THE DECALOGUE TABLETS

FALL 2020

THE DECALOGUE SOCIETY OF LAWYERS
JUSTICE, JUSTICE SHALL YOU PURSUE

Arab American Bar Association of Illinois

2020 Building Bridges Awards

Wednesday, September 9, 2020
5:00-6:00pm
via Zoom

Register at

www.decaloguesociety.org

Honoring

"Community MVPs"

Marvet Sweis

Hon. Megan Goldish

THE DECALOGUE SOCIETY OF LAWYERS
JUSTICE, JUSTICE SHALL YOU PURSUE

President's Column

by Patrick Dankwa John

"If the highest aim of a captain were to preserve his ship, he would keep it in port forever." - Thomas Aquinas, Italian philosopher

"The torment of precautions often exceeds the dangers to be avoided. It is sometimes better to abandon one's self to destiny." - Napoleon

This is my maiden voyage as skipper of the ship Decalogue. Even with binoculars or a telescope, I can only see but so far ahead of me out into the ocean. Everyone knows the Earth is round, but few realize that even with the most powerful binoculars, when standing on a ship, you can only see approximately 12 miles ahead. Why? Because the Earth is round, and our vision is linear. We can see what's in front of us, but we can't see what's around the curve.

We are always on the brink of confronting curves—the unknown. Nothing is more uncomfortable than the unknown. Recently, we have collectively been thrown several curves.

In his Fall 2014 President's Message, then Decalogue President, the Honorable Joel Chupack, prophetically sounded the alarm about rising anti-Semitism in the United States and abroad. Unfortunately, since then, we have seen things go from bad to worse. Since then, as a nation, we have been thrown many curves. Who could've imagined that there would be two mass shootings in synagogues in Pittsburgh and Poway (a suburb of San Diego) and countless attacks on Jews all over the nation, even in New York City? Who could've imagined the case of George Floyd and the global protests it would spark? Who could've imagined the COVID-19 pandemic, which has exposed our nation's long ignored economic and racial inequalities? Who could've imagined a dreadful perfect storm: a health pandemic, an economic depression, rising racial and ethnic tensions, and plummeting public confidence in the American president's leadership ability? There's so much going on, it can be overwhelming, exhausting, daunting, and paralyzing. There's so much going wrong that we can feel that our contribution will be meaningless—just a drop in the bucket. One of our missions is fighting against anti-Semitism and other forms of bigotry. How exactly do we make a dent in those problems that have plagued us for thousands of years, while we're in a pandemic? I don't know what the answer is, or where it can be found. But I do know where it won't be found. It won't be found in our comfort zone. It will be found somewhere beyond our current range of vision. Somewhere beyond the twelve miles that we can see in front of us.

(continued on page 4)

TABLETS
Fall 2020

Contents

President's Column *(cont'd)*

Albert Einstein said you can't solve a problem with the same mindset that created the problem. Just last week I had a conversation with another lawyer about what role bar associations can play in fighting bigotry. She mentioned some ideas her bar association was considering. I asked her what her bar association was planning to do or say about anti-Semitism that hasn't been done or said in the last 1,700 years? What did they plan to do or say about White supremacy that hasn't been done or said in the last 400 years? She gave a floundering response. I wasn't trying to be a wise guy—I was trying to make the point that comfort is the enemy of progress. Whatever the solutions to bigotry and injustice are, they are guaranteed to be unorthodox, novel, radical, and controversial. If that were not the case, then the problems would've been fixed by now. Are we willing to be uncomfortable, to set a course beyond our twelve-mile vision, to do things that have never been done? Discomfort is the price we must pay to bring more justice to the world. Discomfort, and lots of it. Tikkun Olam isn't cheap.

In the late 1800's, Theodor Herzl (the father of modern Zionism) founded the World Zionist Organization. Herzl's efforts were initially met with great resistance from the Jewish elite. Most Jewish leaders, the wealthy businessmen and the rabbis, bitterly opposed Herzl. Herzl's Jewish bosses even fired him from his job as a journalist at a Jewish paper because they disapproved of his Zionist activities. But the Jewish poor loved Herzl from the beginning. Why the gaping chasm between the poor Jews and the elite Jews? Comfort.

The Jewish elite wanted Israel to be a Jewish state, but they were unwilling to risk the ire of the Christians. They told Herzl that the Jews were doing just fine in most of Europe at the time, and they didn't want to do or say anything controversial that would draw attention to the Jewish community. Herzl ignored his critics and continued to fight for the cause of Zionism. His initial base was poor Jews, but over time his popularity mushroomed across the Jewish social strata. Eventually, many of his detractors became his supporters, and as they say, the rest is history.

Decades later on another continent, some Black leaders in America faced a similar challenge. In 1948 a small Black church in Alabama hired an old Black preacher to be their new pastor. Most of the church members were college educated Blacks: lawyers, doctors, accountants, teachers, etc. It was a church of the Black elite. They knew they were the cat's meow, and they made sure everyone else knew it too. They were pretentious and self-righteous. Plainly put, they were a church of snobs. The old preacher they hired was considered one of the best Black preachers in the South. He had good pedigree. He was no storefront preacher. He was a man of letters, attended the University of Chicago, and was fluent in Greek and Hebrew—a rarity for Black preachers even today. He was considered one of the best Black orators in the South. Among Black preachers, he was a giant in a land of grasshoppers. What more could a church of snobs ask for? So they hired him. There was a problem though.

He hated racism as much as he loved the gospel. His sermons often contained diatribes against segregation. This made the deacons very uncomfortable. They told the old preacher that they were trying to get along with the Whites in town, and he was causing trouble by publicly complaining about Blacks being lynched and getting beaten by the police. The deacons of the church begged him to stop speaking out against racism, segregation, and police brutality. When begging didn't work, they ordered him to stop. When that didn't work, they fired him. Now they needed to find a new preacher.

The deacons decided in selecting the old preacher's replacement, they would learn from their mistakes. Now they didn't want a preacher who was experienced and in high demand. Instead they chose a young unknown man—he was 26 years old, had never pastored a church and was fresh out of seminary. He would be happy to just have a job—any job. The deacons were confident they would be able to mold and control this young preacher. You may have heard of him. His name is Dr. Martin Luther King, Jr.

Well, things didn't go quite as the deacons planned. Most people don't know Dr. King wasn't just unpopular with White preachers, he was also unpopular among most Black preachers. Chicago's Reverend Clay Evans, who died in 2019, was one of the few Black pastors who publicly supported Dr. King when he came to Chicago. New York's famous Reverend Adam Clayton Powell referred to Dr. King as "Martin *Loser* King," and threatened to start a rumor that King was having a homosexual affair with one of his workers. All this to keep King out of New York City—Powell's turf.

As we work this bar year on the myriad challenges facing our profession and our nation, let's remember great leaders like Herzl and King. They took calculated risks for the sake of justice. Had they not been willing to endure being laughed at and ridiculed, where would Blacks and Jews be today?

Remember their sacrifices and the sacrifices of countless others, who made our present comfort possible. Consider what we owe the younger generation to whom we will pass the baton. In our struggles, we will at times feel anxious, worried, and scared. It's like going to the gym. If it doesn't hurt a little, then you're not doing it right.

How can we remain buoyant and optimistic in our work? Rabbi Binyomin Scheiman said it best. During my installation ceremony in June 2020, Rabbi Scheiman explained that in our efforts to achieve Tikkun Olam, we are not spectators at the arena—we're players. Spectators have the luxury of leaving the arena before the game is over. Spectators can leave if they're tired, or if the game is boring, or if their team is losing. But the players have to stay and keep playing until the game is over.

In our endeavors to bring Tikkun Olam into the world, when is the game over? It's never over. We have a responsibility to do for others what our ancestors did for us. They kept playing until they couldn't play anymore, and then they passed the baton to us. Let us do likewise. I look forward to working with you all this bar year. Let's get uncomfortable.

Patrick Dankwa John is president of the Decalogue Society of Lawyers. He is DSL's first Black and first Christian president. He's originally from Guyana, South America—a place of kaleidoscopic racial and religious diversity. He's a general practitioner with a focus on family law. He can be reached at attypatjohn@gmail.com.

From the Judge's Side of the Bench

The Judicial Frontier: The Good, the Bad, and the Ugly

by Hon. Rossana Fernandez

In the advent of COVID-19, the pandemic has suddenly thrust lawyers and judges alike into what some have described as organized chaos. Video conferencing, email, and scanning documents have become the norm and human contact has been virtually eliminated. Although this may not have been the ideal situation or the fashion in which we envisioned the legal profession and its evolution, it may be a blessing in disguise. Practically speaking, the legal field and the manner in which we engage in a courtroom has not evolved very much in the last century. Technology has evolved exponentially, which makes the present time very exciting. We have all become pioneers in our own right and we will be better off for it.

THE GOOD

The new frontier in the practice of law is certainly filled with varying levels of complexity. What now? If you have the ability, update your technology. Update your computer to allow for video conferencing and more memory for simultaneous access to documents and conferences. What if that isn't an option or funds are currently limited? If you have a smartphone, this will allow you access to video conferencing aids and other applications.

Where do you start? In-person conversations will be limited for months to come. Download the most prominently used video conferencing application onto your computer or smartphone for access to court proceedings and other video conferences. Take the time to watch a tutorial, or better yet, contact a friend or other friendly colleague to assist you with the basics. Telephonic conversations may still be functional but more often than not, the option for video conferencing will prevail. Remember, video conferencing is merely a means to an end and decorum should not be forgotten. Dress appropriately for court appearances. Be sure your devices identify you and your client clearly. Test your audio and video to ensure they work properly before a scheduled event. Ensure you learn about the "chat" function, which allows you to communicate while another person is speaking. You may also wish to inquire about breakout rooms, which allow you to speak to your client privately, yet remotely, when involved in a deposition and/or court appearance.

What about correspondence letters? As we continue to modernize communication, traditional letters will be written far less than an electronic message. If you are new to utilizing electronic mail, then a little elbow grease will go a long way. Importantly, it will assist you in communicating effectively and efficiently. First, ensure you have a comprehensive list of the email addresses for the clients, attorneys, insurers, and court personnel you interact with the most. Input this information into your address book. This will save you time in the middle of a busy day. Create "folders" for your cases. Each time you receive an email relative to a particular case, including signed documents or court orders, you will have a centralized location for easy accessibility of that information. Remember, video conferencing allows you to "share" documents with one another and accessibility will be key.

What if signatures are required on documents or motions and I don't have modern equipment? Don't panic. A simple search on the internet or your smartphone for "applications" will provide you many options. Determine what you need to select the best option. You can print, sign, and scan the document by converting it into a PDF file you can email directly to clients, corporations, insurers, or the court. Is your computer ill-equipped for printing excessive volumes of paper? Search for options that allow you to view a document on your computer (or smartphone) with options to sign with your finger (or stylus) without changing the integrity of your original document.

Although the initial closure of courthouses across many counties shocked judges and attorneys alike, it gave birth to creativity and technological advances in the legal field. Fortunately, most households possess a computer or smartphone, which grants access to a treasure trove of built-in functions and applications ("apps") that have facilitated court appearances, document production, client signatures, and scanning. Patience is key when educating yourself. Once you get past the panic, you will develop a new positive outlook. You will be able to "appear" in one part of the county and 15 minutes later, "appear" in another part, all the while reducing the time normally spent in traffic traveling between courthouses or meetings. Arguably, once perfected, our current approach may simplify court access for litigants who would otherwise have to disrupt their daily lives, including employment, or travel long distances to attend court mandated appearances or other necessary meetings.

What is another unintended benefit to remote proceedings? Typed orders and the death of carbon paper. We may not realize how important it is to be able to read a court order or other handwritten document until years and years later when every letter becomes crucial to decipher. The pandemic, remote proceedings, and email have perhaps resolved this issue as penmanship is a tool used less and less to the typed word.

THE BAD

If the incorporation of technology into the legal profession catapults it into efficiency and preservation of documents, then how can it possibly have a negative effect? Lack of technology. Misery abounds without the ability to access video conferencing or electronic mail due to a lack of proper technology. If you can, update your equipment. For others, be empathetic that financial investments may not be an option. Be creative, be kind, and be patient.

(continued on page 7)

From the Judge's Side of the Bench
Witness Credibility in the Age of Video Conferencing Trials

by Hon. Jesse G. Reyes

Demeanor is often used as part of the evidence probative of a witness's credibility. In fact, the United States Supreme Court has held it is appropriate for the trier of fact to judge a witness "by his demeanor upon the stand and the manner in which he gives his testimony is worthy of belief." [1]

In *People vs. Unger,*[2] Clarence Darrow represented Francis Brown, one of the co-conspirators who were alleged to have participated in an insurance fraud scheme against New York Life Insurance Company. An observer at the trial later described one of the prosecution's key witnesses with a rather unappealing appearance in the following manner: [3]

"He was a squat, heavy-set man of medium height…His swollen face, bleary eyes, puffy eyelids, and reddish-purple nose marked the habitual drunkard. His shaggy…hair had been stranger to brush or comb so long as to have become tangled and matted. His clothes…were covered with dirt and grease. His huge hands…were covered with grime." [4]

On cross-examination, Darrow asked no questions of the witness. He merely requested that the witness stand up and turn around for the jury. Darrow's follow up statement to his request was concise and effective: "That's all. I just wanted the jury to get a good look at you." [5]

As Darrow's example demonstrates, assessment of demeanor on many occasions depends upon direct observation of the witness; a lesson which is more poignant today than ever in this new arena of litigation involving video conferencing. While some jurisdictions are slowly coming to grips with this technology as a means of conducting the court's business, others, like Illinois, have forged ahead. In fact, some courts have already delineated the responsibilities of counsel as it pertains to the presentation of a witness, so that the court may be able to view and judge the credibility of the witness.[6]

While some members of the judiciary are still becoming accustomed to this new method of proceeding with trials and hearings, others feel video conferencing allows them to truly assess a witness' credibility since they are making prolonged "eye-to-eye" contact. This is often achieved on a large computer screen sitting directly in front of the trier of fact. This format also allows for fewer distractions and more focused attention on the witness than in a traditional courtroom. When utilizing this method of presenting a case, the responsibility falls on counsel to prepare the witness for the "eye-to-eye" contact in the virtual courtroom.

