7 billion portfolio and 93 percent success rate.2 Another fund, Parabellum Capital, advises prospective clients on its website that it prefers to work with plaintiffs seeking settlements of at least $10 million.3 Globally, litigation finance became established in Australia and the United Kingdom before gaining momentum in the US.4

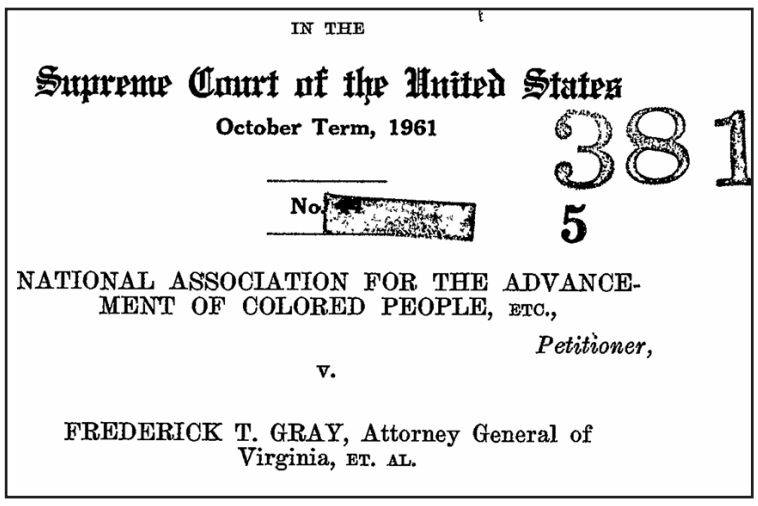
As I read up on litigation financing, most of the articles I came across alluded to its controversial nature. In 2022, the Government Accountability Office published a report on litigation financing which pointed out federal law does not directly regulate litigation funding

1 chambers.com/law-firm/burford-capital-litigation-support-58:23028689.

2 www.burfordcapital.com/about-us/.

3 www.parabellumcap.com.

4 Emily Samra, The Business of Defense: Defense-Side Litigation Financing, 83 U. Chi. L. Rev. 2299 (2016).



IN THE

Supreme Court of the United States

October Term, 1961

No. 381

5

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ETC.,

Petitioner,

v.

FREDERICK T. GRAY, Attorney General of Virginia, ET. AL.

Source: Westlaw

and that it may deter settlements and increase litigation costs for defendants.5 In a 2019 interview, Christopher Seeger, founder of a plaintiff-side firm specializing in class actions and mass torts, was quoted describing his cautious approach to litigation financing—he feared that his clients would be taken advantage of by third-party funds looking to "cannibalize" their awards. In the same breath, though, he acknowledged that he has personally known plaintiff-side attorneys who leveraged their own assets to front the tremendous litigation costs associated with the contingency fee structure of plaintiff-side litigation. Mr. Seeger explained that plaintiff-side firms have been "wiped out" by protracted, expensive litigation and that litigation financing could change the game for plaintiff-side attorneys.6

5 www.gao.gov/products/gao-23-105210.

So, what should we think about litigation financing? Does it level the playing field and help plaintiffs with legitimate claims bring cases they might not otherwise get to? Does it contaminate attorneys' autonomy with third-party interests? Does it actually allow both sides to shift risk to a third party, unburdening the settlement negotiation process of worries about attorney expens-

6 judicature.duke.edu/articles/a-bridge-too-far-an-expert-panel-examines-the-promise-and-peril-of-third-party-litigation-financing/.

es? It would take a great deal more research and thought to thoroughly answer any one of these questions, though I certainly think they are worth answering. For now, though, I want to ground the debate in history—namely, state laws regulating litigation financing. Litigation financing falls under the legal concept of champerty, which is the act by a disinterested third party of providing support for litigation in return for a pecuniary award. In the early twentieth century, champerty was widely prohibited. Why? It appears that, at least in Virginia, champerty laws were motivated by a desire to prevent civil rights litigation in the wake of desegregation.

