



THE DECALOGUE TABLETS

Fall 2018



smart (smärt) *adj.*

1. Possessing acumen.
2. Quick or prompt in action, as persons.
3. Intelligent, or able to think and understand quickly in difficult situations.
4. Expected to win and be successful: *smart money*.

[*syn.* able, astute, intelligent, keen, knowledgeable, perceptive, wise]

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President's Column

By Jonathan D. Lubin

In June, a few weeks before the Installation Dinner, I accompanied Rabbi Schneur Scheiman on a road trip to four Illinois state prisons.



Every month, on behalf of the Hinda Institute started by his father, Rabbi Binyomin Scheiman, Rabbi Schneur spends three days on the road, meeting with prisoners in prisons across the northern part of Illinois. Other parts of the state are covered by other relatives, including his father, whom the Decalogue Society honored with the Hon. Gerald C. Bender Humanitarian Award back in 2013. The Rabbis Scheiman, when discussing the matter publicly, always credit the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson, as the inspiration for their work. The Rebbe created special programs in New York that prisoners seeking an exposure to Judaism could attend during furloughs. He taught that the best way to find the humanity in every person, inmates included, was to treat people like human beings. Rabbi Binyomin calls the people he meets with his “clients.”

This was the first time—it won't be the last—that I had the opportunity to see what the Rebbe was talking about. It is easy to talk of treating human beings like human beings. Witnessing the conditions in which these human beings live makes it understandable why someone would want to dehumanize prison inmates; it probably makes it easier for them to sleep at night. But Rabbi Schneur greets everyone with a smile – and most of his clients greeted him with excitement. He had a silly joke for everyone – a ritual, evidently, as many of his clients asked what the joke was. It was rated PG. It made its audience laugh every time.

Some of his clients were given a “bar mitzvah,” another ritual he performs with his clients each month: the mitzvah of donning tefillin through the bars of a cell. In some cases, the cells didn't have bars. When that was the case, they would put the tefillin on through the chuckhole, a small opening used to feed prisoners their meals so they don't have to be let out of their cages during mealtime.

Heroism sometimes comes in the forms of these little acts, things that are immediately consequential to one or two people, and societal pariahs at that.

It drove home to me, in the weeks before I assumed the leadership of this historic Society, what leadership is supposed to look like.

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TABLETS Fall 2018

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Case Law Update: *Smith v. Rosebud Farm, Inc.*

by **Helen B. Bloch**

Imagine that someone works at a job where that person is continually subjected to groping, simulated sex acts, and sexually charged language. It may sound like that person is experiencing sexual harassment as defined by the Equal Employment Opportunity Commission (“Harassment can include...unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature”). But, based on recent decisions, that may not necessarily be how the federal courts see it.

The Seventh Circuit recently upheld a lower court’s order requiring Rosebud Farmstand, a Chicago grocery store, to pay more than \$500,000 to Robert Smith, a former employee in its meat department. *Smith v. Rosebud Farm, Inc.*, No. 17-2626 (7th Cir. Aug. 2, 2018). One of the claims Smith brought to trial was sex discrimination in violation of Title VII of the Civil Rights Act of 1964. Smith alleged in his lawsuit that his male coworkers repeatedly grabbed his genitals and buttocks, groped him, simulated sex acts, and even reached down his pants.

Rosebud appealed the sexual harassment verdict, arguing that Smith failed to show he was discriminated against *because of his sex*. Rosebud asserted all the men who worked behind the meat counter were subjected to similar treatment. Therefore, the store claimed, the harassment did not rise to the level required under Title VII because it was not based on Smith’s gender.

To support its position, Rosebud cited two cases in which plaintiffs failed to prove that the same-sex harassment they experienced was discriminatory. In *Lord v. High Voltage Software Inc.*, 839 F.3d 556 (7th Cir. 2016), the plaintiff complained that male coworkers slapped him on the buttocks and reached between his legs. The court held that not all unwanted sexual contact, including the touching of genitals and buttocks, constitutes discrimination under Title VII: a male plaintiff must show that working conditions are worse for men than for women.

In *Rosebud*, the court explained what Smith needed to establish to succeed on his claim: The conduct he experienced was more than unwanted sexual touching or taunting—he had to show he was harassed based on his sex. Thus, the Seventh Circuit stressed an important boundary line: “Title VII is an anti-discrimination statute, not an anti-harassment statute.”

The court distinguished between “sexual horseplay” and sex discrimination. In *Shafer v. Kal Kan Foods, Inc.*, 417 F.3d 663 (7th Cir. 2005), the plaintiff’s male coworker physically assaulted him on four separate occasions. He shoved Shafer’s face into his clothed crotch and forcibly simulated oral sex; he placed Shafer’s hand on his crotch and made it seem as if Shafer was masturbating him; he seized a handful of Shafer’s chest hair in the locker room; and he bit Shafer’s neck. Even in a case with such egregious unwanted

sexual contact, the court maintained that workplace harassment is not automatically considered sex discrimination simply because the words and actions have sexual overtones.

In this recent Seventh Circuit *Rosebud* case, Smith prevailed on his sex discrimination claim by offering direct comparative evidence that only men experienced the kind of treatment he did. By contrast, in *Shafer*, the evidence had suggested the offending coworker harassed members of both sexes. Because only men were harassed in Rosebud’s mixed-sex workplace, a reasonable jury could conclude that Smith’s coworkers would not have harassed him if he had been female.

When pleading cases following *Rosebud*, the question arises as to whether, when representing a woman plaintiff in a sexual harassment case, one needs to establish that the offender did not also inappropriately touch or harass similarly situated males, in order to establish sex discrimination. Certainly the court made clear that when representing a male plaintiff, one must introduce evidence that the offender did not also sexually harass female employees. To avoid a double standard, it appears that whether representing a male or a female in a sex discrimination matter, one should plead that the offender did not also harass persons of the opposite gender.

And what about our community? The Jewish community is no stranger to sexual harassment. Whether in the workplace, in Jewish schools, at camp or at a mikvah, Jewish perpetrators of sexually inappropriate acts have made headlines. In the last decade, Jewish Community Watch has been created to bring awareness of and help prevent sexual abuse.

Among other initiatives, it has created a Wall of Shame to expose offenders. The Jewish Women’s Foundation in New York recently started training courses to produce the first group of certified harassment prevention trainers to serve the Jewish community, with the courses being led by Fran Sepler, whom the EEOC selected to develop its national curriculum on safe and respectful workplaces.

The #MeToo social media movement has put a national focus on sexual harassment and gender discrimination in a variety of industries, calling for change in how we think about respect, equality, and dignity in the workplace. Even the State of Illinois is moving forward. Governor Bruce Rauner recently signed legislation (Public Act 100-0684) requiring sex education courses in public schools to include more education on sexual harassment in the workplace and on college campuses.

I am a product of Jewish day school education. My high school sex education consisted of a course for girls on *taharat hamishpacha*, the laws of family purity involving a woman’s menstruation cycle. The course culminated in a trip to the mikvah, a ritual bath. I don’t think much has changed by way of sex education in Orthodox Jewish schools.

(Continued on next page)

Case Law Update (cont’d)

Many of the kids in our Orthodox Jewish schools will face a secular work environment. Today’s Orthodox Jewish day schools are doing a fabulous job of integrating STEM (science, technology, engineering, and mathematics) into the curriculum. But are we doing a disservice to our kids who attend Orthodox Jewish schools if their schools fail to teach them what constitutes sexual harassment, as is done in the public schools? What it means to have bodily autonomy and what constitutes consent? They have a right to speak up if they feel uncomfortable in a situation in which they are faced with unwanted comments of a sexual nature or unwanted touching?

It’s clear the times are changing. But will the Jewish community keep up?

Helen Bloch founded the Law Offices of Helen Bloch, P.C. in 2007. As a general practice, her firm helps companies, Fortune 500 executives, and others in a variety of matters, with a special emphasis on the employment and business arena, workers’ compensation, and defense of City of Chicago municipal code violations. Commonly, Helen assists a client negotiate a severance package with a former employer and afterward helps that client open a business, where she then becomes the business’s attorney. Helen is First Vice President of the Decalogue Society of Lawyers and serves on the Alliance of Bar Associations for Judicial Screening.

President’s Column (cont’d)

This year, the Decalogue Society hit the ground running, promising monthly social activities with different bar associations. Our July social was in tandem with the Black Women Lawyers’ Association. It was, hands down, our largest monthly social ever. Our members had the opportunity to get to know folks whom they otherwise might not meet. We did it again in August, partnering with the Advocates Society, an association of Polish-American attorneys. As always, the Building Bridges event held at the end of August brings together attorneys from the Decalogue Society and the Arab American Bar Association of Illinois.