Without question, in preparing a witness for trial, one of the primary concerns of a litigator is to ensure that your witness effectively conveys credibility. Though that same concern is present when preparing a witness to testify in a traditional courtroom, achieving the same result in a videoconference proceeding poses very different challenges. The following are suggestions counsel may want to consider.

Counsel should not only thoroughly prepare his or her client, but should also take the time to practice with all potential witnesses to ensure everyone understands the procedures and the technical requirements involved in participating in a videoconference proceeding. One should practice utilizing the video conferencing technology as much as needed beforehand, just as you would in an onsite trial "war room."

Counsel will also need to find the right setting from where the video conferencing will occur. Ensure that the witness' location will be devoid of external distractions, heavy shadow-inducing backlighting, or poor acoustics. Also, test your setup with each witness so that you may address any issues with internet connections.

Counsel, accordingly, should assist each witness in tailoring their communication skills specifically for the videoconference. For example, counsel should advise the witness to look directly into the camera while speaking. This will create a more direct presentation for the viewers. During videoconferences, many people have a tendency to focus on the other participants or on their own faces in the video display rather than looking into the camera, which may give the wrong impression of the witness being disinterested or distracted.

In many instances, the witness may need assistance in finding their voice.

Since most witnesses will be sitting in the comfort of their home, they may be tempted to speak in a soft, conversational voice. Therefore, prior to testifying, the witness should practice articulating loudly and clearly to overcome any potential technical problems with the audio. This will ensure that the full content of the testimony is heard and will prevent the answers from trailing off or appearing to waver in and out, which could be interpreted as conveying a lack of confidence or nervousness. Conversely, a loud witness may come across as overly aggressive or arrogant. Also, in terms of communication, if your witness has a tendency of speaking with their hands, have them practice keeping hand gestures in the video frame when necessary, but also keep in mind that unnecessary hand movements or gestures may be distracting or may even block the camera.

(continued on next page)

Witness Credibility *(cont'd)*

Lastly, as with any appearance in a court of law, whether in a physical structure or on a computer screen, a witness should dress neatly and professionally and maintain an attentive posture. The witness also should pause after being asked a question before responding, this is particularly important when on video due to the common lag that occurs within video transmission. Rehearsing the question and answer format with your witness is always a good idea in order to avoid awkward interruptions during the actual videoconference trial.

The looming fear of the coronavirus is moving more and more courts to conduct the people's business via video conferencing. As this trend appears to be expanding, some judges and court officials believe it will become an important tool long after the pandemic is gone. Whether this mode of litigation continues or ceases, the trier of fact will always want to take a good look at your witness in determining the issue of credibility.

Hon. Jesse G. Reyes is currently a Justice on the Illinois Appellate Court, First District, Fourth Division and a long-standing member of Decalogue Society of Lawyers.

[1] *Mattox vs. United States,* 156 U.S. 237, 242-243 (1895) & *Coy vs. Iowa,* 487 U.S. 1012 (1988)
[2] *People v. Unger,* Criminal Court of Cook County, Ill., No. 61606-A.
[3] Francis Xavier Busch, *Casebook Of The Curious And True 120 (1957).*
[4] *Id.*
[5] *Id.*
[6] Jo Daviess County, 15th Judicial Circuit, par. 22, (June 2, 2020)

Memorial Service
Justice Charles E. Freeman

Wednesday, September 16, 2020, 2:00pm
Public attendance will be via livestream at
https://livestream.com/blueroomstream/events/9226889

Opening and closing remarks for the service will be made by Chief Justice Anne M. Burke.

Those scheduled to offer tributes include retired Supreme Court Justice Benjamin K. Miller, retired Supreme Court Justice Robert R. Thomas, First District Appellate Justice Robert E. Gordon, retired First District Appellate Justice Carl McCormick, attorney Mr. James D. Montgomery, Cook County Circuit Judge and Chair of Illinois Judicial Council, Thaddeus L. Wilson, and current Illinois Supreme Court Justice P. Scott Neville, Jr.

Program will be available for download at
http://www.illinoiscourts.gov/

The Judicial Frontier *(cont'd)*

Technology has unsympathetically taken away our ability to interact socially. The art of communication, hand gestures, and eye contact has been lost. Bitterly typed words can too easily replace respectful salutations. We must labor to remind ourselves to be cordial. Typed words may not be as forthcoming from an individual who struggles to type. We have to be cognizant that some litigants and clients do not have the same ability to express themselves through print as they do orally. Worse, some individuals lack the basic ability to type. We need to remind ourselves daily to be patient at many levels.

Technology has appeared to extend our hours of operation. A full day's work may have been eight to nine hours pre-pandemic. The attachment to our computers and the lack of cues during the day, such as blurred lunchtimes and interruptions in our office, may have effectuated the unintended consequence of overly extended workdays. Be kind to yourself. Be kind to your colleagues and set limits. Limit the emails you send "after hours." Focus on mental health and schedule time with family and friends.

THE UGLY

Video conferencing has magnified our wrinkles, our gray hair, and facial expressions. We eat, drink, wear tank tops, and have developed a lack of decorum. Our new frontier is alluring and exciting but we must not allow the impropriety of bad habits to dismantle the formalities and decorum of our profession. Let's remember tank tops are inappropriate for video conferencing in the professional setting. Eating and drinking can be delayed for 20-30 minutes while "appearing" in court. Most importantly, pants are not optional.

CONCLUSION

Once the initial terror of technology and the unknown dissipates, the newly found access will catapult the legal profession into a new era. Gone are the days of carbon paper and handwritten orders. Traffic will no longer be a struggle as we race between courthouses or meetings. We will have difficulties returning to the inefficiencies of the past and at best, we hope to return to a hybrid of technology and in-person proceedings for essential matters. Let's continue to be patient. Let's continue to be kind. Let's mentor each other as we meander through this pandemic together.

The Honorable Rossana Fernandez is a Cook County Circuit Court judge, who presides over a domestic relations courtroom in the Third Municipal District.

Case Law Update:
Tolling of the Speedy Trial Clock During the Pandemic

by Adam Sheppard

In Illinois, criminal defendants must be brought to trial within 120 days if they are in custody and 160 days if on bond. 725 ILCS 5/103-5. An exception can be made when defendants agree to extend the deadline. *Id.* Defendants also have a constitutional right to a jury trial. In response to the COVID-19 pandemic, on March 13, 2020, the Circuit Court of Cook County suspended jury trials (at first for 30 days). On March 20, 2020, the Illinois Supreme Court entered an order authorizing the Chief Judges of each circuit to continue trials "for the next 60 days and until further order of this Court." M.R. 30370 (3/20/20). The Court further ordered, "[i]n the case of criminal proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the state or the defendant for purposes of [speedy trial computations]." Given the ongoing nature of the pandemic, the portion of the order which had initially limited the length of trial continuances to 60 days was subsequently removed. M.R. 30370 (5/20/20). Additionally, the Court ordered the speedy trial clock tolled during these continuance periods. *Id.* All the while, the Circuit Court of Cook County continues to suspend jury trials.

The intention behind these orders – public safety – is obviously laudable. The question remains, however, whether these orders are constitutional. The Illinois Supreme Court's order states that the pandemic-related-continuances "serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial." *Id.* But this language does not appear in the Illinois speedy trial statute. *See* 725 ILCS 5/103-5. It does appear in the federal Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(7)(A). The federal act, however, is non-binding on Illinois courts.

Where then is the authority for the Court's order tolling the speedy trial clock indefinitely? The Court can point to "Emergency Preparedness Standards for the Illinois Circuit Courts," which constitute an official policy of the Administrative Office of the Illinois Courts (eff. January 1, 2009). Available at https://courts.illinois.gov/SupremeCourt/Policies/Pdf/Emergency_Preparedness_Standards_2.0.pdf. Under §2.0, "[i]n the event a court facility is closed due to an emergency, procedures shall be established to facilitate requests to suspend, toll, or otherwise grant relief from time deadlines imposed by statutes and rules. This may include, but is not limited to, those procedures affecting speedy trials in criminal and juvenile proceedings, civil process and proceedings, and appellate time limitations." *Id.* These standards were not promulgated specifically to address the current pandemic. Comparatively, in response to COVID-19, the Ohio General Assembly passed House Bill 197 (effective March 27, 2020) which tolled statutory speedy trial in all cases set to expire between March 9, 2020 and July 30, 2020.

A principal issue with the current Illinois order is its tolling of the speedy trial clock *indefinitely*. Comparatively, federal law *extends* the time periods for bringing defendants to trials during an emergency and delineates those time periods. *See* 18 U.S.C. § 3174(a) (providing that the ordinary 70-day time limit for a speedy trial can be suspended up to one year and instead, allowing up to 180 days before a trial must commence). *See* 18 U.S.C. § 3174(b); *see e.g., In re Approval of Judicial Emergency Declared in Cent. Dist. of California*, 955 F.3d 1140, 1142 (9th Cir. 2020) (applying the statute based on coronavirus). Indeed, in the Northern District of Illinois, the current order from Chief Judge Pallmeyer excludes from the speedy trial clock a specific time period: "the period of any continuance entered from the date of this Fifth Amended General Order [July 10, 2020] through September 14, 2020." (N.D. Ill. 5th Amnd. Gen. Ord., 20-0012). Historically, when courts have suspended speedy trial clocks based on an emergency, they did so for a finite period of time. *See e.g., People v. Sheehan*, 39 Misc. 3d 695 (N.Y. Cnty. Crim. Ct. 2013) (30-day suspension was excepted from speedy trial deadline as an exceptional circumstance based on Hurricane Sandy). Based on the foregoing, defendants may be able to challenge blanket orders which suspend the speedy trial clock indefinitely.

Defendants can also argue for a case-by-case approach. Under Illinois case law, "[f]our factors must be balanced to determine whether a defendant was deprived of his speedy trial right: the length of the delay, the reasons for the delay, the defendant's assertion of his right, and the prejudice, if any, to the defendant. *** [N]o single factor is necessary or sufficient to find that the right to a speedy trial has been violated." *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 66. Accordingly, defendants—particularly in-custody defendants—should cite the prejudice to them when making their speedy trial arguments. Given those factors also include the defendant's assertion of his speedy trial right, it is also good practice for defendants who are seeking a speedy trial to demand trial and object, for the record, to continuances.

Adam Sheppard is a partner at Sheppard Law Firm, P.C., which concentrates in defense of criminal cases. Mr. Sheppard is on Decalogue Society's Board of Managers and its Editorial Board and is a past CBA Board of Managers member and current CBA Editorial Board member.

Want to write for the Tablets?

Decalogue members are encouraged to submit articles on topical legal and Jewish issues.

Contact the Editor with your article idea.

geri.pinzur.rosenberg@gmail.com

Courts and Legislatures Have Systematically Condoned Police Brutality in Small Ways That Lead to Big Consequences

by Brendan Shiller

Everyone has heard of Michael Brown and Philando Castile and Eric Garner and George Floyd. Few have heard of Andy Montanez. On March 20, 2009, the Northwest Side Chicago resident was outside drinking with friends after a funeral. Chicago Police Officer Vincent Fico and his partner saw Andy drinking on the public way. Andy was known to Chicago police. Although drinking on the public way is the type of "crime" that often goes unchecked by police, it is a good excuse for arresting someone that the police want to take off the street for a night.

Drunk and grieving, the handcuffed Montanez took the opportunity of the entire ride to the police station to tell Fico exactly what he thought of the arrest and of Fico, in very colorful language. Fico was himself known to the Chicago streets. Between 2007 and 2011, Fico was sued 11 times and received 16 citizen complaints. Fico managed to rack up these complaints while part of an infamous gang tactical team that operated out of the Grand and Central police station. His compatriots included now-disgraced and fired police officer Sean Dailey and oft-sued officers Michael Napoli, John Frano, and Sergeant Salvatore Reina.

After enduring 15 minutes of Andy Montanez's best monologue on the deficiencies of Chicago policing in general, and the inadequacies of Fico in particular, Fico pulled into the 25th district police station parking lot, parked the car, while his partner sat in the passenger's seat, and opened the backdoor to "roughly" remove Montanez. Montanez kicked at Fico. It is disputed whether Montanez kicked Fico's knee or groin. Fico then proceeded to treat Montanez's face as a punching bag for the next couple of minutes. Handcuffed, Montanez took it. Amazingly, he just suffered cuts and bruises—no broken bones or permanent damage.

In addition to this public drunkenness charge, Montanez received an aggravated battery to a police officer charge for his kicking of Fico. That's a class 2 felony in Illinois, meaning a 3- to 7-year prison sentence. Montanez, having a criminal record and being charged with battering a police officer, was denied a reasonable bond. So, as is usually the case with incarcerated pretrial detainees, he eventually pled guilty to what might have been a beatable case in order to ensure a light sentence.

Montanez shopped for an attorney to take his civil case, and mostly ran into rejections. This is not surprising given the combination of factors.

It is true that citizens are protected against the unreasonable use of force by state actors under the 4th Amendment to the United States Constitution. It is also true that the 4th Amendment is applied to state actors through the 14th Amendment. Further, for a century and a half now, the federal government has given a civil private right of action to people who are victims of unconstitutional acts committed by state actors "under color of law," as codified by 42 U.S.C. § 1983—originally passed during Reconstruction specifically meant to allow citizens to enforce the 13th, 14th and 15th amendments. But, while all this is true, the interaction between Montanez and Fico—although on the face of it brutal and a violation of the 4th Amendment—is one that for the most part society often quietly condones, and therefore so does often the law.