A seminal Supreme Court case, NAACP v. Button, overturned Virginia's champerty law, which had been passed in 1956, just a few years after Brown v. Board of Education.7 The law had been part of the state legislature's plan of "massive resistance" to oppose desegregation. It outlawed "improper solicitation" of clients for attorneys, which the court calls "the State's at-

7 firstamendment.mtsu.edu/article/naacp-v-button/.

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Professor Konnoth Predicts Loss for Gender-Affirming Care in *Skrmetti*

Andrew Allard '25
Editor-in-Chief

In just two weeks, the Supreme Court will hear arguments in *United States v. Skrmetti*, a case that could reshape the legal landscape for trans youth across the country. At issue is the constitutionality of Tennessee's ban on gender-affirming care for minors. UVA Law Professor Craig Konnoth, who wrote an amicus brief for a group of experts on gender-affirming care, says Tennessee is likely to win.

Speaking at a panel hosted by the Lambda Law Alliance at UVA last Thursday, Konnoth predicted that the Supreme Court would uphold Tennessee's gender-affirming care ban. Konnoth said the Court would likely hold six-to-three that strict scrutiny doesn't apply, allowing them to uphold the law under rational basis review. "I think we're gonna lose," Konnoth said, echoing the sentiment of LGBT lawyers in D.C. whom he informally surveyed. "There were a few people who were optimistic, but a majority of people are pessimistic."

Still, Konnoth did not expect a sweeping ruling that would settle the constitutionality of discrimination based on gender identity. "I do think that biological differences will be invoked to help narrow the scope of the ruling," said Konnoth. That would prevent the Court from reaching the more controversial issue of the Fourteenth Amendment's prohibition on sex discrimination. In 2020, the Court held in *Bostock v. Clayton County* that Title VII's protections against sex discrimination extended to gender identity. Since *Bostock*, whether the same logic extends to the Fourteenth Amendment has been a hotly contested question.

Wyatt Rolla '13, the ACLU of Virginia's senior transgender rights attorney and a lecturer at the Law School, emphasized that any loss in *Skrmetti* would be "catastrophic." Rolla added that gender-affirming care providers are already under pressure. "Providers in Virginia are completely overwhelmed. . . . People are traveling from Florida, they're traveling from Arkansas. We're the only state in the South to provide this care."

Despite Professor Konnoth's grim outlook, both he and Rolla highlighted weaknesses in Tennessee's legal arguments. "There's some pretty damning evidence of what the legislature intended in passing that law," said Rolla, arguing that the law could even fail under the highly deferential rational basis review because it appeared to be motivated by animus. And Professor Konnoth highlighted the United States' argument that the Tennessee law is overt sex discrimination. "You say sex right there in the statute. There's no two ways about it. You've discriminated based on sex."

As UVA Hospital pediatrician Dr. Julia Taylor noted, Tennessee's law does not prohibit gender-affirming care for patients whose gender identity comports with their sex assigned at birth. Gender-affirming care for cisgender individuals is widely practiced, Dr. Taylor explained. "Gynecomastia in young men, the reduction of breast tissue, is a surgical operation that is offered to cisgender individuals almost without question. Hormonal therapy is used often, usually in cisgender females . . . with a menstrual-related problem that doesn't match with their peers," said Dr. Taylor. Professor Konnoth added that gender-affirming care for cisgender individuals numerically outnumbers similar treatment for transgender individuals.

Regardless of the Court's decision in *Skrmetti*, Trump's recent electoral victory may have already handed Tennessee a win. Rolla noted that the Supreme Court granted certiorari at the request of the United States, not the transgender plaintiff. "There's no uncertainty about what the position of the Department of Justice will be after Trump takes office," said Rolla. With Trump's inauguration scheduled in late January, the Department of Justice may be positioned to seek a withdrawal from the case before the Court has issued its opinion. That could lead to a "wonky procedural legal question," Rolla explained.

The incoming Trump administration may also adopt new regulations or sign laws that restrict the availability of gender-affirming care nationally. Rolla said that President Trump could enact a national restriction modeled on the Hyde Amendment that would restrict the use of federal funds for gender-affirming care. An even more draconian option, pulling federal funding for private healthcare providers that offer gender-affirming care, has also been proposed.