While rhetoric intended to rend apart the fabric of our American community becomes more prevalent, these bridges are the bonds that will keep us strong. As a Society founded on the values of the Jewish religion, we understand that all too well. We argued in our Amicus brief before the U.S. Supreme Court, on the subject of the President’s Muslim Ban, “[a]t the time of Decalogue’s founding, the United States and the world confronted unprecedented hatred and animosity directed towards minorities and specific groups, including Jews.” We’ve been there. We know this dragon when we see it; and we are seeing it today. We know how important it is to build strong networks between our communities.

To that end, as our bar year gets underway, we dedicate ourselves to renewing our ties to our community, and building new ties.

We have a lot of work to do.

We begin the year strong. We will end it stronger.

Best Practices: When Is It Due? A Cautionary Tale for Business and Legal Professionals

by **Michael Traison**

Few take more seriously the importance of being on time than the federal courts. When something is due, it must be done by that time, with no excuses.

Only in the most exceptional circumstances will courts veer away from the strict construction of deadlines set forth in the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, and elsewhere. The bottom line is when a court sets a specific date for something to be done, it must be done by that date, with no extensions just because that date may be a Saturday, Sunday, or legal holiday.

However, if the date by which something must be done requires computation by counting days, and no specific date has otherwise been set, then and only then does Federal Rule of Bankruptcy Procedure 9006(a)(1) apply. If the final day so computed is a Saturday, Sunday, or federal holiday, the deadline is deemed extended to the next regular business day.

In his well-written decision, Bankruptcy Judge H. Christopher Mott of the Western District of Texas explains all this in the context of a creditor who wished to file non-dischargeability actions against a Chapter 7 debtor. The rules apply broadly in all actions in the federal court system, and should also be considered when state court rules apply.

In *Smart-Fill Management Group, Inc. v. Froiland*, the creditor had a certain number of days by which to file its actions. The creditor twice requested an extension of time within the deadline. The court finally ordered it to file its complaints by a date certain, January 15, that did not require it to count days. January 15 happened to be a federal holiday.

The creditor’s lawyers apparently assumed that since the courts were closed on January 15 for the federal holiday it could file the very next day, January 16. That assumption was based on the general idea that dates are extended if the due date is a federal holiday.

In the Smart-Fill case, the court relied on a Fifth Circuit decision, found no decisions to the contrary elsewhere, read the language of the Rule, compared it to the previous version of the same rule, and took note of the advisory committee comments.

Why parties ever wait for the last day is beyond the scope of this note. It is a given that one should be very careful when deadlines are set. The court granted the debtor’s motion to dismiss and the creditor was out of luck. The court did not even address what harm, if any, was done because of the one-day delay.

Michael Traison is a Partner at Cullen and Dykman LLP

Over My Dead Body: The Role of The Illinois Disposition Of Remains Act In Disputes Over A Decedent’s Remains

By *Mitchell B. Goldberg*

When one thinks of the various disputes that might arise among family members at the close of the life of a loved one, subjects might include end of life medical decision-making, will and trust disputes, and arguments over expenditures from joint accounts. Yet, a frequent fight arises over what to do with a decedent’s remains. Diverse families frequently differ over the proper action. Orthodox Jews, for example, are religiously opposed to cremation, favoring burial without any embalming. They might find themselves at odds with others who favor donating a body to science. Even within communities and families, some could be opposed to organ donation, while others view it as the highest virtue. Discussions also may center on the nature of any memorial service.

Apart from heated emotions, these disputes are time sensitive. Bodies decompose. And death certificates must be timely filed and accurately reflect the method of disposition of the deceased. Failure to do this could result in regulatory problems for the hospitals, nursing homes, hospice care centers, and funeral homes that frequently find themselves caught in the middle of these disputes.

Fortunately, the Illinois Disposition of Remains Act, 755 ILCS 65/1 et seq. (“IDRA”), provides mechanisms to prevent these disputes. The IDRA also provides procedural avenues by which regulated businesses sucked into a dispute may seek help from the courts.

This article will briefly address the following: (i) who is empowered to make decisions as to disposition of remains; (ii) how can a person designate an agent to direct the disposition of remains; and (iii) what protections are afforded to service providers who may take custody of remains.

The IDRA lists priorities regarding who has the right to make decisions

Section 5 of the IDRA governs the right to control disposition of the decedent. (755 ILCS 65/5). It governs how the decedent can designate an agent to oversee the disposition of the body, and establishes a hierarchy among potential agents. The IDRA recognizes that authority to make decisions will be recognized in this order:

- The person designated in written instructions drafted under the IDRA;
- Any person serving as executor or legal representative of the decedent’s estate and acting according to written instructions contained in the decedent’s will;
- The decedent’s surviving spouse;
- The majority of the decedent’s surviving competent adult children; though fewer than a majority if they have used reasonable efforts to notify other surviving children of their instructions and are unaware of any opposition to those instructions on the part of a majority of surviving competent adult children;
- A religious, civic, community, or fraternal organization willing to assume legal and financial responsibility;

- For indigents, a public administrator, medical examiner, coroner, state appointed guardian, or other public official charged with making arrangements for disposition; or
- Any other person or organization that is willing to assume legal and financial responsibility.

A person listed will be deemed to have the right, duty, and liability only if there is no person in a priority listed before the person. (755 ILCS 65/20.) Moreover, the right to control disposition will be deemed invalid (and passed to the next person in priority) should that person be charged with first or second degree murder or manslaughter in connection with the death of the decedent. (*Id.*) For military service personnel who have executed a valid U.S. Department of Defense Record of Emergency Data Form, the person designated in that form will have the right to control disposition of the decedent’s remains. (755 ILCS 65/5.) Generally, whoever asserts the right to direct disposition of the decedent’s remains will be deemed liable for all reasonable costs of the disposition. (*Id.*)

Acceptable written instructions as to disposition

It is not uncommon for a decedent’s surviving spouse or children to have different religious or philosophical opinions regarding the disposition of remains. These differing opinions may be grounded in sincere religious belief or conviction. Often they are based on what is believed to be the desires or wishes of the decedent. Absent a written authorization to direct the disposition of remains, however, the person with the priority under the IDRA *will* have the power to make those decisions. Where there is no single decision-maker (for instance, where there is no surviving spouse and two competent adult children of different religious beliefs), disputes can result in a stalemate that prevents action. Whether or not there is an identified person with authority to act, sometimes these disputes can cause substantial discord in a family. The best way to prevent these disputes is by drafting suitable written instructions directing disposition of remains as part of an estate plan.

The IDRA permits a person to provide written instructions as to the disposition of his or her remains in a separate written instrument designating an agent to direct disposition (755 ILCS 65/10 and 755 ILCS 65/16), or in a will, a prepaid funeral contract, a valid healthcare power of attorney, or a cremation authorization form which complies with the Crematory Regulation Act (755 ILCS 65/40).

IDRA provides sample language that will be deemed acceptable to designate an agent to direct disposition of remains in a specific written instrument. (755 ILCS 65/10.) Of course, whenever a statute offers sample language, the wisest practice may be to follow that language. Regardless of the specific text used, a written authorization must designate a proposed agent and and both the decedent and proposed agent should sign it. (755 ILCSW 65/15.) Further, the signature of the decedent must be notarized. (*Id.*)

Continued on next page)

Over My Dead Body (*cont’d*)

And the agent’s authority to act will not be deemed effective until the agent signs the instrument. If the directions are in a will, the IDRA authorizes immediate compliance with the directions before probate. Even if the will is later set aside, the directions for disposition will be deemed valid so long as the directions were acted on in good faith.

Protections under the IDRA to service providers caught in a dispute

Oftentimes people die unexpectedly. But even when death is anticipated (an illness or injury), various service providers are placed under time constraints to transfer or dispose of a decedent’s remains. For hospitals, hospice care providers, nursing homes or other medical provider, this can include laws and regulations governing health and cleanliness. For funeral directors, crematoria, or other funeral providers, these constraints require efforts and resources to be used for preservation of the remains until properly interred or cremated. The law also requires the timely filing or amending of a truthful and accurate recitation of the disposition of the deceased’s remains in a death certificate. Given these constraints, service providers often seek to work with family or other decision-makers as to the disposition of remains quickly.