The initial problem with the case, as with any claim of excessive force or any type of misconduct against a police officer, is the threshold issue of qualified immunity. The Supreme Court has held that, in order for an officer to be held liable for an excessive force claim, it had to be clear that the conduct that they were engaged in was clearly unconstitutional in general at the time the force was used, and that the officer would have known it was unconstitutional. Courts have twisted this to protect officers in myriads of creative ways. Sometimes, the contortions by the court protect officers if a civil plaintiff cannot point to a nearly identical fact pattern. For instance, earlier this year, the Supreme Court let stand a 9th Circuit ruling that officers who stole $225,000 during a warrant search likely knew the stealing was illegal, but likely did not know it violated the 4th Amendment prohibition against unlawful seizures, and therefore were immune from civil suit. *See Jessop v. City of Fresno*, 918 F.3d 1031 (9th Cir. 2019).

Luckily for Andy, beating someone to a pulp is recognized as a constitutional violation.

The second and much more difficult obstacle, however, is the Heck doctrine, and in particular how that plays out in the 7th Circuit. *See Heck v. Humphrey*, 512 U.S. 477 (1994). Under this doctrine, plaintiffs cannot bring Section 1983 claims that would in any way cause doubt on a state criminal conviction. It is almost inevitable (in Chicago at least) that when excessive force is used against an arrestee, the arrestee will be charged with what some civil rights attorneys call the "unholy trinity of charges"—resisting arrest, disorderly conduct, and aggravated battery to a police officer. The purpose of adding these charges is the (almost always correct) belief that the person who was beat up will eventually plead guilty to one of those charges, to avoid spending more time in jail on pretrial incarceration. And the (almost always correct) belief is that if the person does plead guilty, that will bar any civil claim.

For Andy, the eighth civil rights firm that he shopped his case to decided it was worth the gamble that Heck did not bar his claim. Eventually the court would agree.

But Andy's legal and societal hurdles were higher than that. Although neither qualified immunity nor *Heck* barred his claim (although they have barred many other claims), society still does not truly want to protect an alleged gang member with a criminal history from being beaten up every once in a while by a police officer. And the law reflects this unsaid truism in several other ways.

(continued on page 10)

Police Brutality *(cont'd)*

First, if Andy were to testify (as he would have to in a civil case where he was the plaintiff), his criminal record would mostly be admissible. And, although Fico had 11 lawsuits and 16 civilian complaints in a short four-year period, none of that is admissible -- mostly because the system is set up to ensure that lawsuits are settled without admission of liability and complaints are resolved without finding of guilt.

But, in addition to those evidentiary considerations that reflect societal values about whose background is relevant and whose is not, the courts have constructed use of force standards which give greater protections to police officers than civilians. This is particularly true for deadly force. In essence, a subjective standard of reasonableness is used in the Northern District of Illinois (and other Seventh Circuit jurisdictions) for excessive force cases, as juries are instructed, among other things, that "it is not necessary that" an objective "danger actually existed" to find a police officer not liable for unreasonable force if the officer believed the danger existed. And that an "officer is not required to use all practical alternatives to avoid a situation where deadly force is justified." And that the jury "must not consider whether Defendant's intentions were good or bad." *See* 7th Circuit Pattern Jury Instructions, Instruction 7.10 (2016). Luckily for Andy, even a jury could find that no danger existed as he lay out with his hands cuffed behind his back getting pummeled in the face.

When Andy shopped his civil case to law offices, he said what almost every victim of police brutality said—he wanted to change the system and he wanted the cop punished. Well, that almost never happens. Illinois, like almost every state in the union, has statutory protections both in the form of the Tort Immunity Act. There are a myriad of protections—including a requirement that officers be indemnified by the agency that employs them. This means cops almost never pay a damage award. There are also protections in the form of heightened standards of liability.

So, the reasons that eight law firms rejected Montanez's case are the same reasons that thousands of excessive force claims do not get filed every year in Chicagoland: (1) qualified immunity; (2) the Heck doctrine; (3) uneven evidentiary rulings; (4) unequal use of force standards; and (5) the Tort Immunity Act. And the fact that these thousands of "small" police brutality cases do not get filed serves as incentive to police officers to continue their conduct.

There is one law that worked in Montanez's favor, 42 U.S.C. § 1988, which calls for the defendant in a Section 1983 case to pay fees if they lose. It is meant to encourage attorneys to take cases like Montanez's where there are low damages. And that is why the firm that eventually took Montanez's case did take it, and did take it to trial, and did win a $1,000 compensatory award and a $1,000 punitive award. And the $1,000 punitive award that Fico had to pay is undoubtedly the reason that since 2012 he has not been sued and has not received another citizen complaint. In fact, in the summer of 2012 he testified in a different case that he had left the tactical team and become a dog handler to avoid civilian contact and more complaints.

But despite the success and obtaining damages for the client, and actually deterring Fico, when the fees were litigated, both the District Court and the Circuit Court revealed how much they disfavored this type of case by reducing the attorney fees by nearly three-quarters, thus disincentivizing the firm from ever taking such a case. *See Montanez v. Simon*, No. 13-1692 (7th Cir. 2014).

Montanez vindicating his rights via Section 1983 under these circumstances was literally a 1 in 10,000 shot for all of the reasons explained above. So, if the courts and civil actions are not really a deterrent, then how can police brutality and police racism be reduced? Recent studies are pretty clear on what is effective and what is not.

- More training, including implicit bias training, has simply shown no efficacy in reducing violence. But changing the use of force standards—raising them and equalizing them with the standards for civilians—does reduce police brutality. *See, e.g. Campaign Zero-Research Identified Reforms* (2016 Data on Largest U.S. Police Depts.).
- Body cameras do not reduce police violence, but removing qualified and statutory immunities does. See, e.g., Joanna C. Schwartz, "How Qualified Immunity Fails," 127 Yale L.J. 2 (2017), and Simon Black, "Qualified Immunity and Police Unions: Removing the Easily Spotted Bad Apple is Very Difficult," River Cities Reader, June 10, 2020.
- Better training on how to deal with mental health and similar calls does not reduce police brutality, but taking those calls away from the police and giving them to other trained professionals does. See, e.g., Anna V. Smith, "There's Already an Alternative to Calling the Police," High Country News, June 11, 2020.
- Providing more funds to community policing does not reduce violence, but reducing police and civilian interaction by making certain offenses (such as gambling, prostitution, loitering, etc.) ticketable and not arrestable does reduce police violence. See Samuel Walker & Morgan Macdonald, "An Alternative Remedy for Police Misconduct: A Model State 'Pattern or Practice' Statute," 19 Geo. Mason U. Civ. Rts. L.J. 479, 504-507 (2009).

The reason there are a dozen George Floyds every year is that every year there are 10,000 Andy Montanezes. And until our society accepts that we have conspired to encourage the George Floyd deaths by silently condoning the Andy Montanez beatings, things will not change. These changes require many avenues including greater investment in Black and Brown communities. But when it comes to police accountability and police reform and the constitution, the four straightforward changes detailed above will result in greater accountability and less brutality.

Brendan Shiller is Managing Partner at SPJS Law and Board President of The Westside Justice Center.

I Can't Breathe!

by Patrick Dankwa John

CRUPELLECHROM:

1. (noun) the ideology which teaches that it's morally permissible to torture Blacks for just being Black—merely because of the color of their skin, because Blacks are thought to be inherently inferior to Whites by possessing seven specific traits: dirtiness, stupidity, laziness, dishonesty, sexual insatiability, superhuman physical strength and a lust for violence.

2. (verb) the act of torturing a Black person merely because of the color of their skin.

History and Etymology of Crupellechrom:

First used by Patrick Dankwa John (a Chicago area attorney) in the weeks following the death of George Floyd, an unarmed Black man who was killed by a White police officer in Minneapolis on May 25, 2020, as Floyd lay handcuffed and helpless on the ground, pleading for his life, begging a cop to take his knee off his neck because he couldn't breathe.

Crupellechrom is a combination of three words:

Cru (from the Latin word cruciate, which means torture) + pelle (from the Italian word pelle, which means skin) + chrom (from the Greek word chroma, which means color)

As the late Black literary giant James Baldwin noted many years ago, to be Black in America and to be relatively conscious, is to be in a state of constant rage. In the wake of another Black man being killed by a White cop, large American cities are now kindling with racial unrest. That's a nice way of saying that Black people in America are so furious that riots have begun—again. Blacks need to accept the harsh reality that (though there are notable exceptions), what Dr. King said about Whites in the 1960's is still true today: when Blacks say "equality," that's exactly what we mean, but when most Whites say "equality" all they really mean is no more lynching. This linguistic dissonance happens with other words too. When Blacks complain about slavery, discrimination, and oppression, most Whites compare *our* slavery, discrimination and oppression, to *their European ancestors'* slavery, discrimination and oppression. That's like comparing a paper cut to a slit wrist, by characterizing them both as "injuries."

So let us use a word that describes the unique Black experience. Better still, a word that not only describes our experiences, but that also clearly distinguishes our experiences from the experiences of other groups. No longer should we be limited to using words like slavery, discrimination, and oppression. I propose a new word: crupellechrom. I created the word by combining three other words from Latin, Italian and Greek. Crupellechrom is something that only Black people have experienced. No other people in the world were ever enslaved for life, for hundreds of years, because of the color of their skin. No other people.

We rioted in the 1960's over crupellechrom, but yet here we are again—50 years later—and still rioting. In 50 years, so much has changed, yet so much has stayed the same. We know what has remained constant is White supremacy. So what has really changed? Perhaps understanding what has changed will immunize us from being so surprised when we see another demonstration of what has stayed the same. Let's be honest about what has actually changed in the last 50 years for Blacks in America: mostly rhetoric and press releases. Prior to the civil rights movement, Whites were shamelessly racist—racist and proud of it. After the civil rights movement, Whites have combined racism with gaslighting. They continue to engage in acts that perpetuate institutional racism, fail to take remedial action, yet vehemently maintain that they are not racist. The riots, as counterproductive as they are, are a product not only of justifiable Black rage, but also of our unmet expectations. We are shocked and outraged (as are many Whites) that after being here for 400 years, we still have to contend with racism, including racially motivated violence. We have, naively, taken White folks at their word—that they are not racist, that they believe in and desire "equality." However, their audio doesn't match their video. We'd be better off putting the audio on mute and basing our coping strategy on solely what we see in their video. While everyone is busy selectively quoting Dr. King—cherry picking his most conciliatory words, and ignoring his strident condemnations of White recalcitrance—the truth remains that America has never addressed White supremacy squarely, much less honestly. Neither have Blacks. So many of us worship Whiteness. We worship Whiteness in the literal sense by bowing down to a White Jesus. We worship Whiteness in the metaphorical sense by expecting Whites to treat us fairly, despite their 400-year track record of crupellechrom. In other words, Blacks have *faith in White virtue*. Faith is belief without evidence, or belief despite evidence to the contrary. We have internalized crupellechrom. Of significant importance is what makes crupellechrom's lasting effects so different from the slavery, discrimination and oppression that many other groups have suffered. Crupellechrom developed a whole new ideology to justify itself, and that ideology is White supremacy. Crupellechrom maintains that Blacks are inherently inferior to Whites in seven very specific ways. Ways that for crupellechroms, justify the US Supreme Court's declaration in the infamous Dred Scott case, that "the Black man has no rights that the White man is bound to respect."

Crupellecrom maintains that Blacks are inherently: dirty, stupid, lazy, dishonest, sexually insatiable, and in the case of Black men—physically super strong with a lust for violence. If we bear in mind that these are the seven specific beliefs of crupellecrom, we can easily understand how Whites justified enslaving us for life, raping us, killing us, arresting us for sitting in a Starbucks without buying coffee, shooting us in the back while we flee unarmed, calling the cops on us while we're bird watching in a park, and yes, kneeling on our neck for over 8 minutes in broad daylight while anguished citizens watch on in horror and disbelief.

(continued on page 13)

The Small Business Reorganization Act of 2019 and the Individual Debtor

by Michael Traison and Michael Kwiatkowski

Small businesses are often owned by one or two individuals and the debts of such businesses are often guaranteed by the owners and their spouses. Our lender and small business clients have asked whether the owners of small businesses and small business individual guarantors are also entitled to file petitions under the newly enacted Small Business Reorganization Act of 2019 (SBRA). 11 U.S.C. §§ 1181-1195 (2019).

Cases dealing with interpretation of Bankruptcy Code provisions focus our attention upon the historic origins of the bankruptcy court in chancery, which itself originated in the church, as a means of dealing with equity issues not easily reduced to simple arithmetic calculations or established legal principles. The equitable nature of the bankruptcy court has contracted over the years as legislation has increasingly defined its powers. Yet still, the bankruptcy judge can be more flexible in dealing with practical business issues because the principal purpose of the Bankruptcy Code remains granting "a fresh start to the honest but unfortunate debtor." *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 367 (2007) (quotation marks and citation omitted).

The SBRA was signed into law in August 2019 and became effective on February 19, 2020. We have issued several legal alerts discussing this new law. As more cases are filed, courts are increasingly issuing more decisions and the application of the law continues to develop. Most recently, a decision of a bankruptcy court in Louisiana focuses our attention on several aspects of the application of these provisions, including the ability to convert a case from a standard Chapter 11 case to a Chapter 11 case under the SBRA, and the ability of individuals to qualify under the SBRA provisions of Subchapter V of chapter 11 of the United States Bankruptcy Code.

The timing of the enactment of the SBRA was fortuitous, as it became effective just as many small businesses began to suffer from the economic impact of the COVID-19 pandemic. While the existing chapter 11 reorganization provisions may be effective, the process is expensive, and thus may be beyond the reach of many small businesses. The original terms of the SBRA capped the total amount of debts (secured and unsecured) for a "small business" to qualify under the SBRA to approximately $2.7 million. With the enactment of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) in late March 2020 in response to the COVID-19 pandemic, the debt limit for eligibility was increased, for one year, to $7.5 million, enabling many more businesses to take advantage of the SBRA.