"We already saw the budget riders in 2024 that tried to do that. So this is not a hypothetical fringe strategy. It is a real policy proposal," said Rolla. Dr. Taylor added that restrictions on federal funding could cause a national collapse in gender-affirming care for trans youth and adults. "If you pull Medicare funding, large hospitals may fold," said Dr. Taylor.

While the effect on trans youth will be most immediately felt, a win for Tennessee in *Skrmetti* could reach beyond gender-affirming care. "It's not just trans people," said Rolla. "It is the ability to make medical decisions about your body, about your family structure. The kinds of scaffolding they are building will impact people far beyond trans youth."

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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 editor@lawweekly.org

Denials of Certiorari

Not every petty dispute makes it into the halls of this esteemed Court. Here are some of the most recent entries in the loathed "denial pile."

1. *Federalist Society v. Trump*, 24-CV-0176

UVA's Federalist Society petitioned the District Court of Petty Complaints to enjoin President-Elect Trump from appointing Matt Gaetz as the Attorney General of his Justice Department, reasoning that one of their members should be appointed instead. FedSoc seeks our review of the District Court's dismissal of their case for failure to state a petty claim. The petition for certiorari is denied. The Court of Petty Appeals will play no part in subjecting UVA Law students to the atrocious LinkedIn posts that would surely result from such an order.

Allard, C.J.?, dissenting.

I believe the District Court's order dismissing the case did not adequately examine the pettiness of the Federalist Society's claim. As recent and soon-to-be graduates in their twenties, their members are the ideal demographic for future federal judgeships and even possible candidates to replace Justices Thomas and Alito. At first glance, their demand that they *also* be awarded the top spot in the Department of Justice resounds in the heartland of pettiness. I would grant cert to more closely review the pettiness issue.

> "Certainly a better justice would recuse themselves from such a decision, but this is the Court of Petty Appeals"

2. *Section E v. Virginia Law Weekly*, 24-CV-0052

Responding to *Virginia Law Weekly*'s September 11, 2024 issue where they received dead last in the annual softball team name ranking, the 1L members of Section E seek an injunction to prevent the editors of this competent and respectable organization from continuing to defame their team name. This court defers to the opinion of Section E's professors that the name is dreadful and confusing. Because Section E' stance is "clearly erroneous," and defamation is undoubtedly permitted in this case, the petition for certiorari is denied.

Newton, J., concurring. Certainly a better justice would recuse themselves from such a decision, but this is the Court of Petty Appeals, and in accordance with our jurisprudence, I must abide by my standards of petty review. Thus, I agree with the court's denial of this petition for certiorari and encourage plaintiffs to refer to the "E" pages in *Black's Law Dictionary* in the future.

Coleman, [C.]J., dissenting.

The Chief Justice should have the power to enjoin editors of this paper. Suits for injunctive relief implicating pieces in the *Law Weekly* ought to be permitted. In this case, there is good reason to think that Section E was mistreated. And they sought the proper forum by coming to this Court.

3. *Pope Gregory XIII v. 3Ls*, 24-CV-0109

A group of 3Ls brought suit against Pope Gregory XIII for his role in creating the Gregorian calendar. The 3Ls argue that Pope Gregory XIII's calendar is responsible for this year's late Thanksgiving, which is preventing them from fully 3LO-Ling. The District Court ordered Pope Gregory XIII to revise the calendar to accommodate 3Ls, around whom the world revolves. The deceased Pope seeks our review. We decline to disturb the District Court's holding, as we believe it appropriately privileges 3Ls' right to do as little work as possible over every other conceivable interest.

Allard, C.J.?, dissenting.

We recently held in *In re the Ghastly Specter of Christopher Columbus* that petty courts must supply a qualified interpreter in cases involving noncorporeal beings. *See* 77 U.Va 8 (2024). The record below does not make clear whether the court met this due process requirement. Accordingly, I believe our intervention is merited to ensure compliance with our supernatural jurisprudence.

Coleman, [C.]J., dissenting.