Under the IDRA, certain businesses are afforded good-faith protections from liability. Section 45 of the IDRA protects any cemetery organization, business operating a crematory or columbarium, funeral director or an embalmer, or funeral establishment from liability for carrying out the written directions of a decedent. It also protects organizations or individuals who carry out the directions of a person who represents that he or she is entitled to control disposition of the decedent’s remains. (755 ILCS 65/45.) This protection does not affect liability of the organization or individuals for gross negligence or willful acts, however. (*Id.*)

If a dispute arises among persons authorized under the IDRA concerning the right to control the disposition of a decedent’s remains, including cremation, a court of competent jurisdiction must resolve it. (755 ILCS 65/50.) To the extent the remains have not yet been accepted, where a dispute exists, a cemetery organization

or funeral establishment will not be liable for refusing to accept the decedent’s remains, or to inter or otherwise dispose of the decedent’s remains, until it receives a court order or other suitable confirmation of the dispute’s resolution or settlement. *Id.*; *Carlson v. Glueckert Funeral Home, LTD.*, 407 Ill. App. 3d 257 (1st Dist. 2011).

This protection from liability does not extend to those funeral service providers who are already in custody of the remains when a dispute arises. Those persons or entities may seek to initiate a proceeding, effectively seeking injunctive relief, by filing a petition to seek a court order directing disposition. In the experience of the author, courts addressing this appreciate evidence of multiple attempts to provide notice of proceedings to all interested parties through, for example, facsimile, electronic mail, regular and certified mail, and delivery. The petition should include various bases of the need for expeditious resolution, including costs, use of facilities, decomposition, and the need to properly record or amend a death certificate.

Conclusion

The provisions IDRA provides for control over the disposition of remains by a decedent. To protect a decedent’s desires, practitioners should include written designations of control and wishes for desired disposition into clients’ estate plans. These desires can either be provided for in the decedent’s will or an appropriate form conforming to the formalities required in the IDRA. Like a living will, it is also helpful that the wishes of the decedent be disseminated to health care providers and relatives.

Knowing the wishes of a loved one can prevent disputes during a time when emotions run high. Regardless, the IDRA does provide certain protections to those relying on purported authorizations to determine the disposition of remains, as well as mechanisms for those providers or businesses caught in any dispute to seek judicial instruction to offer finality, and to permit a decedent’s remains to be laid to rest.

Mitchell B. Goldberg is the immediate Past President of Decalogue and a partner at Lawrence Kamin LLC.

Jewish Holidays 2018-2019 (5779)

Rosh Hashanah: Sunday, September 9 sunset-Tuesday, September 11 sunset
Yom Kippur: Tuesday, September 19 sunset-Wednesday, September 20 sunset
Sukkot: Sunday, September 23 sunset-Tuesday, September 25 sunset
Chol Hamoed Sukkot (not Holy Days) 9/26-9/30
Shmini Atzeret: Sunday, September 30 sunset-Monday, October 1 sunset
Simchat Torah: Monday, October 1 sunset-Tuesday, October 2 sunset
Chanukah: (not Holy Days) Tuesday, December 2 sunset-Wednesday, December 10 sunset
Purim: (not Holy Day) Wednesday, March 20 sunset-Thursday, March 21 sunset
Passover: Friday, April 19 sunset-Sunday, April 20 sunset
Chol Hamoed Passover (not Holy Days) 4/20-4/26
Passover: Friday, April 26 sunset-Sunday, April 28 sunset
Shavuot: Friday, June 8 sunset-Sunday, June 10 sunset

ARDC Efforts to Assist Lawyers with Remedial Action

By Christine P. Anderson

The mission of the Attorney Registration and Disciplinary Commission (ARDC) is to promote and protect the integrity of the legal profession through attorney registration, education, investigation, prosecution, and remedial action. In furtherance of the goal of remediation, the Illinois Supreme Court and the ARDC have implemented several new rules and procedures.

ARDC Diversion Program

In September of 2016, the ARDC adopted Commission Rule 56, which provides for a Diversion Program. Under this rule, the administrator and an attorney may enter into a diversion agreement at any stage of an investigation. The diversion program is designed to encourage early identification and resolution of issues that negatively affect an attorney’s ability to properly represent clients. It is also designed to provide assistance to the attorney to rectify issues and engage with appropriate services.

A 2016 study examined substance abuse and mental health problems in the legal profession. *“The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,”* Journal of Addiction Medicine, February 2016 - Volume 10 - Issue 1 - p 46–52. The study surveyed lawyers across the country and found that 20.6% surveyed qualified as problem drinkers, 28% struggled with depression, 19% suffered from anxiety and 23% experienced symptoms of stress. All of these rates exceed what is found in the general population.

In light of the findings of the above study and an additional study conducted on law student well-being, a national task force was commissioned to address lawyer well-being. In its

August, 2017 report, *“The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,”* the task force proposed a slate of recommendations for legal regulators and others.

New Law Office Management CLE Initiative (aka “PMBR”)

The Illinois Supreme Court and the ARDC have implemented many of the recommendations for legal regulators outlined in the task force report. In addition to the new diversion program, in January of 2017, the Illinois Supreme Court amended Supreme Court Rule 756(e)(2) to provide for Proactive Management-Based Regulation (PMBR). One of the modules developed for the PMBR program is on attorney wellness. In April of 2017, the Court also amended Supreme Court Rule 794(d) to require lawyers to complete one hour of mental health and substance abuse education as part of their required continuing legal education. A free CLE on the topic of attorney wellness is available on the ARDC website at www.iardc.org.

The ARDC has also increased its collaboration and referrals to the Illinois Lawyers’ Assistance Program (LAP). In order to get lawyers the help they need, Supreme Court Rule 766 allows the Administrator to make referrals to the LAP during an otherwise confidential stage of a matter. Once referred, LAP intervenors are exempt from reporting to discipline and communications are confidential akin to the lawyer-client relationship. (IRPC 1.6(d)).

The new programs, outlined above, help lawyers thrive by providing them with the resources needed to be successful.

Christine P. Anderson is the Director of Probation and Lawyer Deferral Services, Illinois Attorney Registration & Disciplinary Commission

SAVE THE DATES!

Wednesday, December 5, 2018
Decalogue Chanukah Party at Locke Lord

Thursday, February 21, 2019
Decalogue Judicial Reception

Thursday, April 11, 2019
Decalogue Model Seder at Loop Synagogue

Wednesday, June 26, 2019
Decalogue 85th Annual Installation and Awards Dinner at the Hyatt Regency

There Is No Shame in Asking for Help

By Melissa O’Neill, LCSW

Stress, in and of itself, is not bad. High-achieving individuals in the law profession often thrive under a modicum of pressure; however, too much of any good thing is, in fact, too much.

Most people know of the dangers involved with maladaptive coping strategies such as alcohol, substances, even gambling. Conversely, few recognize the negative consequences involved when food is used in a similar fashion.

Food exists to fuel the body and provide pleasure to the palate. It was never intended to serve as a tool for coping with stress, yet untold numbers of people use food for that purpose every single day.

Stress eating, also known as emotional eating, has little to do with hunger or enjoyment. Its exclusive agenda is emotion avoidance. This is how it can unfold: After an impossibly difficult day at work, you swing by and pick up a pizza on the way home. You eat far past the point of feeling full, but notice that the stress is diminishing. You grab a pint of ice cream, and before you know it, the tub is empty.

Another common scenario involves hidden candy or other treats in the desk drawer—you have a combative conversation ... and you immediately reach for a chocolate bar to mitigate distress and feel better.

Questions you can ask to help determine if you are struggling with emotional eating include:

- Do you eat more when you’re feeling stressed?
- Do you eat when you’re not hungry or when you’re full?
- Do you eat to feel better (to calm and soothe yourself when you’re mad, bored, anxious, etc.)?
- Do you reward yourself with food?
- Do you regularly eat until you’ve stuffed yourself?
- Does food make you feel safe? Do you feel like food is a friend?
- Do you feel powerless or out of control around food?

Emotional eating is frequently a mindless behavior and, of course, it works in the moment. While focusing on the food and the process of consumption, you are not reviewing a painful argument or horrendous case load, because your mind is otherwise occupied. The problem is that when the soothing behavior stops, everything you sought to avoid returns.

Emotional eating is a temporary distraction, but a dangerous one because ultimately you can experience medical complications such as increased weight, diabetes, heart disease, heightened cholesterol and blood pressure, to name only a few. Add that to the psychological consequences of the shame, secrecy, and guilt often associated with emotional eating, and your discomfort only escalates. Finally, reaching outside of ourselves for temporary relief often only postpones our stress without tending mindfully to our emotional needs over time.