In the recent case out of Louisiana, *In re Andrew Blanchard and Christine Blanchard*, No. 19-12440, 2020 WL 4032411 (Bankr. E.D. La. July 16, 2020), two individual debtors filed their joint petition under existing provision of chapter 11 in early September 2019. 2020 WL 4032411 at *1. The debtors were sole owners of several businesses and personally guaranteed the businesses' debts. *Id*. at *2. After the US Trustee sought to convert the case to chapter 7 in April 2020, the debtors amended their petition in order to proceed under the SBRA. Id. at *1. The US Trustee and a creditor opposed debtors' re-designation to an SBRA case. *Id*. The two main issues were (i) whether these individual debtors as owners and guarantors of business debts (for non-debtor businesses) qualified to be debtors under the SBRA which requires that a debtor be "engaged in commercial or business activities," and (ii) whether the delay resulting from the re-designation under SBRA and the need to reset certain deadlines under the SBRA prevented the court from allowing the debtors to proceed under the SBRA. *Id.* at 1.

Focusing on the first issue, the creditor argued that "an individual debtor with debt resulting from the individual debtor's guarantee of commercial or business loan to a separate entity in which the individual debtor has a controlling interest does not qualify the individual debtor to be a debtor under the SBRA," and that "for such an individual debtor to qualify under the SBRA, the separate legal entity must also be a debtor, of which the individual debtor may be an affiliate under § 1182(1)(A)." *Id.* at *1. As the bankruptcy court pointed out, the objecting creditor interpreted the statutory language to "require a debtor to be *currently* engaged in commercial or business activities." *Id.* at *2 (emphasis added).

Rejecting this interpretation, the court relied on *In re Wright*, No. 20-01035-HB, 2020 WL 2193240 (Bankr. D.S.C. Apr. 27, 2020), which found that "'[a]lthough the brief legislative history of the SBRA indicates it was intended to improve the ability of small businesses to reorganize and ultimately remain in business, nothing therein, **or in the language of the definition of a small business debtor**, limits application to debtors currently engaged in business or commercial activities.'" *Id*. at *2 (*quoting In re Wright*, No. 20-01035-HB, 2020 WL 2193240, *3 (Bankr. D.S.C. Apr. 27, 2020) (emphasis in the original). Thus, the bankruptcy court found that the debtors qualified as small business debtors under the SBRA because "a majority of the Debtors' debts stem from operation of both currently operating businesses and non-operating businesses, and those debts do not exceed the SBRA's debt limit." *Id.* The fact that some of the debtors' business may have been defunct did not deprive the debtor from qualifying as "engaged in commercial or business activities."

As to the procedural argument regarding the practicality and scheduling issues associated with an SBRA designation of a pending case, the bankruptcy court dismissed that argument, finding that "'there are no bases in law or rules to prohibit a resetting or rescheduling of these procedural matters.'" *Id*. at *3 (*quoting In re Progressive Solutions, Inc.*, No. 18-BK-14277, 2020 WL 975464, at *5 (Bankr. C.D. Cal. Feb. 21, 2020)). Lastly, in response to US Trustee's argument that debtors' re-designation under the SBRA may impact vested rights of creditors, the court pointed out that no such creditors have asserted such prejudice. *Id.*

(continued on next page)

Debtor *(cont'd)*

A number of significant conclusions may be drawn from this decision. Substantively, bankruptcy courts may permit distressed debtors to take advantage of the provisions of SBRA, even where the underlying business debt is based on the debtor's personal guaranty for debts of a defunct business. Procedurally, considerations of potential delays are unlikely to be sufficient for the court to deny a debtor the opportunity to re-designate its chapter 11 case as an SBRA case. These are important considerations in light of the current economic times and the increasing popularity of the SBRA as a potential option for bankruptcy filers. According to the American Bankruptcy Institute, over 630 debtors have taken advantage of the new law since its enactment in February 2020 (see Subchapter V Case Statistic Tables available at https://www.abi.org/sbra).

Michael H. Traison is a partner at Cullen Dykman, LLC, in the firm's Bankruptcy and Creditors' Rights department. He focuses his practice in the areas of restructuring and insolvency, commercial law, and international law. Michael has represented corporate clients in commercial matters for more than 35 years, and he is a widely-recognized leader in helping businesses resolve complex legal issues.

Michael Kwiatkowski is of counsel at Cullen Dykman, LLC, in the firm's Bankruptcy and Creditors' Rights practice group, advising and representing a wide variety of debtors and creditors in all aspects of bankruptcy, including corporate reorganization, bankruptcy-related litigation, and creditors' rights. He also has extensive experience in representing financial institutions in commercial litigation matters in both state and federal courts.

I Can't Breathe *(cont'd)*

We can also understand why there are some Whites (even after seeing the video of George Floyd being killed by a White cop in Minneapolis as he lay handcuffed and defenseless on the ground) who see nothing wrong with what the police did. I'm not surprised about that. Because I've accepted the harsh reality that most Whites are crupellecroms, even if unconsciously so. Imagine if you sincerely (and perhaps unconsciously) believed that someone had the seven qualities that crupellechrom ascribes to Blacks, how would you think such a person should be treated? How would the public perceive such a person? How would such a person be treated by the police, by potential employers, by educational institutions, by the criminal justice system, by the mortgage industry, by the health care industry, by major media, by corporate America? Aren't Blacks being treated in a way that is consistent with crupellechrom beliefs? There is no such thing as undemonstrated understanding. Our actions-not our rhetoric-are the most accurate measure of our beliefs. Despite White protests to the contrary, (i.e. "I'm not a racist," "I'm color blind" etc.), our behavior reveals our true thoughts. Crupellechrom couldn't have survived for 400 years if only a small minority of Whites were adherents of it. Institutional crupellechrom wouldn't still be around absent the tacit approval of most Whites.

For those interested in hearing the feelings of Black America put to song, I offer this music video, created by a young man, James Borishade, who attends my church. James expresses so poignantly, that which I can communicate only intellectually: https://www.youtube.com/watch?v=esTv7Sy_a5s

Patrick Dankwa John is president of the Decalogue Society of Lawyers. He is DSL's first Black and first Christian president. He's originally from Guyana, South America—a place of kaleidoscopic racial and religious diversity. He's a general practitioner with a focus on family law. He can be reached at attypatjohn@gmail.com. This article was originally published in Times of Israel and is republished with permission.

SAVE THE DATE!

Tuesday, November 17, 2020

6:30-7:30pm

Decalogue
2020 Awards Ceremony

Honoring

Justice Michael B. Hyman
Debbie Berman
Diane Redleaf
Shomrim Society
Hon. Alan J. Greiman
Joshua Kreitzer
Clifford Scott-Rudnick

COVID-19: The Short and Long Term Mental Health Consequences

by Dr. Diana Uchiyama, J.D., Psy.D.

There has been a tremendous disruption to the natural rhythm of life that we previously engaged in, without much thought, prior to the COVID-19 pandemic. We took for granted the ability to go to work on public transportation, the ability to walk around in a crowded train station or shopping mall, the ability to wait in line at a crowded coffee shop, the ability to get lunch at a buffet, the ability to travel, and the ability to work in an office building sharing space with colleagues and strangers without fear for our safety and wellbeing. We shook hands without care, and hugged friends and loved ones at our own personal discretion. We stood close to people while we engaged in conversations and had meetings and conferences where many people gathered. We attended weddings, baby showers, and birthday parties for people we loved and cared about. We never believed that our way of life, our access to services, and our ability to find critical and necessary life staples could ever be disrupted. We come from a land of plenty and an age of excess and immediate pleasure, with little patience for disruption and change and a strong desire to be able to continue to do what we have done for all of our lives. We feel much grief and longing for the lives we lived before and took for granted, and feel overwhelmed with the knowledge that this life will be on hold and disrupted for extended and unknown periods of time and we may forever be changed as a result.

This pandemic, along with the majority of states imposing stay at home orders to minimize the rapid spread of the virus to allow our medical systems to be able to keep up with the demand for medical services, critical care and ventilators, was not a world we could imagine just a few months ago. We have all recently become familiar with never before used words and concepts such as "flatten the curve," "social distancing," "contact tracings," "abundance of caution," "self-quarantine," and "community spread" to name a few. We have incessantly watched the news and read articles to try to gain a better understanding of the changes that have quickly taken place, all without much help in increasing our knowledge or reducing our anxieties. Simply put, there currently are no hard and fast answers, no cures, and we have no idea when this virus will leave our world and allow us to return to the world we now view as a distant memory.

I often speak about the factors that contribute to traumatic experiences. Currently we are living in a trauma inducing life event. One of the most basic and primitive human needs is the need for physical safety. We all want to feel safe in our world and in our home. When our feelings of personal safety are jeopardized, we feel unstable, unsafe, and uncertain navigating the world. The desire to remain healthy and vital is an essential desire for all of us, and this pandemic has jeopardized our ability to feel in control of our health, safety, and wellness because of the "invisible nature" of this virus. It lives amongst us, unseen by us, and some of us are carriers of the virus without knowledge or symptoms. We may spread the virus to people we love and care about even though we may feel healthy and well. This virus also attacks some people with a harshness and unfairness that also feels unpredictable and random. While we know that people who are elderly, male, immune compromised, and living or congregating in small group settings can fan the flame of this virus, we cannot understand why some people die while others live, why it attacks and kills some young and healthy people, why some children die from the virus while others don't, and why we still lack an understanding of the virus to help combat the spread. We have learned that it attacks African American and Hispanic people at a higher rate than others in the general population and still don't really know why, other than people in those communities may have a higher rate of pre-existing conditions, live in more urban areas, and oftentimes have less access to quality medical care and testing.

Many of us currently live in fear of harming those we love causing avoidance and distancing from other family members. We cannot be with our loved ones if they get sick and need to go to the hospital. Many of us who have loved ones in nursing homes or long-term care facilities are no longer able to visit them. We hear stories of front-line medical staff that sleep in their cars or garages, so they do not infect their families. Recently, I read a story about a family where the mother became ill due to the fact that she was a nurse in a nursing home, and fell into a coma the day after she experienced symptoms, succumbing to the disease within several days, never regaining consciousness. Her husband then became ill, and was hospitalized and placed on a ventilator, and while home alone, their twenty-year old son was found dead on the sofa a few days later, a victim of the same virus that killed his mother. How could this happen in a seemingly healthy family system and so quickly? We grieve those we lose and feel guilt that we cannot mourn them or be with them while they are sick. We experience the aftershocks of their illnesses, and many people who do recover from the virus, have long-term medical problems for which we were not prepared.

The state of the economy and unemployment is another trauma inducing event. Most of us were employed in February 2020, and by the end of April 2020 the unemployment rose to a record 14.7% with a loss of over 20.5 million jobs. In one short month, we wiped out a decade of job gains. The COVID-19 virus has shuttered businesses and led to massive layoffs in a very short period. Many law firms are slashing pay and compensation packages and furloughing or firing people who were loyal and good employees in order to remain solvent. Many people faced job reductions, were placed on part time status, and if lucky to retain your job, had to begin working from home with other family members and their children who were no longer in school. Schools were canceled, online learning became the norm, and webinars, zoom conferences, and telehealth became the wave of the future. Summer associate positions were terminated and bar exams were placed on hold.

According to an article published in The Washington Post on May 4, 2020, titled "The Coronavirus Pandemic is Pushing America into a Mental Health Crisis," there is a strong link between economic upheaval and suicide and substance use. After the Great Recession of 2008, there was a 1.6% uptick in suicides.

(continued on page 16)

The Challenges of Co-Parenting During COVID-19

by Erin M. Wilson

COVID-19 has changed the ways of our world on a micro and macro level. As a family law attorney, it is important to know the rights and responsibilities that parents have during this unprecedented time as well as the challenges they face.

As the information we have regarding COVID-19 changes every day, the issues that parents face are changing as well. Specifically, parents have been facing the ongoing challenge of parenting time and how to keep children safe moving between various households. However, as summer ends and the school year approaches, parents will face a new set of challenges of determining what the best option is to transition back to school.

The first guiding order we received on this topic was Governor JB Pritzker's Executive Order No. 8 from March 20. While it ordered individuals to stay at home, it granted specific exceptions, one of which was regarding parenting time. In addition, Judge Grace Dickler's General Order 2020 D 8 ordered that parenting time continue as reasonable during the COVID-19 pandemic. While the governing orders specifically require parenting time to occur, there still are many issues that can arise between co-parents which must be considered for the best interests of children. Also, as Governor Pritzker and Mayor Lori Lightfoot continue to expand and modify allowable activities, it is more important than ever to continue to follow CDC guidelines in order to keep progressing safely.

There is always a level of uncertainty of what is occurring at the other household. While a parent may be able to control the environment that the children are exposed to at their own house, there is less control over the situation when the children are with the other parent. That, combined with a typical lower level of trust in these cases, make the importance of communication crucial. Parents need to honestly discuss what precautions are being taken to prevent the spread of the virus and create specific agreements around social distancing.

There are many tools available for parents to use in order to assist in communication. Talking Parents and Our Family Wizard are two apps that can ease communications. When parents need additional help to facilitate communication, mediation and parenting coordinators are excellent resources to resolve disputes without the need for litigation.

Co-parents frequently have disputes over the involvement of third parties, such as significant others, grandparents, and childcare providers, just to name a few. It is important for parents to be both cautious and reasonable regarding who they allow their children to see and consider what those third parties' role is, who they are exposing themselves to, and what precautions they are taking to prevent the spread of COVID-19.