As a papist, I must side with the late pontiff. Without his work, we could see summer weather in November—unimaginable. And 3Ls have no standing to bring any suit. They live in absolute luxury.

4. *Virginia Law Women v. Virginia Law Weekly*, 24-CV-0213

Allen, J., concurring
Virginia Law Women filed

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Faculty Quotes

M. Collins: "Where are we going? We're heading to the exits. "

A. Deeks: "Is Bodo's a military objective?"

D. Brown: "He is also famous for being in a polygamous relationship, or a throuple as we would call it today."

G. Rutherglen: "You may as well be holding up a newspaper in front of me if you're gonna [have your phone out in class]."

A. Coughlin: "We've got your butt-print, Joe. Did you know we can take butt-prints now?"

K. Kordana: "When you see duty of care, you want to think - How do I abuse that?"

V. Horrock: "My unsupported theory is that it's Big Horse."

Heard a good professor quote? Email us at editor@lawweekly.org or submit at lawweekly.org/quotes.

suit seeking injunctive relief precluding the *Virginia Law Weekly* from using the acronym VLW, alongside a declaratory judgment that Virginia Law Women is the rightful owner of the trademark. The *Law Weekly* cross-filed, claiming the acronym for themselves. While each side has compelling legal arguments, we deny cert because we find the dispute too theoretical and unripe—with no showing that any employer, judge, alum, or other party has ever actually confused the two institutions. Parties may renew their arguments should the factual circumstances change.

5. *Non-Double Hoos v. GroupMe*, 24-CV-0083

Wu, J., concurring

Non-Double Hoos who are new to UVA recently filed a class action in the District Court of Petty Appeals for injunctive relief against the use of GroupMe as a form of communication, reasoning that its terrible UI and notification system makes it an ineffective form of sending messages to other law students. They seek to review the District Court's summary judgment which stated there was an insufficient complaint of injury and "no one would want to move to a platform like Discord." The petition for certiorari is denied as the Court of Petty Appeals finds these students do not have a valid complaint of injury: it is better to be at home alone, ignoring the law school world anyway.

Lawyer Tools

Bradley Berlich '27
Staff Editor

HOT BENCH

Sarah Ware
Interviewed by Jason Vanger '27

Hi Professor Ware! Thank you so much for meeting. I'll start with an introduction: Where are you from, how long have you been at UVA, and what do you do here at the Law School?

I was born in Iowa, but I mostly grew up in Northern Virginia, so from near here. I've been at UVA for sixteen years now. I started in 2009, and I teach Legal Research and Writing.

To start with, I know you had a career before law school, so can you tell us a little about that?

I first worked for a big book publisher in New York City for about seven years doing editorial work on trade books—trade books are the kind of books you would buy in Barnes & Noble. I did all nonfiction, mostly economics, history, and science books. It was a lot of fun. And then I went to law school and was a lawyer for the City of New York for a few years before coming to UVA.

Why did you decide to make the switch to law school, and what was the transition like for you?

Honestly, it was because I didn't have the right skill set for book publishing. I loved editing, and the longer I stayed the more time I got to spend editing manuscripts and working with authors, and I loved that part of it. But the career path there is much more about networking with agents and authors and acquiring new projects and marketing those projects. The kind of networking and marketing skills involved in that were not my strengths. So, I eventually realized that it wasn't a perfect fit for me and decided to go to law school instead.

I had always thought I would go to law school. Publishing was a detour where I thought briefly that maybe I should try something different. I loved it, it just wasn't a totally natural fit. So, then I came back to the law school idea.

And from there, what motivated you to switch from practice to teaching, and how did you end up teaching LRW at UVA specifically?

I liked practicing law, but this job gathered together all the things I loved. The parts of publishing I loved and was good at were editing and working with authors, and part of this job is working with students in their writing and finding ways to help them say what they want to say better. So, it took the stuff I loved from publishing and the stuff I love from lawyering—the logical reasoning and argumentation, and the persuasiveness, which is all very writing-focused—and combined them. I also like teaching, and I was looking to move back closer to where my dad lives in Virginia. So, when I heard about the opportunity here, I thought, that's a really good fit for me.