For this reason, it is not uncommon for emotional eating to lead to other food-related addictions or disorders. In women, bulimia is one of them, in which vomiting is used to reverse the consumption of food. If extreme weight gain occurs, women often head in the diametrically opposed direction and start restricting.

Although men can and do fall victim to bulimia and anorexia, binge eating disorder (BED) is much more likely. With this disorder, an enormous amount of food is typically consumed in a somewhat out-of-control manner, but no compensatory behavior such as purging or excessive exercising is utilized. Therefore, weight gain is nearly inevitable. BED is the fastest growing eating disorder in America today, especially among men.

The legal profession often presents a double-edged sword. Regardless of which aspect of law you practice, pressure is inherent in the work. And no doubt, the majority of you exist in the shadow of the ever-popular, media-driven attorney stereotype: strong, in control, highly competitive, smart, capable, confident—the list of attributes goes on and on. These qualities provide precious little room for problems of a psychiatric nature. This is precisely why many lawyers find it difficult to ask for help, perceiving it as weakness or even failure.

Here is the bottom line: all attorneys are human beings. As such, you may need help from time to time. Whether you struggle with food, alcohol, drugs, or other issues such as trauma, depression or anxiety, recovery is possible.

There is no shame in asking for help. There is only sorrow if you suffer in silence and do not get the professional treatment you need and deserve.

To learn more about other ways to improve your overall well-being as an attorney, call 312-726-6607 or email the Lawyers’ Assistance Program at gethelp@illinoislap.org.

Melissa O’Neill, LCSW, is the Director of Clinical Operations at Timberline Knolls Residential Treatment Center in Lemont, Illinois. As such, she provides leadership and management of the clinical system to ensure the highest quality of residential services. Melissa received her Bachelor of Arts degree in Psychology from Vanderbilt University and a Master’s degree in Social Work from the University of Illinois. Melissa is a member of the International Association of Eating Disorder Professionals.



LAWYERS’
ASSISTANCE
PROGRAM

LAP Annual Dinner

Thursday, November 1, 2018
5:30 pm - 8:30 pm

Join us in celebration
of LAP Volunteers,
Supporters, and Clients at
the LAP Annual Dinner!

Union League Club Chicago,
65 W Jackson

<https://illinoislap.org/event/lap-annual-dinner-3>

Decalogue 2018 Annual Dinner



Photo credit: Shari Imbo <http://www.imbogallery.com>

The Decalogue Society would like to thank the following contributors for their generosity which made the Annual Dinner a success!

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Decalogue Tablets

President's Remarks at 84th Annual Installation Dinner

By Jonathan D. Lubin

Thank you Judge Evans, and to the honorees, Madame Attorney General, dear guests, thank you all for being here. A special thank you to my wife, Chana Raizel Lubin for coming to this dinner, and for supporting all that I do and have done for this organization. A special thank you to my mother, Dona Spain, who is in town from Coral Gables, Florida – my old stomping ground. And to everyone else who has come here, who has purchased ads, or sponsored this dinner, thank you, thank you for supporting our work.

This week, we read from the Torah Portion called Parashas Balak, from Numbers, which tells the story of the evil prophet Bilaam, and his failed attempts to curse the Jewish people. Our sages, in Ethics of our Fathers, learn certain lessons from Bilaam. They say that there are three traits that are common to students of Abraham our Father: A kind eye, a lowly spirit, and muted passions. By contrast, the evil Bilaam's students are characterized by having an evil eye, a haughty spirit, and expansive desires. The Chassidic Master, the Sefas Emes asks the obvious question: what have I learned from this? Any fool could figure it out. And he answers that many people think that dedication, in and of itself, is praiseworthy. Come our sages and say that one must have a kind eye – he needs to see the good in others, and seek out their benefit. She needs to have a humble spirit – the willingness to subjugate even her own goals for the sake of her fellow. Finally, such a person must be extrinsically motivated.

Dedication alone may not be sufficient. Ours is merely to be tools in the hands of the Most High. Our sages continue that students of Abraham eat in this world, but they inherit the world to come. The Baal Shem Tov, the founder of the Chassidic movement, says that ‘inherit’ here doesn’t refer to some eschatological future, but rather it refers to the here and now. When your motivations are to serve the Master of the Universe, you draw the world to come into this world, and make it holy. This is true leadership.

This dinner is a celebration of leaders, people who I and many others hold up as heroes. People like our honorees, and our keynote speaker, here tonight. People like Rabbi Ahron Wolf, who makes sure that no Jew in Chicagoland is ever alone to fend for himself or herself, particularly in hospitals and retirement homes. Rabbi Baruch Hertz is, for me and for many others in Chicago, a leader and hero of the highest caliber. Rabbi Hertz would give the shirt off of his back, and with him that isn't a figure of speech. Aviva Patt, our Executive Director. She's the real leader of the Decalogue Society.

With a rise in anti-Semitic incidents and other forms of nativist bigotry, leaders are a precious commodity today. And any Economics student knows that what makes a commodity precious is its scarcity. The Decalogue society was one of the many organizations that filed an Amicus Brief before the United States Supreme Court earlier this term, pointing out the striking similarities between what has been called the Muslim ban and nativist bans against Jewish immigration that we faced in the flight from Hitler's Europe. I was proud to be one of its co-authors. And I'd like to recognize Gail Eisenberg, one of the other co-authors, for her leadership on that score.

While I personally was disappointed in the decision that was handed down yesterday in that matter, I'm proud of the work of so many attorneys who stood up for what is right, and at the very least caused the president to amend the travel ban so that it would comport, however slightly, with the Constitution.

We organized an immediate response to the events in Charlottesville earlier this year that brought together leaders from many of the affinity bar associations. I can see many of you here today, and I'm happy that we're all on the same team. We're a good team. And we'll do great things.

Bigotry is more and more an equal opportunity employer. As Jews, we've learned through the wisdom that comes from unfortunate experience that in order to confront hate, it is simply not enough to look across the political aisle and point out the iniquities of those on the other side. Indeed, our influence is usually the strongest among those who are closest to us.

But with every challenge comes an opportunity. The Lubavitcher Rebbe was wont to say that the light shines brightest in the darkness. The Decalogue Society has always been a light. And if current events have cast a cold shadow over our great nation, know that our light will shine brighter and brighter, with all of your help.

As I wrote in the Tablets last Spring, alternative media – internet chat boards, and social media – have not only created new forums for bigotry, but they’ve given us new tools to fight it. We aren’t going to stop people from speaking – nor should we try. As Justice Brandeis articulated it, “those who won our independence believed that the final end of the State was to make men free to develop their faculties.” We aren’t going to be able to scare bigots into their basements. In many cases, they’re already there. We know, as Brandeis continues, “that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; ... and that the fitting remedy for evil counsels is good ones.” At the investiture of Justice P. Scott Neville Jr. that I attended on behalf of this Society recently, more than one of the speakers referred to the words inscribed on the wall of our Illinois Supreme Court: *Audi Alteram Partem*, hear the other side. That dedication to equanimity in the face of competing narratives may be the secret to American liberty. Free speech doesn’t give hatred the freedom to grow. It gives hatred the freedom to die, and die it should.

And nobody has dedicated himself to that vision, or has fought hatred with greater ferocity, and with more poise than Mitchell Goldberg; you've left big shoes to fill. I feel wholly inadequate to the challenge. But thankfully, working alongside you these few years, you've also given me important lessons in what it means to be a leader, and a statesman. There is so much I'd like to say to you about how grateful I am to have been given the time we've spent together, working for this organization. But, as words wouldn't do justice, I can only say thanks. With your model as a guide, and with G-d's help, this Society will grow, resting on the strong foundations that have been laid for it, but with the conviction that FOR US the sky truly is the only limit. Thank you, and G-d bless you.

Decalogue Society of Lawyers Chanukah Party

Wednesday, December 5, 2018

5:00-7:00pm

Locke Lord

111 S Wacker, Chicago

Honorees:

State Representative Kelly Cassidy

Light of Freedom

State Representative Sara Feigenholtz

Light of Truth

Michael Strom

Light of Righteousness

Latkes and a light supper, wine, beer, and soft drinks



Tickets: \$50

(\$40 for members if purchased in advance)

\$10 Students and 2018 admittees

\$250 Sponso

(includes 2 tickets, name & logo displayed at event)



This is a family-friendly event,
we'll have dreidels and gelt for the kinderlach - children under 13 are free

www.decaloguesociety.org/events/events-2

Decalogue Society of Lawyers is a 501(c)(6) organization. Donations are not deductible as charitable contributions for federal income tax purposes.