Frontline workers are also an issue that has come up as a result of COVID-19. When one child lives in a household with a frontline worker, technically parenting time should be enforced, but is this in the child's best interest? In order to consider if it is in a child's best interest to not have parenting time with the frontline parent, consider the following questions:

1. What are the conditions like at work? Are they able to practice social distancing? Are they using personal protective equipment (PPE)?
2. Have they been in contact with anyone with COVID-19?
3. Who else is in the home that could be exposed to COVID-19? What precautions are they taking to prevent the spread of COVID-19? Or are any third parties a parent may be in contact with been taking precautions?
4. Have they had any symptoms of COVID-19? How often are they being tested?

When evaluating parenting time, the goal is that it should occur, but safely. Consider outdoor parenting time, and, either way, require the use of PPE. If the risk of parenting time seems too high, talk to your co-parent about temporarily conducting parenting time over Facetime or other video apps. Additionally, apps such as Facetime, Skype, Google Hangouts, and Zoom allow for communication and face to face contact from a distance. While it is hard for parents to give up their parenting time, in some cases it may be in the best interest of the child's safety.

Parenting time with a parent who lives out of state poses its own set of challenges, especially during the summer when that time typically occurs. To minimize the exposure, encourage different modes of transportation. If possible, driving is preferable to flying. Another option is to self-quarantine for 14 days before the travel, or to be tested for COVID-19 before the visit. For certain states, the Illinois travel ban requires that individuals quarantine for 14 days after their return, so both parents need to be informed on this list as new states are added each week. Consider following Illinois guidelines if the travel is to a state that has opened up or is experiencing a spike in COVID-19.

As summer ends, the next challenge co-parents will face is whether children will return to in-person school, attend remotely only, join a pod, or a hybrid option. Determining whether or not a child will go back to school is a big decision, and it is possible that parents may be at odds. As always, communication is key to resolving these disputes. Each parent should be informed on what the back to school process looks like and be in communication with one another about what option they believe is best.

With COVID-19 changing every day, keep an open mind to what the options are for the fall 2020 school year. Being flexible and acting in the best interest of the child is important during these unprecedented times. Remote learning is a challenge that every parent is dealing with right now, and it does not appear to be going away with the 2020 school year.

(continued on page 17)

COVID-19 Mental Health *(cont'd)*

The Meadows Mental Health Policy Institute in Texas, using such critical information, predicts that if unemployment rises by 20 percentage points, like levels reached during the Great Depression, suicides could increase by 18,000 and overdose deaths by more than 22,000.

Finally, we cannot minimize the psychological toll that social distancing and stay at home orders have on human beings. While necessary to flatten the curve of spreading the virus, the lack of mobility, loss of connection to others, and social isolation can lead to higher levels of anger, stress, confusion, PTSD, anxiety, depression, and substance use disorders and these negative effects may last a long time. When social isolation is combined with other stressors, including job loss and financial insecurity, the long-term outcomes may worsen. People often engage in numbing behaviors to manage uncomfortable feelings and many people feel a loss of control, purpose, and agency over their lives. Our normal ways of coping may not be available to us anymore, including going to a health club, worshiping at a church, synagogue or mosque, being able to visit with friends and family, or being able to gather for social activities.

The sense of predictability and the way we have organized our world has been disrupted to a great extent. Many of us feel disorganized and have a difficult time staying on task. In Illinois, sales of alcohol have increased by 50% and marijuana sales have doubled since the pandemic began. We are on the cusp of a tremendous mental health crisis, of which we have never seen or experienced before. Yet the mental health and substance use systems have been woefully underfunded and under prioritized for decades and may not be able to adequately handle this influx of people.

LAP is here to help you if you are a legal professional who needs mental health or substance use services. During this pandemic we are seeing more and more people reaching out to LAP for help, many experiencing mental health challenges, substance use, and suicidal thinking. We are here to help and assist you in navigating through this challenging time. We have telehealth services for assessments and evaluations and for individual and group therapy. We are free and confidential with immunity.

Do not suffer in silence. Do not think you are alone. Do believe that we can help. Do have hope that things can get better. Do send an email or make a phone call. Do know that LAP is here to help.

Dr. Diana Uchiyama, J.D., Psy.D. is Executive Director of the Lawyers Assistance Program ("LAP"). This article has been previously published on LAP's website. For assistance, please contact 312-726-6607, gethelp@illinoislap.org or go to LAP's website at illinoislap.org.

The Other Pandemic

by Justice Michael B. Hyman

These words of the Greek poet Hesiod in Works and Days seem to refer to the new reality in which we find ourselves:

"With ills the land is rife, with ills the sea;
Diseases haunt our frail humanity,
Through noon, through night, on casual wing they glide,
Silent..." (Elton TR.)

Rarely does a single event emerge with enough momentum to "haunt our frail humanity." COVID-19 transcends geography, age, health, lifestyle, education, and social status. And, as Hesiod reminds us, diseases carry a grim specter.

Truly earthshaking, COVID-19 has achieved what no war, genocide, natural disaster, or famine has ever been able to effect—to prompt humanity to realize how fractured it is, how dismembered, how polarized, how disorganized, how fragile, how limited as a species.

Advances in technology, communication, and travel have diminished time and distance, but, as we now know, they have helped a highly infectious virus spread hundreds and then thousands of miles, taking a terrible toll. Not just the United States was woefully unprepared and ill-equipped. So, too, the world.

We all inhabit one world and only one world; yet, as individuals and as a society, Americans mostly hold tight to separating themselves from those who differ from them. We have yet to accept Dr. Martin Luther King's prophetic message that "we are caught in an inescapable network of mutuality."

Technology cannot untangle what separates humans from each other. Humanity has never been able to conquer its inability to unite; to accept the stranger; to embrace each other as equals; to appreciate differences like race, ethnicity, nationality, religion, sexuality, culture, economic wellbeing, and so on.

This fear, derision, and loathing of "the other," this pandemic of prejudice, has dwelled in the world for millennia, even though it, too, has caused death, suffering, decreased quality of life, and economic losses. It, too, "haunt[s] our frail humanity." It, too, challenges society. And, it, too, has fastened itself on COVID-19.

Few of us in the legal profession work on the front lines, directly involved in containing and ending COVID-19. Rather, our profession has been busy adapting and adjusting to current demands and preparing for what lies ahead.

Our profession can, however, take on the role of first responders to find cures for what I have called the pandemic of prejudice. By training and disposition, lawyers are perfectly suited to find ways to dismantle systemic barriers, to promote inclusivity

(continued on next page)

The Other Pandemic *(cont'd)*

and diversity, to combat overt or explicit bias, to advocate for a legal system accessible to all, and to illuminate the nature of unconscious bias and address its root causes.

We need to start locally. Chicago, sadly, has a reputation as a city divided in terms of education, economic, health, and legal outcomes. The pandemic of prejudice cannot be ignored as contributing to these disparities.

Hesiod spoke of disease gliding in silence on casual wings. Silence, like inaction, allows the pandemic of prejudice to thrive. Let our profession step forward and go to battle on the other pandemic which threatens us all.

Otherwise, "frail humanity" will not survive.

Justice Michael B. Hyman is a member of the Illinois Appellate Court, First District, and a former president of the Decalogue Society. This article originally appeared in the May/June 2020 issue of the CBA Record and republished with permission of the Chicago Bar Association.

COVID-19 Co-Parenting *(cont'd)*

Parents have their own work schedules and responsibilities to balance on top of the children's learning. Additionally, technology can be problematic in itself. Parenting time schedules may need to shift temporarily to allow both parties to work while helping with e-learning, or the parents may need to cooperate to hire a tutor. These uncertainties are why remote learning can be a challenge, but consistency can help with that. Keeping a schedule and routine for children that is consistent with what they are accustomed to will help them adjust to at-home remote learning.

As parents navigate the uncertainties of COVID-19, they will need to rely on the resources that are available to them for guidance. Attorneys are a resource that are available to their clients to assist them in resolving these conflicts. It is always best to attempt to avoid contested litigation, and so, in addition to the use of mediation and parenting coordination, assistance from guardians ad litem and child representatives are all additional resources to be considered as well. In all cases, it is most important to place the children's best interest at the top.

Erin M. Wilson is the principal of The Law Office of Erin M. Wilson LLC, offering family law services in Cook County.

Punitive Damage Jury Verdict Affirmed for Jewish CPD Officer

by Jacqueline Carroll

While it seems now, more than ever in American history, anti-Semitism is on the rise, for Officer Detlef Sommerfield, enduring blatant anti-Semitic attacks was commonplace. To make matters worse, the pervasive harassment he endured occurred at work where he was an officer with the Chicago Police Department ("CPD") and the perpetrator was his sergeant. This was part of the factual background in a recently decided Seventh Circuit case, Sommerfield v. Sgt. Knasiak, No. 18-2045, where Officer Sommerfield alleged discrimination, harassment, and retaliation based on his German national origin and his Jewish ethnicity.

Officer Detlef Sommerfield was a German born Jewish police officer with the Chicago Police Department. His superior, Sgt. Knasiak, harassed him on a regular basis for several years, spewing such horrible statements that the Seventh Circuit refused to quote them in its opinion, merely stating: "We prefer not to debase this opinion by repeating what Sgt. Knasiak said: suffice it to say that the vitriol invoked Hitler, the actions the Nazis took in the death camps, and regret that Jews today live in the United States."

These pervasive discriminatory comments were made in front of other officers and superiors and the CPD did nothing to quell them. Officer Sommerfield reached his final straw when Sgt. Knasiak disparaged his girlfriend, who happened to be Mexican, and he did what most police officers are afraid to do—he filed a complaint register against his superior. After this occurred, Sgt. Knasiak filed his own complaint register against Officer Sommerfield. Though Officer Sommerfield was well qualified for a promotion, Sgt. Knasiak's complaint register led to Officer Sommerfield's suspension and ineligibility for the promotion. A jury awarded a verdict of $540,000 in punitive damages against Sgt. Knasiak. Sgt. Knasiak appealed, claiming he was entitled to judgment as a matter of law, or at least a new trial, and the court should have reduced the punitive damages award. Finding no error, the Seventh Circuit affirmed, finding ample evidence for a jury to conclude Sgt. Knasiak filed his complaint register out of discriminatory animus and that his conduct was "extremely reprehensible."

Sommerfield's attorney, Joseph Longo, a solo practitioner with Joseph Longo and Associates, Ltd., fought side-by-side with Officer Sommerfield for fourteen years and believes the Jewish community should work together to stand up for victims of anti-Semitism, like Officer Sommerfield.

Jacqueline Carroll is an attorney, who specializes in business litigation, civil rights litigation, and appellate law. Jacqueline serves on Decalogue's board and serves as Co-Chair of Decalogue's Committee Against Antisemitism and Hate.

Confronting Anti-Semitism: What Would Jesus Do?

by Patrick Dankwa John

October 27, 2019 marked the one year anniversary of the October 27, 2018 mass shooting at the Tree of Life synagogue in Pittsburgh. On April 27, 2019, there was another synagogue shooting in the San Diego area. The shooting in San Diego was done by John Earnest, a devout, church-going Christian. The response of the Christian Church, as an institution, to anti-Semitism, has been tepid and half-hearted.

Even the anti-Semitic shooting spree of a devout Christian, John Earnest, has done little to awaken the Church to its institutional bigotry. Earnest belongs to a denomination called Orthodox Presbyterian Churches of America (OPC) and many other churches, have of course condemned Earnest. But they've done nothing to actively dismantle the anti-Semitism that's part of church culture. Even now, a visit to the website of OPC, and Earnest's local congregation, Escondido Orthodox Presbyterian Church, finds not one word about bigotry or anti-Semitism.

Wonder what Jesus would have to say about the Church's lackluster response to anti-Semitism? Well, we don't have to wonder too much, because Jesus actually did confront religious intolerance among his own hand-chosen Disciples. Jesus didn't condone religious intolerance and neither should we. There are at least three instances in the New Testament where Jesus addressed the issue of religious tolerance directly.

The first story is found at Matt 10:14. Jesus tells the Disciples that if they're rejected at one home, they should simply move on to another home. What's interesting in this first story is what Jesus does not tell them to do. He does not tell them to pray that those who reject them will change their minds. He does not tell them to force their view on others. He does not tell them to revisit the homes of those who reject them and try to wear people down with kindness. Rather, Jesus just tells them to share the message and then get lost.

GET LOST. This is so different from many in mainstream Christianity, who are very concerned with "winning souls for the Kingdom." Interesting language. If the goal is to "win souls," then does that mean if we fail to convert someone we are "losers"? No one wants to be a loser. The very language shows mainstream Christianity has departed from what Jesus taught. Jesus told us to make sure everyone hears the message, then make ourselves scarce. Mainstream Christianity often views the mission of spreading the gospel to include a duty not just to communicate the gospel, but to "win souls." In other words, many of us believe it's our job to get people to believe our message, to change their minds. In this way, evangelism gets reduced to salesmanship. The goal isn't just to share the message but to convert people, often by force if necessary. Because, after all, nothing is more important than saving peoples' immortal souls. Anything done to win souls is justified, including beating them, enslaving them, stealing their property, and colonizing their country.

Lest you think the days of Christian colonization are over, consider that in 2019, the African Union's ambassador to the U.N., Dr. Arikana Chihombori-Quoa, was fired for speaking bluntly about how France (a White Christian nation) continues to oppress its former African colonies. France feels entitled to take resources from Africa on France's unilateral terms because France brought "Christian civilization" to the Africans.

Consider also that in America, Donald Trump's most blindly loyal fan base is White Evangelical Christians. That alone speaks volumes about how entrenched bigotry is within the White Church.

In recent years, I have noticed a much more subtle form of coercion that's easy to miss. There are some Christian organizations that provide charity, like feeding the hungry. Some such organizations make it a point not to feed anyone unless and until the hungry person first attends a sermon or listens to a Christian "witnessing" to them. "Witnessing" is essentially the word mainstream Christianity uses to describe our theological sales pitch. So we would have food, but let people starve if they don't agree to first sit still and listen to our infomercial. Reminds me of those time-share presentations where you get a voucher for a vacation deal, but you have to sit through the entire presentation first. I can't imagine Jesus approving such tactics.