Any hot takes on legal writing?

Do you mean at UVA or in general?

I was thinking in general, but if you have any about UVA, I'll hear that too!

Writing is thinking. If you have an AI do it, you don't understand your case. How about that for a hot take!

I was thinking of asking about AI, but I thought it might be a bit of a cliché…

Everybody's bubbling about it right now! I think it's overblown, but we'll see—I'm not a tech expert.

We're going to switch to lightning round. Favorite thing about Charlottesville?

The mountains, I guess. It's beautiful here.

Favorite book?

How would I ever pick a favorite book!

One of your favorites?

I'll go with *Housekeeping* by Marilynne Robinson.

Cats or dogs?

Cats. I love dogs, too, but I have a cat.

Lexis or Westlaw?

Westlaw.

If you were to teach a doctrinal, which one?

I would still want to teach about writing because that's what I love. But if I had to teach a 1L Doctrinal, it would be Civil Procedure.

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Docket Duel Update

Andrew Allard '25
Editor-in-Chief

With this being the last *Law Weekly* issue of the fall semester, we thought we'd give one last update on where the Docket Duel stands. Since our last update in October, positions have changed very little. Professors Gulati, Cahn, and Krawiec have each maintained their spots, with Gulati building on his first-place lead over Cahn. Meanwhile, Professor Deeks has taken the fourth-place spot from Professor Citron and is narrowing Professor Krawiec's third-place lead.

Professor Gulati appears to be the obvious favorite to win the Docket Duel, but we will continue tracking the data into the spring. Will Professor Gulati bribe *The Docket* to keep him in the lead? Can Professor Cahn retake first place? Will a new challenger push Professor Citron off the board? Is anyone even reading this? Check back next semester to find out!

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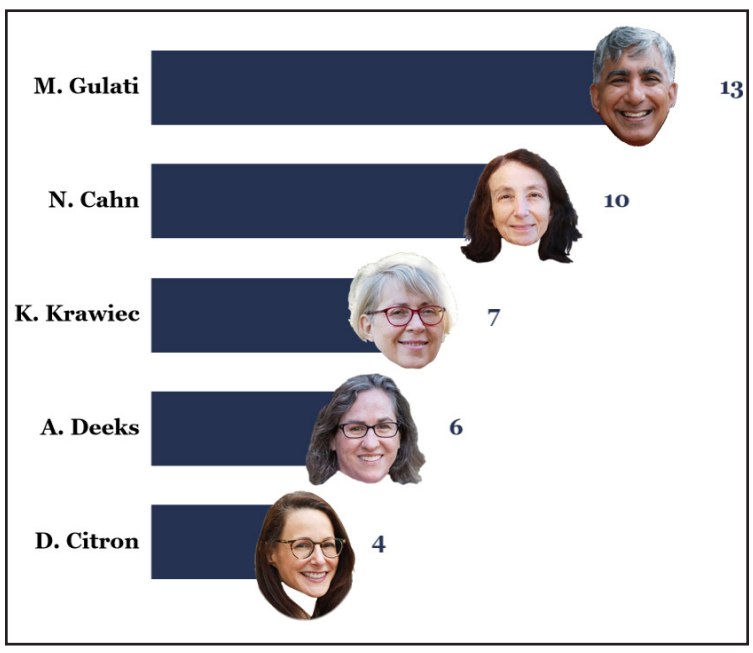

Revisiting *Iqbal*: Racial Discrimination, Plausibility Standards, and the Lost Humanity

Kelly Wu '27
Staff Editor

On November 15, the National Lawyers Guild hosted a discussion on the landmark case Ashcroft v. Iqbal. The discussion focused on its implications in the legal field and the distanced way it is spoken about in 1L Civil Procedure. The event explored the complexities of the case, its aftermath, and the broader consequences for legal practice.

Participants reflected on how Iqbal is taught in law school, with many recalling frustration over the lack of focus on the case's factual details. Instead, the case is often presented through a procedural lens, leaving out the real-world injustice of racial profiling and abuse following the 9/11 attacks. Some professors do cover the facts more thoroughly, but the case's emphasis on legal theory creates a disconnect for many students.