Illinois Appellate Court Extends Common Interest Doctrine

By Peter E. Cooper and Marielise Fraioli

The Appellate Court for the Second District of Illinois recently expanded the reach of Illinois’s “common interest” doctrine in a professional negligence case against an insurance broker. In *The Robert R. McCormick Foundation v. Arthur J. Gallagher Risk Management Services, Inc.*, 2018 IL App (2d) 170939 (July 20, 2018), the court held that an insurance malpractice defendant was a de facto insurer and, thus, was able to secure access to documents that might otherwise be protected by the attorney-client privilege.

The Common Interest Doctrine in Illinois

Analysis of *McCormick Foundation* requires an understanding of Illinois’s somewhat unique application of the “common interest” doctrine.

In most jurisdictions, the “common interest” doctrine is used interchangeably with the term “joint defense privilege.” That doctrine holds that, where a client communicates with its attorney in the presence of a third person who shares a common legal interest, the attorney-client privilege is not waived as to the information that is exchanged. See *Selby v. O’Dea*, 2017 IL App (1st) 151572, ¶39; see also *Pampered Chef v. Alexanian*, 737 F. Supp. 958, 964 (N.D. Ill. 2010). Rather than acting as a privilege itself, the “joint defense privilege” serves to preserve the attorney-client privilege, where disclosure to a third-party might otherwise waive the confidentiality of the communication. See Restatement (Third) of the Law Governing Lawyers §76. Conversely, the other “common interest” doctrine—the one at issue in *McCormick Foundation*—acts to compel production of information protected by the attorney-client privilege, where the attorney effectively “acts for the mutual benefit of both [parties]....” *Waste Management v. International Surplus Lines Insurance Co.*, 144 Ill. 2d 178, 194 (1991).

In Illinois, the “common interest” doctrine has the capacity to both shield information from certain legal adversaries and to compel the disclosure of privileged information under other circumstances. The seminal case in this area is *Waste Management*, in which the Illinois Supreme Court held that, under the “common interest” doctrine, the attorney-client privilege did not bar discovery of communications or documents created in defense of two previously settled lawsuits in a subsequent coverage dispute regarding one of those suits. See *Waste Management*, 144 Ill. 2d at 193. The court reasoned that such communications and materials are, in essence, deemed to have been prepared for the benefit of both parties—both the insured and the insurer—as the suit effectively joined their interests. The court made clear that this exception to the attorney-client privilege “may properly be applied where the attorney, though neither retained by nor in direct communication with the insurer, acts for the mutual benefit of both the insured and the insurer. The exception depends not on the nature of the parties but on the “commonality of interests” between them, or who might be “ultimately liable for payment if the plaintiffs in the underlying action received either a favorable

verdict or settlement.” *Id.* at 194-95. “We believe insurers and insureds shared a common interest in the conduct and outcome of the [underlying] litigation...Thus, insurers are entitled to the [underlying litigation] files.” *Id.* at 195.

The Illinois Appellate Court Extends Waste Management

The court in *McCormick Foundation* extended the *Waste Management* holding to a professional negligence action against an insurance broker. In that case, the Robert R. McCormick Foundation and Cantigny Foundation (the “Foundations”) had been the second largest shareholders of the Tribune Company before its acquisition through a leveraged buy-out (“LBO”). *McCormick Foundation*, ¶2. After the LBO, the Foundations purchased through defendant Gallagher a directors’ and officers’ (“D&O”) liability policy issued by Chubb Insurance. *Id.*, ¶3. Two years later, the Foundations alleged, Gallagher advised them to purchase a different policy issued by Chartis Insurance, which Gallagher represented would provide “apples-to-apples” coverage at a reduced premium. *Id.* Based on this advice, the Foundations allowed the Chubb policy to lapse and acquired the Chartis policy.

Unfortunately, the Tribune LBO soon proved unsuccessful, and the Tribune Company filed for bankruptcy protection. After the Tribune Company exited bankruptcy, a court appointed receiver and various aggrieved lenders and creditors sued the former shareholders and Tribune insiders, including the Foundations, for actual and constructive fraud. *Id.*, ¶4. The Foundations tendered their defense to Chartis, which denied coverage under a policy exclusion—an exclusion, the Foundations alleged, that did not exist under the lapsed Chubb policy. *Id.*, ¶5. When Chartis denied coverage, the Foundations sued Gallagher for breach of contract and professional negligence resulting in loss of coverage. *Id.*

During discovery, Gallagher’s counsel sought the Foundations’ communications with their legal counsel concerning various matters, including the underlying Tribune Company litigation. The Foundations declined to produce the information, citing the attorney-client privilege, and sought a protective order for the privileged materials. The trial court denied the motion and invoked the “common interest” exception to attorney-client privilege set forth in *Waste Management* in directing the Foundations to produce the requested materials. *Id.*, ¶¶6-8.

On appeal, the Foundations argued that the *Waste Management* “common interest” doctrine did not apply to the broker negligence case. In rejecting this position, the appellate court held that application of *Waste Management* was not limited to the “classic profile” of an insurer and insured coverage dispute. *Id.* ¶15, citing *BorgWarner, Inc. v. Kuhlman Electric Corp.*, 2014 IL App (1st) 131824, ¶ 33. The court also rejected the Foundations’ argument that they had no mutual interest with Gallagher in the LBO litigation.

(Continued on next page)

Common Interest Doctrine (cont’d)

Observing that the case involved a professional-negligence suit against an insurance broker for the alleged loss of \$25 million in defense and indemnity coverage under a D&O policy, the court held: “...Gallagher ‘stands in the insurer’s shoes for the purpose of this malpractice action’ precisely because the Foundations *sued* Gallagher for (the alleged loss of) coverage.” *Id.* ¶15, citing *Robert R. McCormick Foundation v. Arthur J. Gallagher Risk Management Services, Inc.*, 2016 IL App (2d) 150303 (“Foundations I”) ¶6 (and cases cited therein) and *Skaperdas v. Country Casualty Insurance Co.*, 2015 IL 117021, ¶ 35 (discussing duty insurance broker owes to insured).

In arriving at this outcome, the court gave great weight to the function, rather than strictly the form, of the parties’ relation to one another, stating:

In short, by suing Gallagher, the Foundations have given Gallagher a stake in the LBO litigation. Were Gallagher an insurance company, the Foundations could not deny it discovery on the ground of the attorney-client privilege per *Waste Management*. And, if the Foundations are successful in *this* suit, that is what Gallagher would be in a sense: a *de facto* insurer, liable to the Foundations for both the Foundations’ liability to the LBO plaintiffs and the Foundations’ defense

costs in the LBO litigation. Accordingly, because Gallagher might be “ultimately liable” in the LBO litigation (see *Waste Management*, 144 Ill. 2d at 193), we find that a commonality of interests exists between the Foundations and Gallagher. *Id.* ¶15.

Conclusion

The appellate court’s extension of the “common interest” to a broker malpractice matter portends further expansion. The key, the court held, was not the legal relationship of the parties, but, rather, the fact that the broker served as a “*de facto* insurer.” This reasoning implies that any person who ultimately may be liable for a party’s damages under a theory of legal or equitable indemnity may gain access to the privileged communications of the insured or indemnitee under the “common interest” doctrine. Thus, the *McCormick Foundation* holding may further the Illinois Supreme Court’s admonition that “the [attorney-client] privilege ought to be confined within its narrowest possible limits.” *Waste Management*, 144 Ill.2d at 190.

Peter Cooper is a Partner and Marielise Fraioli an Associate at Lawrence Kamin LLC.



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Book Review: *Pray Ball 2*

By Paul Weider

Published in the JUF News June 2018. Reprinted with permission.

Solomon Schechter supposedly said, “You can’t be a rabbi in America unless you can talk baseball.” Rabbi Jamie Gordon agrees with the sentiment—and can talk baseball.

Gordon is the author of two books about the lessons sports have for Jewish kids— and their adult coaches. *Pray Ball! The Spiritual Insights from a Jewish Sports Fan* came out in 1999. Each chapter illustrated a spiritual, Jewish value—such as leadership, teamwork, and fairness—using sports figures and events as analogies.

Now comes the second part of the double-header: *Pray Ball 2!!: Spiritual Insights into Sportsmanship* (Team Spirit Press). If the first book is theory, the second is practice—how to use sports as a way of imparting Jewish values to children.

“I wanted to formalize what I had been doing for ages,” said Gordon, who is based in Chicago. “Over the past two decades, I have run successful pilot programs utilizing some of the materials in my new book at various Jewish educational institutions,” Gordon said, “including JCC day camps, Hillel Torah North Suburban Day School, Solomon Schechter Day School, and Jewish Council for Youth Services.” For the book, he consulted with camp and community-center directors, school principals, and rabbinic authorities—current and classic—from all Jewish denominations.