The second story is found at Mark 9:38-41. In the second story, the Disciples tell Jesus they made a man stop performing miracles. The Disciples told Jesus they did this because the man was not part of Jesus' clique, and Jesus hadn't authorized anyone but the Disciples to perform miracles. Allow me to take some literary license here, as I create some Christian midrash. I can't imagine why someone would feel obliged to stop performing miracles at the insistence of the Disciples. The Disciples, after all, were not part of the political or religious establishment at the time.

So why would anyone, especially their religious competition, obey them? Here's my Christian midrash: I think the Disciples either physically assaulted the man, or at the very least, threatened to. What I find puzzling here is the Disciples presumably thought Jesus wanted them to stop the man from performing miracles, in order to protect Jesus' turf. Why else would they report the story to Jesus at all, and so proudly?

Rather than the high-five they were undoubtedly expecting, the Disciples got a scolding. Jesus told them that whoever isn't against them, is for them, and they should leave other people alone. Now here is (for us Christians) God in the flesh, telling the Disciples to leave the competition alone; don't bother them. Yet many Christians, in our zeal to "win souls," view sharing our faith as some type of competition that we are obligated to win, and win at all costs. We focus more on swelling our ranks than following the teachings of Jesus, who told us the world will know we're his Disciples because we love people. All people. Love for all humanity is supposed to be our most distinguishing feature.

(continued on page 20)

A Brief Review of the Israeli Judicial System

by Adv. A. Amos Fried

The renowned English commentator and Reform rabbi Lionel Blue observed that "Jews are just like everyone else, only more so." Nowhere is this demonstrated more clearly than when comparing the litigious nature of the general public as opposed to that of the Israelis.

The United States has a population of approximately 335,000,000 out of which some 1,350,000 are practicing lawyers. That makes a ratio of around 1:250. The United Kingdom is home to about 128,000 employed solicitors out of a general population of 68,000,000, making a ratio of 1:531. Japan has a ratio of 1:3486.

In Israel, that thin strip of land off the Mediterranean with a population just over 8.5 million, the ratio is somewhere around 1:126. That's right, the highest ratio of lawyers to population in the world is in the Jewish homeland.

With so many licensed attorneys here, is it any wonder Israel's court system is inundated with layers upon layers of judicial tribunals? Labor courts, family courts, religious courts, municipal courts, juvenile courts, military courts, traffic courts, administrative judiciaries of various kinds, and so on.

As every litigator knows, proper choice of venue is crucial to the success or failure of any given case. Determining where an action should be filed is at times an art in itself, made all the more difficult when certain judiciaries have synonymous and overlapping personal and material jurisdictions. A sorrowful issue of contention for example, is the ongoing battle in Israel between family and rabbinic courts regarding matters of personal status, domestic relations and the like. Unique among modern legal systems, the law in Israel authorizes rabbinic courts to adjudicate according to Jewish religious law matters related to marriage and divorce, including division of joint property, spousal support, child custody and maintenance, etc. Family courts, on the other hand, are part of the civil judiciary and, except for the issuing of actual divorce decrees, are vested with comparable jurisdiction over all other matters related to domestic relations and personal status. As a result, these two judicial forums are in a constant struggle over the question of to what extent Hebrew law should apply and how it is to be interpreted.

The three primary venues that comprise the mainstay of Israel's judiciary system are the Magistrates (Shalom) Court, the District Court and the Supreme Court.

Magistrates (Shalom) Courts: For the vast majority of cases, this is the court of first instance. There are some 30 Shalom Courts spread throughout Israel from the Golan Heights down to Eilat. Civil claims with a monetary value of up to NIS 2.5 million (approximately $735,000) and actions involving use, possession, or dissolution of a partnership in land are all heard before the Shalom Court. Criminal prosecutions for crimes carrying a sentence of up to seven years' imprisonment, as well as pre-indictment detention hearings, are also brought before this venue.

District Courts: There are currently six District Courts in Israel, from Haifa in the North to Be'er Sheva in the South. They are authorized to adjudicate capital crimes as well as those involving sentences of over seven years' incarceration. This is the court of appeals for almost all decisions entered by the Shalom Court, both civil and criminal. It is the court of first instance for claims exceeding NIS 2.5 million, various administrative petitions, disputes involving intellectual property, corporate and securities law, questions involving title to real property, and more. District courts also enjoy residual jurisdiction over matters not under the sole jurisdiction of another tribunal.

Supreme Court: At the pinnacle of the Israeli judicial system sits the Supreme Court. Its primary function – as defined in Basic Law: The Judiciary – is to hear appeals on District Court decisions. In addition, the Supreme Court serves as the High Court of Justice, empowered with discretion to adjudicate "matters in which it deems it necessary to grant relief for the sake of justice and which are not within the jurisdiction of another court or tribunal." Moreover, the High Court of Justice is authorized to grant writs of habeas corpus; issue decrees against State and local authorities; enjoin courts, religious tribunals and other quasi-judicial forums and authorities to adjudicate or refrain from adjudicating particular cases; quash proceedings held and rulings entered without authority, and so on.

Governmental separation of powers, with its delicate system of checks and balances, has never been one of Israel's stellar achievements. This becomes apparent most vividly in the growing tendency by the Supreme Court, in its capacity as the High Court of Justice, to officiate as the ultimate supervisor of all State agencies – intervening, superseding and administering authority over practically every realm of public policy in Israel. Richard Posner, former judge of the U.S. Court of Appeals for the Seventh Circuit, has gone so far as to refer to this process as "judicial piracy."

Take, for example, the question of judicial review. Despite the fact that Israel has no formal constitution but rather a series of "Basic Laws," the High Court of Justice is fond of declaring a vast array of laws and state actions as "unconstitutional." And as if that weren't enough, the High Court has recently expressed its willingness to consider petitions challenging the "constitutionality" of the recently enacted Basic Law: Israel -- the Nation-State of the Jewish People. In other words, after decades of bestowing constitutional status upon Israel's collection of Basic Laws, it now appears that the Supreme Court is ready to position itself above the very "constitution" its own jurisprudence has conceived.

It should come as no surprise, therefore, that this inclination to usurp powers at an ever-accelerating pace has landed Israel's Supreme Court in the crosshairs of some of the country's most heated political debates. Frequent polls have repeatedly shown that no small part of the Israeli public (apparently over 50%) express little to no faith in the integrity and impartiality of the Supreme Court and its justices. In refusing to exercise judicial restraint and abstain from taking charge of issues of a clearly political, social, and even religious nature, the Court can no longer ignore the obvious fact of its being perceived as just another player in the dirty world of politics.

(continued on page 20)

Anti-Semitism *(cont'd)*

Jesus told us to love everyone–even our enemies. He never told us to force ourselves on others, or to gently badger them into submission, or to withhold food from the hungry unless they listened to our message. We Christians came up with these schemes all on our own. That's what salesmen do–they come up with schemes to increase sales. Their primary concern isn't to do good, it's to make their quota.

The third story is found at Luke 9:51-56. In the third story, the Disciples display homicidal tendencies. Jesus and the Disciples are soundly rejected by an entire village. The Disciples tell Jesus they should kill all the village residents by burning them alive. Jesus, of course, did no such thing. He told the Disciples he came to save lives, not to take them. This is an amazing story. Jesus' handpicked inner circle got so angry at those they couldn't convert that they wanted to kill them. We know that unfortunately, subsequent generations of Christians did just that. We killed people whose only crime was rejecting our religious views. Clearly, this is not something Jesus would sanction.

What do these ancient stories teach us about how Christians should view our duty to fight anti-Semitism and all forms of bigotry today? These stories remind us that while Jesus taught religious tolerance, we, his followers, have a history of intolerance and extremism that goes back to the earliest days of our faith. Even after two mass shootings at synagogues on American soil, the Church is still sheepish in dismantling anti-Semitism. If innocent people being shot doesn't move the Church to bold action, then what will? We don't like to be reminded of these stories, but clearly, we need to be. Pastors all over America should be preaching about how Jesus had to rein in his own Disciples. We should hold these stories up as spiritual mirrors for Christians. That's what the stories are there for–to teach us about ourselves. But rather than learn from these stories and speak out boldly against bigotry, most of us offer only press releases and sound bites condemning bigotry. Then we go back to business as usual. Back to ignoring that Martin Luther (despite his fame for exposing corruption in the Catholic Church) was such a rabid anti-Semite that his book, "On the Jews and Their Lies" would make even a Nazi blush. Back to calling the last meal Jesus had with the Disciples, "the Last Supper," and deliberately refusing to call it what it really was–a Passover seder. Back to projecting Jesus as a White European, though he was a dark-skinned Middle Eastern man of color. Back to being unconcerned that Sunday is still the most racially segregated day of the week in America. Back to not teaching our congregations about the Jewish holidays that Jesus actually celebrated, among them, Passover, Rosh Hashanah, Yom Kippur, Hanukkah, and Sukkot. Back to not teaching our congregations about the existence of the Oral Torah. Back to ignoring the reality that most Biblical characters were in fact Jewish. Back to being intentionally deaf, dumb, and blind to the bigotry all around us. Back to putting salesmanship over discipleship. Back to pretending we care more about loving people than about controlling them.

Patrick Dankwa John is president of the Decalogue Society of Lawyers. He is DSL's first Black and first Christian president. He's originally from Guyana, South America—a place of kaleidoscopic racial and religious diversity. He's a general practitioner with a focus on family law. He can be reached at attypatjohn@gmail.com. This article was originally published in Times of Israel and is republished with permission.

Israeli Judicial System *(cont'd)*

While a growing movement to stem this tide of judicial despotism has been gaining momentum, its efforts have been stymied time and again by none other than the Knesset (Israel's parliament) itself -- that is, the very branch of government most adversely disadvantaged by the judiciary's overreach. Sadly, no cogent remedy seems currently in sight, at least not for the foreseeable future. Evidently, Israel's 70,000-some practicing attorneys have yet to exhibit the wherewithal required to effect the necessary correctives to a judiciary gone awry.

A. Amos Fried, Advocate, a native of Chicago, is a licensed member of both the Israel and New York State Bar Associations and has been practicing law in Jerusalem for over 27 years. He specializes in civil litigation, criminal representation, and commercial law. His private law firm is located at 5 Ramban St. in Rehavia, Jerusalem, and he can be reached at 011-972-544-931359, or aafried@aafriedlaw.com.

Decalogue Family Chanukah Party

Tuesday, December 15, 2020, 6:30pm

Join us for a virtual party
with candle-lighting, story telling,
music, and comedy.

Prizes for the kinderlach for building
Chanukah scenes with Legos (everyone wins!)

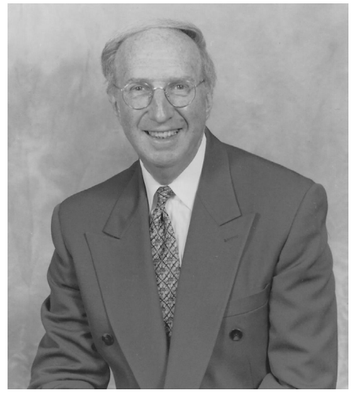
In Memoriam: Hon. Arthur L. Berman

by Jacqueline Carroll and Mitchell Goldberg

On June 7, 2020, the world, and especially Chicago, lost a good one.

Senator Art Berman (ret.), who passed away at the age of 85, was a Decalogue legend. He was a respected attorney and community leader. He was also a loving husband, father, and grandfather. During his time in the Illinois legislature (winning 22 elections for public office), Art earned a reputation as a champion for improving schooling for the children of Illinois. A graduate of Northwestern Law School in 1958, he was a longtime member and supporter of the Decalogue Society of Lawyers. He also served in various volunteer capacities for the Jewish Federation of Metropolitan Chicago, the Anti-Defamation League, Emanuel Congregation, and numerous other civic, legal, legislative, educational, and Jewish organizations and committees.

Reflections of Jacqueline Carroll, Co-Chair, Committee Against Antisemitism and Hate



As many in our community do, I grew up having several "aunts and uncles" who are of no blood relation, but such close family friends that they are for all intents and purposes family. I was truly blessed to consider Art and his wife, Barbara, to be my aunt and uncle. Art walked around with a glimmer in his eye and a smile on his face. His kind soul and good-natured demeanor exuded warmth to everyone he encountered. Art was a tennis aficionado. Not only did he play tennis on a regular basis, outside in the summer on clay courts and inside in the winter at Midtown, but every year for 25 years, he and his wife went to the U.S. Open. I recall going to my first live tennis match with Art and Barbara, the Virginia Slims, and seeing the joy on his face.

It is impossible to talk about Art without talking about Barbara and his family. Barbara and I recently spoke about Art and some of his favorite things people may not know about him. Every night Art had to drink one beer—a Sam Adams. Art's seven grandchildren called him "Pop Art" and they loved to join him at Bears games and share nachos with cheese and peppers. Art and Barbara took each grandchild on a bar mitzvah trip for a weekend ranging from ice skating finals in St. Louis to pre-season basketball in Arizona to the Bahamas. Art was a creature of habit and a true family man. I may have lost an uncle, but the world has lost a gentle giant.

Jacqueline Carroll is an attorney, who specializes in business litigation, civil rights litigation, and appellate law. Jacqueline serves on Decalogue's board and serves as Co-Chair of Decalogue's Committee Against Antisemitism and Hate.

Reflections of Mitchell Goldberg, Decalogue Past President

When Jacqueline Carroll told me of Senator Art Berman's passing on June 7, 2020, I was speechless. To call him a mentor would be an understatement. I have known Art since I was a law student, when we both attended a lawyer/law student reception put on by the Decalogue Society. When I later attended a Decalogue event, he remembered me by name and he would follow up on my success as an attorney. Eventually, he encouraged me to join the Decalogue Society's Board of Managers. I served with him on the Jewish Community Relations Council and on a number of committees for Decalogue. At one event, he even introduced me to a state senator named Barack Obama, who would one day become president of the United States.