Speakers referenced The Lost Story of Iqbal by Shirin Sinnar to highlight how the case overlooked critical facts of racial discrimination. Despite some factual concessions, the Court denied discovery, raising concerns about the racial and ethnic dimensions of the case. While some participants were not shocked by the racial profiling involved, they were surprised by the Court's failure to address these issues. The Iqbal decision's impact is felt throughout any form of litigation, particularly the "plausibility" standard it announced that makes it harder for plaintiffs to even reach the discovery phase in litigation. This new threshold disproportionately harms marginalized communities by setting a high bar for proving claims, particularly in racial and ethnic discrimination cases. Attendees spoke of the disconnect the case had and the confusion caused by the "plausibility" standard.

The group also compared Iqbal to other cases, such as Walmart v. Dukes and Deshaney v. Winnebago, noting a trend in the courts that limits its access to justice for those challenging systemic discrimination. The event concluded with a call for rethinking how the legal system addresses Iqbal and the significant barriers to justice it created. The event particularly noted the need for a more human, factual lens for procedural cases in law school.

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FINANCING

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tempt to equate the activities of the NAACP and its lawyers . . . with champerty." The NAACP and its Legal Defense Fund (LDF) sued the Virginia Attorney General, contesting enforcement of the law. The NAACP's Virginia chapters all belonged to the Virginia State Conference of NAACP Branches ("the Conference"). The Conference financed litigation by NAACP and LDF attorneys. The question before the Supreme Court was whether such a funding system violated Virginia's champerty law. The Supreme Court ultimately overturned the law, finding that it impeded First Amendment rights to political expression.8

Today, at least half of states explicitly or implicitly allow champerty. However, I hope I have demonstrated that there is still, to say the least, a stigma surrounding litigation financing. Some of that stigma may very well stem from a generic concern that plaintiffs will bring frivolous lawsuits. But it is important to consider the degree to which history informs bias against litigation financing and champerty. Commentators could be in danger of using broad statements to introduce arguments, like "champerty has long been condemned," or "litigation financing has historically been considered a dubious practice" without interrogating the history itself. Most of the scholarship and articles I came across while researching did not address why champerty was and still is stigmatized, beyond the cause-and-effect reasons I enumerated earlier. I certainly do not contend that modern debates over litigation financing lack merit. I simply caution readers that where debaters adduce historical evidence of stigma, consider the fact that the motives for champerty laws may well have fallen egregiously short of respectable.

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8 National Ass'n for Advancement of Colored People v. Button, 371 U.S. 415 (1963).

SHROOMZ

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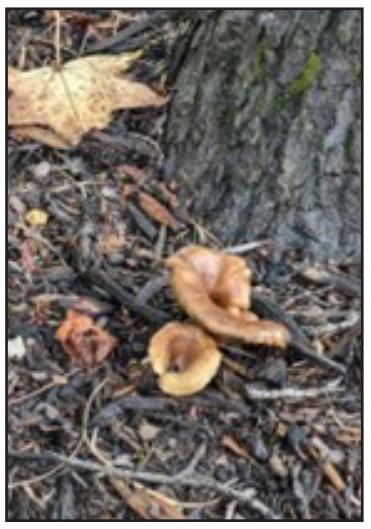
contains a toxic compound that can cause anemia. Most troubling, however, is the range of alternatives that the app suggested that bear a similar enough resemblance to warrant caution. The panther cap, for instance—also known as the false blusher—contains a highly toxic neurotoxin that sounds like it would ruin your day and then some. Whatever this subject is, I'd recommend steering clear.

5. Shoehorn Oyster (*Hohenbuehelia petaloides*)

I found this next species at the base of the trees in front of North Grounds Rec Center. The shoehorn oyster grows brown petal-shaped caps and are commonly found at the base of a tree or stump, and can grow in both heavily wooded and more developed areas. For that reason, it is again unsurprising to find this species around North Grounds.



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