Now that he feels he has the system down, he wants to share it: “It is my goal for my new book to be used by Jewish educational institutions— schools, camps, JCCs, etc.—as an educational tool to enhance sports and physical education programs,” he said. Next, he is following the book up with supplement s and workbooks for both coaches and students.

Jewish—and non-Jewish—athletes can serve as role models, Gordon continues, and he includes photos and stories from the careers of some 300 of them in the book. And not just the athletes and coaches themselves; team owners, referees, sportscasters, fans, and the parents of athletes all offer lessons that reflect Jewish

values, he said. One story is about Michael Jordan complimenting one of Gordon’s kids after a school basketball game, even though Jordan’s own daughter did not have her best game herself.

But it’s about more than looking to celebrities. The games themselves offer many lessons with Jewish resonance, Gordon explains—like respect, discipline, and being gracious in both victory and defeat. Even checking in on an injured teammate, he said, is practicing the Jewish tenant of *bikur cholim*, visiting the sick. “What we learn from sportsmanship can be translated into other relationships,” he said.

Two other contributors to the book show the balance he struck between Jewish and athletic elements; the preface is by Hebrew Theological College’s Touro University’s Rabbi Dr. Zev Eleff, and the foreword is penned by bestselling author Jonathan Eig, who has written biographies of Lou Gehrig and Muhammad Ali.

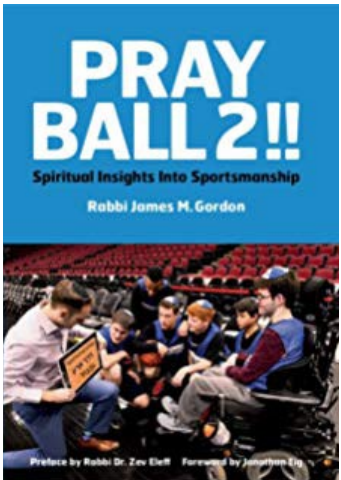
Gordon established a non-profit, the Team Spirit Institute, which creates and implements educational programs using sports to teach Jewish values, traditions, and history. The proceeds from the book will support the Institute. He hopes that copies of the book itself will be sold as a fundraiser for other non-profits.

Gordon’s own children—Max, Rita, and Sophie, all now in their 20s—played varsity basketball at Hillel Torah and Ida Crown Jewish Academy. They also each played other sports—Max played baseball, Rita played soccer, and Sophie ran track. Rita also played basketball and soccer at Yeshiva University’s Stern College for Women (Division III).

“Their involvement in sports, as both participant and fan, all helped enhance their commitments to being observant, Zionist Jews,” their dad kvelled, “And, most importantly, very kind, decent, caring human beings.”

Pray Ball 2!! can be purchased at Rosenblum’s World of Judaica, AllJudaica.com, and Amazon.com. To purchase 10 or more copies (at discounted prices), email Sales@TeamSpiritInstitute.org.

Rabbi James Gordon is a Past President of the Decalogue Society.



Jews in Sports

Our Jewish Major League Roster

by Justice Robert E. Gordon

- (1) Richard Bleier, age 30, left-handed pitcher from Davie, Florida, with the Baltimore Orioles. In 2016 with the New York Yankees, he had a 1.96 earned run average. In 2017 with Baltimore, 1.99.
- (2) Ryan Braun, age 34, outfielder – first-baseman from Granada Hills, California. With the Milwaukee Brewers, he had a wonderful all-star career until he disappointed his fans by using performance-enhancing drugs.
- (3) Alex Bregman, age 24, a third-baseman from Albuquerque, New Mexico, with the Houston Astros who is a bona fide big-league star in all aspects of the game; drafted second in the first round in 2016.
- (4) Max Fried, age 24, a left-handed pitcher from Santa Monica, California, drafted seventh in the first round in 2012 out of high school. Had Tommy John surgery in 2014 and is up and down with the Atlanta Braves.
- (5) Ian Kinsler, age 36, all-star second-baseman from Tucson, Arizona, with the Los Angeles Angels is at the end of his near-hall of fame career.
- (6) Jon Moscot, age 25, right-handed pitcher from Westlake Village, California. On the disabled list with the Cincinnati Reds after Tommy John surgery.
- (7) Joc Pederson, age 25, outfielder from Palo Alto, California, with the Los Angeles Dodgers, had an impressive clutch World Series performance in 2017.
- (8) Kevin Pillar, age 29, outfielder from West Hills, California, with the Toronto Blue Jays, should have an all-star career.
- (9) Ryan Sherriff, age 27, a left-handed pitcher from Culver City, California, with the St. Louis Cardinals has been up and down with the Cardinals.
- (10) Danny Valencia, age 33, infielder, outfielder from Boca Raton, Florida, with the Baltimore Orioles has played for eight different teams in nine years.
- (11) Zack Weiss, age 25, right-handed pitcher from Irvine, California, with the Cincinnati Reds is on the disabled list with elbow surgery.

- (12) Craig Breslow, age 37, from Trumbull, Connecticut, left-handed pitcher with Toronto was sent down after many years as a premiere relief pitcher with many teams. He is now working on a new sidearm delivery in the hope of resurrecting his major-league career.
- (13) Ryan Lavarney, age 30, a catcher from Woodland Hills, California, was named most valuable player of the World Baseball Classic for Team Israel in Pool A, but was traded from Oakland to Pittsburgh and was sent down to the minors at Indianapolis.
- (14) Jeremy Bleich, age 30, left-handed pitcher from Metairie, Louisiana, was sent down by the Oakland Athletics to the Nashville Sounds.
- (15) Zack Borenstein, age 27, outfielder from Buffalo Grove, Illinois, was sent down by the Mets to Las Vegas in the Pacific Coast League. Last year with Reno Aces (Pacific Coast League), he batted .279 with 24 home runs and 91 runs batted in. He will be back in the majors soon.
- (16) Brad Goldberg, age 28, right-handed pitcher from Beachwood, Ohio, is up and down with the Chicago White Sox and can throw over 100 miles per hour but has trouble finding the plate. He is pitching for the Birmingham Barons in the Southern League (AA).
- (17) (18) Scott Feldman, age 34, right-handed pitcher from Burlington, Connecticut, and Ike Davis, age 30, first-baseman from Scottsdale, Arizona, are unsigned free-agent players who have been in Major League Baseball for many years and are in the extended spring-training program of Major League Baseball.
- (19) (20) Ryan Kalish, age 29, an outfielder from Shrewsbury, New Jersey, and a former Chicago Cub on the 2016 World Series team at the beginning of that year has retired, together with Nate Frieman, age 31, a catcher, first-baseman, and former big-leaguer with the Atlanta Braves. Frieman played in the World Baseball Classic for Team Israel.

Law Student Leaders

- Chicago-Kent:
Michael Korman, Mkorman@kentlaw.iit.edu
- John Marshal Law School:
Amanda Decker, adecker@law.jmls.edu
- DePaul:
Eugene Toyberman, Etoyberman@gmail.com
- Northwestern:
Jayne Chorpash and **Doug Lavey**,
Jaynechorpash2020@nlaw.northwestern.edu
douglaslavey2020@nlaw.northwestern.edu
- Loyola:
Carrie Seleman, Cseleman@luc.edu

Decalogue Member Socials
Wednesdays 5:30-7:30pm at Bar Louie River North
October 10 With the Justinian Society
November 14 YLS & New Admittees
January 9 Welcome Home Returning Members

Perspectives on Jewish Business Ethics

Rabbi Yitzhok Breitowitz

<https://www.jewishvirtuallibrary.org/introductory-perspective-into-jewish-business-ethics>

Let me give you a story which illustrates how this works in the business context. There was a rabbi, Rabba Bar Chanah who once hired workmen to transport barrels of wine for him. They were negligent and as a result, the barrels of wine broke and this man incurred a severe financial loss. He took the workers to court, suing them for the value of the wine that was destroyed and the workers' only defense was, "You know, we can't afford it. We don't have the money. What are you going to do about it?" So the courts found in favor of the workers. So, Rabba Bar Chanah questioned the court and said, "Is this the law? Is it not the law that I am entitled to recover for their negligence?" And the court told him, "For you, this is the law. You are a righteous person and because you are a righteous person, you have to take into account the equities of the situation, the unfairness, the fact that these are people who need the money, etc., and, therefore, you are compelled by virtue of your righteous status to go beyond pressing your exact legal rights." Well then, and perhaps this is an ancient example of chutzpah, they turned around and sued him for their wages. They said, "Well, wait a second, you didn't pay us our wages for that day." So, he was dumbfounded. He said, "Okay, it's one thing to say I can't recover from you but are you going to recover from me when you broke my wine because of your negligence?" Astoundingly, the court said, "Yes! That's a good idea. You have to pay." And, once again, he asked, "Is this the law?" And they told him, "For you, that's the law. These are people who need the money and therefore, you must go beyond the law."