As I rose in the ranks of the Decalogue Society, Art was a constant source of wisdom and advice. His talent for coalescing ideas and as a peacemaker led to him serving as Parliamentarian for Life for our Society, which placed him on the Society's executive committee in perpetuity. I was very grateful for his presence during my term as Decalogue's president. Yet, for all his abilities, he was so very humble; always refusing awards for which he had so earned.

I was beyond thrilled when he accepted Decalogue's Founders Award the year I was sworn into the Society's presidency. It gave me such a wonderful feeling to recognize him and present that award.

Even as he faced health issues, he made it his business to be available for others and to help whenever and however he could. I was always taught one's goal in life should be to leave the world better for having been here. To say Art will be missed is also an understatement.

Art: May Heaven greet you with the accolades you so very well deserve. You truly made a positive difference here. Rest in peace my dear friend. May those of us who had the honor to know you continue to strive to make further positive differences in your memory. And may that memory always serve for blessings.

Mitchell Goldberg is a regulatory and litigation partner in the law firm of Lawrence Kamin, LLC. In addition to serving as an advocate in financial services and commercial matters, Mitch frequently serves as a mediator. He also teaches classes in securities litigation at IIT/Kent College of Law. Among his several volunteer positions, Mitch is vice president of the Decalogue Foundation, a past president of the Decalogue Society, and currently serves as Co-Chair of Decalogue's Committee Against Antisemitism and Hate.

Young Lawyers: Why We Are Important to Decalogue

by Amanda Decker

One of the major questions that always gets brought up at Decalogue board meetings or even among the general membership is why do we keep losing membership? The answer is seemingly simple, yet still complex. Decalogue struggles to gain interest among law school students, maintain relationships with the law schools, and then continue a connection with lawyers after they obtain their licensure.

Why is this? There are a few potential answers I can provide. However, you may wonder, why should I care what this random person thinks on this issue? Well, I am not only the co-chair of the Young Lawyers and Law Students Committee, but I am also a young lawyer myself. I was fairly active in Decalogue throughout law school, both in my law school chapter, and within the larger professional organization. I have managed to talk with many of my peers on the issue of membership in legal professional organizations, and the following will be a brief attempt to summarize and analyze their responses and my experience.

REASON ONE: Lack of law school engagement

The first year of law school, known as 1L, is one of the most difficult times for anyone beginning their new legal career. The last thing someone is thinking about when they start law school is what organizations they should join. It's ultimately more work and time than a 1L has. However, law schools usually push beginning law students to attend an organization fair. During my organization fair, I remember thinking to myself that if I was going to be pressured to join an organization, I might as well join one centered around Jewish culture, as my heritage is really what got me interested in justice and the law.

When I walked into the fair, I found friendly faces from OUTLaw, ABA, and the Hispanic Lawyers Association of Illinois. Missing from the organization fair was a delegation from Decalogue. I was really disappointed and made a point once I got on the board of the student organization to be at every organization fair from then on out.

This phenomenon is not exclusive to my school or this particular organization fair. We simply don't have as much of a presence on campuses as we should. What would have helped in that situation would have been Decalogue members who were alumni from my school, or even just members in general from the professional organization, to help pick up the slack for the student leadership of the organization and impress on them the importance of initial outreach. My goal as co-chair of the Young Lawyers and Law Students committee is to organize ways for Decalogue professional members to attend organization fairs and help support our student organizations in finding speakers or BEING speakers. I plan to attend the next organization fair at my alma matter to help put my money where my mouth is, and I also plan on providing other ways for students to show up when we reach out to them.

REASON TWO: Failure to show students and lawyers the value Decalogue Society of Lawyers provides

The above issue is directly connected to law school engagement. What value do we, as an organization, hold to law students and young lawyers? What is really going to get them to give up valuable study/relaxation/work time to come to an event? The answer is we DO have value, but we have failed to adequately advertise our value. We have membership with knowledge, time, and expertise.

Young lawyers and law students require mentorship to understand our profession and succeed. It is impossible to learn everything you need to know about the practice of law from law school courses. Law school teaches theories but fails to provide the practical expertise, which bar associations can provide. In law school, we don't learn about CLEs. We don't learn about the stress of practice and the emotional labor that goes into practicing law. We certainly don't learn healthy coping mechanisms, despite how hard law schools attempt to teach us. Mentors can be excellent resources for these pitfalls of a law school education and creating these relationships is extremely beneficial for all involved.

One thing I have valued most from my Decalogue Society membership has been the camaraderie. Law school can fracture relationships between future lawyers and friends from the past, as individuals grow in different directions. Being a law student and young lawyer can be very lonely. In my tenure as president of the JMLS chapter of Decalogue, I created situations where we could socialize with no networking or law-related expectations. If one of the younger students needed help with a memo or an outline, I was happy to provide professional mentorship, but my goal was mostly to help students learn how to unwind (usually with food because that's the way my Jewish mother taught me to make people feel comfortable). In Decalogue Society's professional chapter, the various socials and events we have exist to provide an environment where we can decompress with each other, kvetch, kvell, and generally invest emotionally in interpersonal relationships. If we can better advertise these benefits of Decalogue Society to young lawyers and law students, I guarantee we will get more attendance.

Finally, we have knowledgeable members who put on spectacular continuing legal education courses ("CLEs"), but many first-year attorneys have no idea which CLEs are needed or what CLEs Decalogue Society provides. We do a decent job advertising CLEs to our general membership, but we need to better educate potential young lawyer members as to the benefits of participating in the CLEs in order to get more people interested in attending.

REASON THREE: Accessibility

Accessibility is pretty straight forward. Law students and young lawyers generally have no money. This problem is even worse now for the immediate reason of COVID-19, and the less immediate reason of the growing debt to wage ratio among millennials and Generation Z.

(continued on next page)

Young Lawyers *(cont'd)*

When this is compounded by the competition in the legal field, especially in Chicago, it creates situations, which frequently push recent graduates out of the field.

This makes the idea of spending money on a membership for a bar association difficult financially. Decalogue is already on the right track with free student memberships, free memberships for first year lawyers, and scaled rates for numbers of years in practice. However, our events can sometimes be far too expensive, and many members still cannot afford a $60 membership after their first year of practice (or they think they can't). One way to fix this is to advertise our CLEs more thoroughly so people understand the value of their membership. Another creative solution would be to allow members to volunteer time or other valuable skills in exchange for reduced fees/waived costs for events. More free events or "pay what you want" events would be helpful as well.

REASON FOUR: Messaging

There is a large messaging issue among Jewish organizations and Jewish young adults today. The focus seems to be heavily on what Judaism means to one group of people, while failing to provide a balanced approach as to what Judaism means to multiple groups of Jews. For example, many Jewish nonprofits focus heavily on Israel, either in sending money to Israel or criticism of Israel. However, such focus and programming is not of interest to many young Jews. This isn't to say young Jews don't care about Israel; it's to say many young Jews care about issues affecting them DIRECTLY wherever they live. Focusing on Israel can distract from what the organization intends to do for the Jews more directly impacted by its message.

Another good example is anti-Semitism. Many young Jews don't think anti-Semitism is relevant to them because Jewish organizations fail to get their message across to young Jews that anti-Semitism is still very much a reality, even for people who think they've "assimilated." When discussing anti-Semitism, Jewish organizations could better get their message across to the younger generation by connecting anti-Semitism with modern fights for equality, which many young Jews, especially lawyers, care about.

Similarly, Decalogue Society, at times, presents its mission in an antiquated manner. Thankfully, this is being addressed by our Board as we draft a new mission statement. Keeping the perspectives and interests of younger lawyers in mind when drafting the new mission statement will help our organization grow into a place where the next generation of lawyers will want to be present and participate.

CONCLUSION

Decalogue Society of Lawyers is the oldest Jewish bar association in the United States. With such a long history, it stands to reason that the ways in which the last generation engages with the next generation needs to grow and evolve. With more established lawyers reaching out to guide, relate, and listen to younger lawyers and law students, we can bridge the gap and attract more young members, thus ensuring the continued existence and wellbeing of our membership and organization.

Amanda Rose Decker (soon to be Araujo) is a tax practitioner at Community Tax. Ms. Decker runs an independent practice in her down time, handling landlord tenant law matters and estate planning. She is the Co-Chair of Decalogue's Young Lawyers and Law Students Committee. Please forward any comments to amandarosedecker@gmail.com.

Decalogue Young Lawyers Co-Chairs

Logan Bierman logan.c.bierman@gmail.com

Amanda Decker amandarosedecker@gmail.com

Decalogue Resolution on the 2020 Bar Exam

In light of the ABA resolution supporting safe and equitable protocols for law school graduates to be admitted to the Bar, and the many civil rights and public interest legal organizations who support equitable bar exam administration, the Decalogue President shall send a letter to the Illinois Supreme Court explaining our concerns about the inequities involved in the remote bar exam, asking them to develop solutions to address the problems or, alternatively, order good faith discussions between the ISBE and prospective test takers to develop viable solutions prior to October.

Decalogue Law School Leaders

Law Student Representative to the Decalogue Board
Sarah La Pearl, slapearl@kentlaw.iit.edu

University of Chicago Law School Board:
President, **Rachel Katzin**, rkatzin@uchicago.edu
Vice President, **Max Kober,** Mkober@uchicago.edu
Treasurer, **Alan Steiner,** ajsteiner@uchicago.edu
Events Coordinator, **Max Freedman**, mfreedman@uchicago.edu
Alumni Coordinator, **Ariel Aiash**, Aiash@uchicago.edu

UIC John Marshall Law School Board:
President, **Tamara Steinhauer**, tbryant@law.jmls.edu
Vice President, **Benjamin Usha**, busha@law.jmls.edu
Secretary, **Benjamin Blekhman**, bblekhma@law.jmls.edu

Chicago-Kent College of Law Board:
President, **Tzuriel Amster**, tamster@kentlaw.iit.edu
Vice-President, **Sarah La Pearl**, slapearl@kentlaw.iit.edu

Northwestern Law School Board:
President, **Abbey Derechin**, abbeyderechin2022@nlaw.northwestern.edu
President, **Joel Mackler,** joelmackler2022@nlaw.northwestern.edu
Vice President, **Naftali Jacobs,** NaftaliJacobs2022@nlaw.northwestern.edu
Vice President, **David Kohanim-Ghadosh**, davidkohan-ghadosh2022@nlaw.northwestern.edu
Vice President-Social Chair, **AJ Varon**, abrahamvaron2021@nlaw.northwestern.edu
Vice President-Treasurer, **Mark Schiff**, markschiff@nlaw.northwestern.edu
JD MBA Liaison, **David Skoler,** davidskoler2022@nlaw.northwestern.edu
3L advisor, **Jennifer Aronsohn**, jenniferaronsohn2021@nlaw.northwestern.edu

Loyola Law School Board:
President, **Jacob Kupferman**, jkupferman@luc.edu
Director of Programming, **Jesse Yaker,** jyaker@luc.edu
Director of Student Outreach, **Molly Franklin,** mfranklin@luc.edu

University of Illinois: jlsa@illinois.edu
Daniel Sechuga
Matthew Bajakian
Rachel Pollak
Alexander Ronen

High Holiday Challah Bake with Roberta Fahey

of Roberta's Creative Catering

Wednesday, September 16, 2020
7:00-8:00pm

Recipe will be emailed to registrants
so you can bake along with Roberta

Register at decaloguesociety.org

Rosh Hashanah Mitzvah Projects

Maot Chitim is concerned for the ongoing welfare, safety and health of our community. We have been carefully monitoring the developments surrounding the global spread of COVID-19 (coronavirus).

Based on the current situation and the State of Illinois restrictions, we have no choice but to cancel delivery once again this Rosh Hashanah. Instead, we are once again going to be purchasing and delivering Jewel gift cards to our recipients, which will enable them to purchase food for Rosh Hashanah. The change for this holiday will allow us to serve our recipients safely, with less exposure for our volunteers and recipients. As dedicated volunteers, I know delivery is something you look forward to, but I know you understand the reasoning behind this.

Even with the cancellation of the full delivery, there are still ways you can help.

- Many of our recipients had difficulties shopping for themselves by Pesach, so we are looking for personal shoppers to help them out by Rosh Hashanah.
- We are currently working to arrange Rosh Hashanah bulk challah deliveries to our bigger buildings, and we are looking for drivers interested in helping deliver them.
- We are looking for Russian speaking volunteers to speak to many of our recipients.

If you are interested in helping out with any of these initiatives please contact me or Joellyn Stoliar, jstoliar@maotchitim.org.

Thank you,
Michelle Milstein, Esq.
(847) 909-3698

Donate To Maot Chitim Here
If you or someone you know needs a box of food delivered for the holidays, please register for a box Here

The Hinda Institute is also seeking donations and volunteers for their Rosh Hashanah food distribution.

Please contact Abigail Rabinowitz at 708-990-7849 or visit the website to volunteer or make a donation.

Chai-Lites

by Sharon L. Eiseman

The CHAI-LITES section routinely features news about our busy members coming, going, celebrating, being recognized, speaking, writing, making new career moves, 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! This year, this season, however, EVERYTHING IS UPSIDE DOWN DUE TO THE CORONAVIRUS PANDEMIC.

Being UPSIDE DOWN does not mean we have forsaken all of the important goals identified above, but it does mean that our lawyers are working remotely and communicating with their clients that way or via phone, and our members and their colleagues who serve in the Judiciary are also working the same way but are making amazing efforts to create new systems for allowing litigants and their counsel to appear in court. These new ways of appearing include email submissions of agreed orders for execution, and hosting certain hearings virtually that can be conducted in a manner that is fair for all participants and that will provide the relevant evidence and testimony so the judges who are presiding can rule effectively. To them, and to the attorneys and their clients and witnesses, Decalogue extends a message of gratitude for your devotion to keeping the wheels of justice turning in the right direction in spite of the new challenges we all must face and overcome.