Rabbi Jill Jacobs

<https://www.myjewishlearning.com/article/jewish-employee-employer-relations/>

While making certain demands on workers, the bulk of Jewish labor law imposes obligations on employers. This emphasis on the responsibilities of employers reflects an understanding of the essential power imbalance between employers and employees, as well as an internalization of the Exodus narrative. Often cited within discussions of labor law is the biblical verse, "they are my servants" (Leviticus 25:43), understood by the rabbis to imply "and not servants to servants." The experience of slavery and redemption instills within the lawmakers a wariness about any situation in which one person might, de facto, become the servant of another.

The central biblical text on the obligation of employers emphasizes the poverty of workers:

Do not oppress the hired laborer who is poor and needy, whether he is one of your people or one of the sojourners in your land within your gates. Give him his wages in the daytime, and do not let the sun set on them, for he is poor, and his life depends on them, lest he cry out to God about you, for this will be counted as a sin for you." (Deuteronomy 24:14-15)

This text assumes a situation in which workers are hired and paid by the day. In our contemporary context, this may be compared to people paid by the hour — that is, people paid according to the time worked, and not according to the job completed.

Thank you to Jewish Vocational Services for sharing these thoughts with us.

Visit <https://www.decaloguesociety.org/services/tablets> for links to more articles on the topic.

JVS Chicago provides services and programing for career development. For those needing assistance with resume and cover letter creation, LinkedIn, interviewing, one-on-one counseling please contact JVS Access Intake 855 INFO JVS (855) 463-6587 info@jvs.org.

For businesses who are confronted with the stress of laying off employess see the Outplacement Services webpage link <https://www.jcfs.org/jvs/what-we-do/employer-services/outplacement-services>

Shomrim Society of Illinois

59th Annual Reception

Thursday, November 15th, 2018 6-9pm

JUF Larry and Lillian Goodman Conference Center
30 S. Wells, Chicago Illinois

Tickets: \$100

<https://www.shomrimillinois.org/2018-reception.html>

Mikve Israel-Emanuel

The Oldest Synagogue in Continuous Use in the Western Hemisphere

By Susan K. Horn

Last spring, while on a cruise to the Southern Caribbean, I had the good fortune to be in Curaçao on Shabbat. Having done a little research, I wanted to attend services at Mikve Israel-Emanuel.

The Congregation was established in 1659 by a group of about 70 Sephardic Jews from the Portuguese congregation in Amsterdam. They brought the first Sefer Torah with them, which dated from the 1300s. The official home of the congregation was consecrated in 1732. The current bright yellow building was built during the 1800s, with an organ. It is modeled after the Portuguese Synagogue in Amsterdam, complete with sand on the floor, a central Torah lectern, and an ornate Ark.

The synagogue is about a 15-minute walk, across the bridge, from the cruise dock; but with unmarked streets, friendly natives helped me by pointing the way. Everyone is taught Dutch, English, and Spanish in school. Arriving early, I was greeted by an armed guard, who asked me to have coffee at the cafe across the street until I was granted admission, about 15 minutes before the 10 AM scheduled service. There were about a dozen others from the cruise ship there as well. The dress code was strictly enforced, as



one member of the group wearing bermuda shorts was turned away. Arriving late, my husband found the doors to be locked while hearing the service ongoing inside.

The entrance leads into a courtyard, with offices and larger rooms on one side, and the synagogue in the middle. There is also a school forming part of the courtyard. Distributed from one of the larger rooms were prayer books, Bibles, and a Torah service pamphlet. The egalitarian congregation uses the Reform prayer book, except for the Torah service, which is according to the Sephardic rite (hence the pamphlet, written by the congregation).

The Ark displayed ten Torahs, seven of which have two scrolls, while three have a single scroll. The service is in English, conducted by Hazzan Avery Tracht, who is the resident spiritual leader. There appeared to be enough congregants, without the tourists, to form a minyan. The oneg Shabbat afterwards provided an opportunity to chat with members of the congregation.

There is a museum attached to the synagogue complex which is open during weekdays.

More information may be obtained at snoa.com.

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Chai-Lites

By Sharon L. Eiseman

The ‘CHAI-LITES’ Section features news about our busy members coming, going, celebrating, being recognized, speaking, writing, standing up for the oppressed, volunteering, acquiring more new titles and awards than seems possible, and RUNNING and RUNNING... for office, for the bench and in Race Judicata! Please share YOUR accomplishments with us for the Spring 2019 issue!

Decalogue’s First Vice President, **Helen Bloch**, who owns her own law firm and was named by the ABA as one of its Women of Grit in a book of that name, was the perfect practitioner to direct the August 13 workshop on “Starting a Business in Illinois” that was hosted by the Women’s Business Development Center (WBDC). At the workshop, Helen covered issues regarding what kind of entity to create; how to select a name and perform a name search to make certain you aren’t claiming an already existing name or one close to it; what licensing requirement apply; the function of a registered agent and how to select one; and why a new entrepreneur needs to identify a ‘principal place of business’.

The new President of the Chicago Bar Association, installed in July, is none other than **Steven Elrod**, a long-time devoted Decalogue member and past awardee. In his Bar Year, Steve will stress the importance of civility and collegiality among lawyers, and promote civic education in the schools, goals that are interrelated, While Steve will be quite busy, we expect to see him at upcoming DSL events as usual and the DSL is ready to collaborate with the CBA on any of Steve’s projects.

On June 25, board member **Chuck Krugel** was part of The Masters Conference 2018 Panel Presentation on Social Media, which is now online here: <https://www.charlesakrugel.com/charles-krugel-media/the-masters-conference-2018-panel-presentation-on-social-media-now-online.html>. On June 1st, The American Bar Association’s Journal (ABA Journal) featured Chuck in ‘How Pro Bono Representations Lead to Paid Work for Lawyers,’ available here: <https://www.charlesakrugel.com/charles-krugel-media/im-quoted-in-aba-journal-article-how-pro-bono-representations-lead-to-paid-work-for-lawyers-new-client-testimonial-6-20-employee-classification-m.html>. On May 17, Business News Daily quoted Chuck in their article ‘You’re Being Sued: A Guide to Handling a Business Lawsuit,’ available here: <https://www.charlesakrugel.com/charles-krugel-media/im-quoted-in-business-news-dailys-youre-being-sued-a-guide-to-handling-a-business-lawsuit-im-presenting-financial-poise-west-legealedcenters-employment-law-101.html>. Finally, on September 19th, from 3PM - 4:30 PM, Chuck is presenting “Managing Social Media in the Workplace-Dos & Don’ts” at Chicago’s City Hall, Dept. of Business & Consumer Affairs, #800, 121 N. La Salle. Chuck will discuss how businesses can supervise what employees say about their business & customers on social media and address. what employees can record in the workplace and what they can post. Admission is free.

Board Member **Melissa Gold** was recently elected to serve on the Executive Board of Lincoln Park Zoo’s Auxiliary Board, a group which supports the fundraising and community engagement efforts of Lincoln Park Zoo (the last free major cultural institution in Chicago).

Earlier this year, Board Member **David W. Lipschutz** was promoted to the position of Senior Associate at his law firm, Arnold Scott Harris, P.C. In his other life as a veteran thespian on the Chicago theatre scene, David will be performing in two upcoming productions. First, he will be the star of The Artificial Jungle, presented by Handbag Productions from 9/20/18 to 10/28/18 at Stage 773, located at 1225 W. Belmont. And early next year, David will appear in Evil Dead: the Musical produced by Black Button Eyes. That play’s run is from 1/11/19 to 2/16/19 at the Pride Arts Center venue, 4139 N. Broadway in Chicago.

Michael Erde was appointed to the Chicago Bar Association’s Trust Law and Elder Law Committees. Just attending all of those meetings will surely keep him out of trouble.

Decalogue Board member **Gail Schnitzer Eisenberg** was named to the inaugural class of March of Dimes Gretchen Carlson Advocacy Fellows. Fellows take part in a year-long program to change public policies related to prematurity and maternal mortality and acquire the skills to lead others to do the same. Learn more on the organization’s website: marchofdimes.org/momentum.

In June, at the end of the 2017-18 term, ISBA President Russell Hartigan (ret.) had the honor of bestowing awards upon several ISBA members for their service in various capacities. Decalogue Board member **Sharon Eiseman** was a recipient of one of three special Presidential Commendations which acknowledged her work to further the goals of the Association in advancing professionalism, diversity and inclusion. And this new bar year will be a busy one for Sharon as she takes on her new role as a CBA board member.

Mazel Tov to Decalogue member **James Faire** on the recent coming of age of his son Zev whose Bar Mitzvah took place at Anshe Sholom in late August. So much of life is bittersweet. For this family, the ‘bitter’ part was the loss of Martin Faire, Jim’s father, just before the occasion of Zev’s Bar Mitzvah. Surely of comfort to the family is that Martin knew Zev was studying his Hebrew and would be reading his Torah portion from the Bima, and that Jim had the privilege for many years of practicing law with his father.

And a double Mazel Tov to Board member **Kim Pressling** and husband Joe Curtis, new parents welcoming twins Eden and Hannah Pressling Curtis on August 23.

Welcome New Members!

<i>Lily Amberg</i>	<i>Doug Lavey</i>
<i>Jacob Arrandt</i>	<i>Ashly McCants</i>
<i>John Beeston</i>	<i>Robert McCarthy</i>
<i>Paula Berger</i>	<i>Moshe Melcer</i>
<i>Ira Berke</i>	<i>Diane Pezanoski</i>
<i>Breana Brill</i>	<i>Kaylin Reese</i>
<i>Jayne Chorpash</i>	<i>Kelsie Rider</i>
<i>Christopher Cohen</i>	<i>Danielle Rosenberg</i>
<i>David Cohen</i>	<i>Anna Schiefelbein</i>
<i>Megan Craig</i>	<i>Charity Seaborn</i>
<i>Michael Davis</i>	<i>Adam Share</i>
<i>Miriam Golden</i>	<i>Zev Shusterman</i>
<i>Marni Held</i>	<i>Diane Silverberg</i>
<i>Matthew Jannusch</i>	<i>Andrew Tarkington</i>
<i>Tracey Kaliman</i>	<i>Ronald Tittle</i>
<i>Sanghun Kim</i>	<i>Eugene Toyberman</i>
<i>Hannah Krenik</i>	<i>Abraham “AJ” Varon</i>

Go Green!

Decalogue members now have the option of receiving communications solely by email. If you would like to dispense with paper copies of the Tablets, event invitations, and membership notices please use the link below to let us know to put you on our email only list.

<https://interland3.donorperfect.net/weblink/WebLink.aspx?name=E254534&id=70>

Upcoming Committee Meetings		
Mon	Sep 17 5:00pm	Ways & Means
Tue	Oct 9 5:15pm	Anti-Semitism
Thu	Oct 11 12:00pm	Publications
Thu	Oct 11 5:30pm	Events
Tue	Oct 23 12:00pm	Social Action



Surrogacy: Who Is The Parent From A Jewish And Illinois Legal Perspective?

Monday, March 18, 2019
7:00-8:30pm

Anshe Emet Synagogue
3751 N Broadway, Chicago

Speakers:
Dena Levy, *Levy Law Solutions*
Rabbi D’ror Chankin-Gould, *Anshe Emet*
Rabbi David Wolkenfeld, *Anshe Shalom B’nai Israel*

1.5 hours CLE credit

Register after 1/1/19 at www.decaloguesociety.org

CLE Schedule - www.decaloguesociety.org/services/legal-education

Wednesday, October 10, 12:00pm-1:30pm

Video CLE: The Good Wife - Red Team Blue Team

Class Leader: Cliff Scott-Rudnick

DePaul Law School, 25 E Jackson

Ethics credit pending

Wednesday, October 24, 12:15pm-1:15pm

Motion Practice and Mandatory Arbitration

Speaker: Judge Deborah Gubin

134 N LaSalle Room 775

Wednesday, November 7, 12:00pm-1:30pm

Burnout in Lawyering IV

Speaker: Alice Virgil, *Ph.D., L.C.S.W.*

134 N LaSalle Room 775

Mental Health/Substance Abuse credit pending

Wednesday, November 14, 12:15pm-1:15pm

Voting Rights & Gerrymandering

Speaker: Ruth Greenwood, *Senior Legal Counsel,*

Voting Rights & Redistricting, Campaign Legal Center

134 N LaSalle Room 775

Wednesday, December 12, 12:15pm-1:15pm

Cannabis Business Developments

Speaker: Bob Morgan, *Special Counsel, Much Shelist*

134 N LaSalle Room 775

Hon. Gerald C. Bender Memorial Lecture

Sunday, December 16, 9:00am-12:00pm

Jewish Law in Adoption and Inheritance

Speaker: TBA

Lincolnwood Jewish Congregation AG Beth Israel

7117 Crawford, Lincolnwood

Wednesday, January 9, 12:15pm-1:15pm

e-Filing in Cook County

Speaker: Tyler Technologies

134 N LaSalle Room 775

Special MLK Day CLE

Wednesday, January 16, 11:30am-1:30pm

Video CLE TBA

Speakers & Location TBA

Diversity/Inclusion credit pending

Wednesday, January 23, 12:15pm-1:15pm

Employment Law

Speakers: Jonathan Lubin and Lonny Ogus

134 N LaSalle Room 775

Wednesday, January 30 12:00pm-1:30pm

Understanding Exposures in a Legal Liability Claim

Speaker: Brian Olson, *ISBA Mutual*

ISBA Mutual 20 S Clark, Ste 800

Wednesday, February 6, 12:00pm-1:30pm

2019 Income Tax Update

Speaker: Lawrence R. Krupp, *Partner, Wipfli LLP*

134 N LaSalle Room 775

Wednesday, February 27, 12:15pm-1:15pm

TBA

Wednesday, March 6, 12:15pm-1:15pm

Property Tax

Speaker: Ira Piltz

134 N LaSalle Room 775

Wednesday, March 13, 12:15pm-1:15pm

What Every Family Lawyer Needs to Know About

Immigration

Speaker: Richard Hanus

134 N LaSalle Room 775

Monday, March 18, 7:00pm-8:30pm

Surrogacy: Who is the Parent from a Jewish and Illinois Legal Perspective?

Speakers: Dena Levy, Rabbi David Wolkenfeld, Rabbi D'ror

Chankin-Gould

Anshe Emet Synagogue, 3751 N Broadway

Co-sponsored by Anshe Emet Synagogue, Anshe Shalom Synagogue,

Hadassah Chicago, JCFS/Project Esther, and A Wider Bridge

Wednesday, March 27, 12:15pm-1:15pm

Cyber Security

Speaker: Theodore Banks, *Partner, Scharf Banks Marmor*

134 N LaSalle Room 775

Wednesday, April 3, 12:15pm-1:15pm

Sex Harassment – From the Shop Floor, to the Classroom,

Hollywood and Beyond

Speakers: Robin Potter & Nieves Bolanos

134 N LaSalle Room 775

Wednesday, May 1, 12:15pm-1:15pm

Enforcement of Judgments

Speaker: Robert Markoff

134 N LaSalle Room 775

Wednesday, May 15, 12:15pm-1:15pm

Juvenile Justice

Speaker: Judge Michael Toomin

134 N LaSalle Room 775

Wednesday, May 22, 12:00pm-1:30pm

2019 Ethics Update

Speaker: Wendy Muchman, *ARDC Chief of Litigation and Professional Education*

Location TBA

Professional Responsibility credit pending

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KEYNOTE PRESENTATION BY

Michigan's first blind Supreme Court Justice

RICHARD H. BERNSTEIN

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INCLUSION
IN THE LEGAL
PROFESSION



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**Jewish Judges
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**16th Annual Justice, Lifetime Achievement, and Public Service Award
and Installation Dinner**

Thursday, November 8, 2018

Reception 5:30 p.m. Dinner 6:30 p.m.

Justice Sheldon A. Harris

Honorable Seymour Simon Justice Award

Judge Jack B. Schmetterer

*Honorable Ilana Diamond Rovner Lifetime
Achievement Award*

Justice Tom M. Lytton

Honorable Richard J. Elrod Public Service Award

Hyatt Regency Chicago

Crystal Ballroom

151 East Wacker Drive Chicago, Illinois 60601

Dietary Rules Observed

\$150.00 per person \$1,500.00 per table

Last date to purchase tickets is November 1, 2018

Call (312) 593-8953 or email bobgordon9@aol.com

If you would like to sit at Decalogue's table order at www.decaloguesociety.org/events/events2