AND NOW COMES THE DRUM ROLL FOR THE ACCOMPLISHMENTS OF THE FOLLOWING MEMBERS:

First and foremost, it seems appropriate to let you know that Decalogue's Executive Board and the Board of Managers for the 2020-21 bar year were recently sworn in by our very own Cook County Circuit Court Chief Judge Timothy Evans. And while all of our new officers, from our President to our Financial Secretary, make up quite a stellar team of leaders, we are especially honored and thrilled to welcome our new President **Patrick Dankwa John** to his position, not only because he has demonstrated his talent and skills, his drive, his commitment, his compassion, and his continuing new ideas for meaningful services that Decalogue can offer its membership and the profession in general, but because his taking the oath of office made history for Decalogue and possibly will serve as an inspiration for many other Jewish bar associations. How? Because Patrick John is the first African American to lead our august society—which reflects the tearing down of so many barriers. That relevant step also means the opening of many new doors and consideration of new ways to lead, communicate, educate, and make progress. So welcome to Patrick and to all our other Executive Board members, and to members of our new Board of Managers from the Chai-Lites.

The Jury Verdict Reporter of the Chicago Daily Law Bulletin gave special recognition to **Justice Robert E. Gordon** as the trial judge who presided over the most civil jury trials in Illinois. In such cases, which were tracked over a 30-year period, Justice Gordon served as a civil jury trial judge for only nine years to achieve that distinction. No one has ever doubted Justice Gordon's dedication and work ethic, and these impressive statistics bear out those characteristics. Congratulations, our esteemed Board member Justice Gordon!

At its Annual Reception held in March before we all were sent into quarantine, the Women's Bar Association presented to Decalogue Recording Secretary **Judge Megan E. Goldish**, of the Domestic Violence Division of Cook County Circuit Court, its distinguished Mary Heftel Hooten Award, named in honor of one of the WBAI's past presidents who was deeply devoted to the success of the WBAI and to the promotion of women lawyers and women in the judiciary. Judge Goldish now joins the lineup of many elite women bar members and others in the legal profession who have been recognized for their contributions to the betterment of our profession. Work on achieving better gender diversity across the profession remains a necessity, and having champions like Judge Goldish contributes to continued progress on that front and in the equally relevant area of racial diversity.

Even off the bench, Judge Goldish uses her time meaningfully. She recently volunteered during this COVID-19 crisis with Judge Erika Orr to support the organization Save Money Save Life by helping to deliver food packages to those in need. As Judge Orr noted, "The organization is dealing with food insecurity that is exacerbated due to COVID layoffs and the civil unrest during this period."

Hon. **Joel Chupack**, Decalogue Past President, recently presented a timely CLE on "Government Actions Affecting Mortgage Foreclosures and Evictions" as part of Decalogue's CLE program series. Given the impact of the COVID-19 pandemic on landlord-tenant relations and the downturn in the economy for almost everyone, a program on new orders issued on new protocol for court actions in this area of law was much needed—and Judge Chupack came to the rescue. The audience, which consisted of counsel for both landlords and tenants, left with much valuable guidance on how to litigate—and prepare for litigation—in this area facing new, heightened and still evolving challenges.

Sinai Health System recently announced, with pleasure, the addition of **Mara Ruff** as Vice President of External Affairs. Sinai noted that Ruff "will lead efforts to advance the system's policy and legislative priorities." Before taking her position with Sinai, Mara served as director of local government affairs at the Jewish Federation of Chicago. She obviously likes being in charge—and is also known for being good at that—as she was sworn in last month as Decalogue's First Vice President. Mara is a member of the Chicago Bar Association, the Illinois Hospital Association, and America's Essential Hospitals. And every time she sees you, she will greet you with enthusiasm and her very engaging smile.

Double congratulations are in order for board member **Carrie Seleman** who was very recently recognized by the JUF as one of the 36 Under 36 to receive a ''Double Chai in the Chi" for her impressive dedication to helping those in need in the Jewish community. Besides

Chai-Lites *(cont'd)*

her work as the President of the Jewish Women International's Chicago Young Women's Leadership Network, Carrie serves as a host of One Table Shabbats which translates into offering a warm and inspirational Shabbat experience to individuals who otherwise would not be seated at a table for that experience. And her day job? She works for the Office of the Cook County Public Guardian where she serves as a guardian ad litem for juveniles in the child protection system. Carrie has not wandered far from her passion for helping the most vulnerable populations in our communities: as a law student, she was a volunteer at the Domestic Violence Legal Clinic where she sought orders of protection for domestic violence survivors, and she also volunteered at the Juvenile Expungement Help Desk. Usually we look to older attorneys as role models, but, clearly, we must rethink that concept and begin to recognize that our young members can claim that status and motivate us all to reach higher.

And we have our own "Double Double Chai," because Carrie had company in the group of 36 Under 36: namely, **Melissa Gold**, a business litigation attorney with Thompson Coburn LLP. In addition to having served as president of Decalogue's student chapter at the University of Illinois, Melissa was the recipient of our Society's 2014 Intra-Society Award. Clearly, she is keeping up with her own impressive track record.

Longtime Decalogue board member **Sharon Eiseman** received the ISBA's Roz Kaplan Government Service Award for her commitment to public service and the promotion of equality for women and minorities in and outside of the profession. This award was created by the ISBA's Women and the Law Committee to honor the work of its namesake, Rosalyn Kaplan, for her impressive career as a government official. It was this same committee -- and its past leaders -- that nominated Sharon for the award, and for which Sharon served as chair during the 2007-08 bar year.

Samuel Levine has been appointed as secretary of the Illinois Society of Construction Lawyers. He is also editor of the Illinois State Bar Association's Construction Law Section newsletter, "Building Knowledge." As if that is not enough extracurricular work for Sam, he serves as the CLE coordinator for the ISBA Commercial Banking Collections and Bankruptcy Section. Those who know Sam are well acquainted with his skill at "juggling" and following through on his many different commitments.

Board member **Charles Krugel**, who is perhaps our most active speaker, writer and quoted member, has continued to be everywhere since the pandemic quarantine began:

- Charles was interviewed May 30 on live TV by South Korea's news service Arirang on its pandemic related show. The discussion concerned May Day (International Workers Day) and the pandemic's effect on our economy, labor markets and the unemployment rate. The interview can be accessed at https://www.charlesakrugel.com/charles-krugel-media/thanks-to-south-koreas-arirang-news-for-live-interviewing-on-the-pandemic-on-5-1-20.html.
- Charles was quoted in NextAvenue's April 8th article "When Your Employer Insists You Go into Work During the Pandemic". This link will take you there: https://www.nextavenue.org/employer-insists-go-into-work-pandemic/.
- On June 5, Charles presented a webinar to an audience of 150 people on "COVID-19's Impact on Employment Handbooks & Policies Going Forward," sponsored by the City of Chicago's Department of Business Affairs and Consumer Protection.
- And finally, Charles, along with Decalogue past president **Helen Bloch**, Board member **Max Barack**, and **Gary Savine**, completed a series of seven CLE webinars sponsored by Financial Poise & WestLegalEd that focused on HR, labor, and employment law.

We received **Jeffery M. Leving's** article published in the Chicago Daily Law Bulletin regarding a legislative initiative for eliminating interest on child support arrearages. Jeffery, a family law attorney and fathers' rights advocate, supports the legislation Rep. LaShawn K. Ford introduced in the Illinois House of Representatives that would prevent interest from accruing on delayed child support payments. If that becomes law, it would be a good topic for a webinar on that aspect of family law practice, given the impact such a freeze on delayed support payment interest could have on both the recipients and the payors.

Ron Stackler celebrated his 83rd birthday in Malibu, California, where he continues his practice of law as of counsel to Hatton, Petrie & Stackler. Most people would have to travel to Malibu for their birthday observance, but Ron just had to wake up at home and walk out his door for that experience! Is everyone out there trying to suppress his or her or their envy? I certainly am.

Payton Elle Greenberg, granddaughter of Decalogue member **Sharran R. Greenberg**, was called to the Torah on August 29, 2020, on the occasion of her bat mitzvah at North Shore Congregation Israel in Glencoe, Illinois. Mazel tov from Decalogue to Payton, whose family is surely proud of her reaching this important milestone.

Daniel P. Felix was elected secretary for the Independent Trustee Alliance at its recent annual conference. Dan is also co-founder of the Alliance, an international professional association which educates and certifies non-corporate family trustees and financial fiduciaries. A frequent writer and speaker in this field, Dan is the principal of The Professional Trustee, where his practice concentrates exclusively on duties of an active trustee, a successor trustee, and an executor, and advising as to the function of various kinds of powers of attorney.

Madeline Remish, daughter of member **Barbara Boiko**, graduated May 17 from Chicago-Kent College of Law. In this difficult time, reaching the finish line to get such an impressive degree is in itself an impressive achievement. We wish Madeline all the best in her new career and invite her to become a Decalogue member.

(continued on page 28)

Chai-Lites *(cont'd)*

As an extracurricular project in which her law firm, Advitam IP, of which she is a co-founder, plays a significant role, **Michele S. Katz** is involved in supporting a scholarship fund in the name of and to memorialize her father, Sidney Katz, deemed an icon in the IP field. Advitam also annually funds a master's scholarship in innovative sciences at the Hebrew University in Israel. And despite the lack of any spare time, this go-getter was on the event host committee for a program entitled "What Does It Take to Be a Champion?" held on August 19. Featured in the video were several professors from Hebrew University, and the champions featured included an orthopedic surgeon and acclaimed author, an Olympic athlete, and an entrepreneur, from whom one could learn how they rose to the top of their respective fields.

Mazel Tov to Board member **Max Barack** and wife Deborah, on the birth of their daughter Daria Sydney Barack, named for her mother's grandpa (David Margolin, of blessed memory), and father's maternal grandfather (Seymour Diamond, of blessed memory). She was born Friday, August 21, at 5:47 p.m., weighing 6 pounds, 9 ounces, 20 inches.

And that's all there is! If you want to see yourself in the next Chai-Lites section, let us know what you are doing, writing, speaking about, teaching, or creating. We like to help make Decalogue members famous!

Sharon Eiseman is a board member of Decalogue and the Bureau Chief of Land Acquisition at the Illinois Attorney General's Office.

Welcome New Members!

Jessica Arencibia
Alia Caravelli
Jeffrey Cohn
Jeffrey Flicker
Howard Foster
David Franks
Susan Frischer
Stephanie Glassberg
Larry Goldsmith
Glenda Gray
Alyssa Grzesh
Ethan Guthman
Helena Hale
Mark Hellner
Mark Juster
Joshua Kibert
Gordon Kochman
Sabrina Lieberman
Jeffry Marthon
Nancy Novit
Amanda Nussbaum
Margaret Ogarek
Shelby Prusak
Gary Schlesinger
Alan Schwartz
Emily Selig
Barry Serebrennikov
John Simon
Rhonda Stuart
Nicholas Tziavaras
Erin Wilson

Decalogue Thanks Our Sustaining Members

Deidre Baumann
Marvin A. Brustin
Fred Lane
Robert Shipley
Cary J. Wintroub

Judge Steve Rosenblum: The New Sid Luckman

by Hon. James A. Shapiro

Let's face it: The Bears have not had a great, durable quarterback since the 1930s and 40s. Jim McMahon was good, but not durable. And the last great, durable quarterback the Bears had was…gulp… Jewish!

But fear not, Bear fans. There is still a great, durable Jewish quarterback out there. Unfortunately for the Bears, he's 55 years old, so unless they're looking for another George Blanda, he's not really eligible. Yet Judge Steve Rosenblum could probably do better than many recent Bear quarterbacks.

I know that because I've played pickup ball with him most Sundays during the fall and winter over the past decade. On the rare occasions when he throws my way (the alter cockers like me play center so they can at least touch the ball on every offensive play, although everyone is an eligible receiver), you almost can't NOT catch it because his passes are so accurate, with just the right velocity on them.

This pickup game has gone on in one form or another, from one field to another, since 1958. In fact, a couple of guys, Jonathan Stein (another landsman) and Rich Lansu, now in their 70s, have actually been playing since then and still play many—if not most—weeks. They started on Elaine Place in what is now Boystown. Then on to the parking lot at Fullerton and Stockton Drive.

Steve Rosenblum (bottom right)

From there the game moved to Waveland Park at Addison, where they played with Sid Luckman's son Bob, who lives in Highland Park, and was a third-string quarterback at Syracuse University. Then it moved to Barry Park at Lake Shore Drive. Then to Angel Guardian in Rogers Park, to Hansen Park (where they played on Astroturf), to Portage Park, and finally to our current home at "old Wright Junior College" (now the Chicago Academy for the Arts) at Roscoe and Austin.

What's interesting about this pickup game is the diversity of the participants. The players include every ethnicity, color, religion, skill level, and occupation, from doctors, lawyers, and judges (Steve and I were the second and third), to cops and gangbangers. For two hours every Sunday from ten to noon in the fall and winter, no one cares who you are or where you're from. It's just about playing sandlot touch football like when we were kids.

Judge Rosenblum (then Assistant State's Attorney Rosenblum) walked on cold at Barry Park (by the old soccer field) without knowing anyone. He had come to Chicago right out of Ohio State Law School about 30 years ago and has been playing ever since.

Although Judge Rosenblum was not quite good enough to play as an undergrad at the vaunted football powerhouse Ohio State, he was certainly good enough to play defensive back in high school. He must have learned his quarterbacking skills through osmosis, or perhaps watching opposing quarterbacks make mistakes, because he plays the position well enough to compete with some pretty good pickup players literally half his age.

Judge Rosenblum also acts as "The Commish," organizing and leading the 90-odd "player roster" and negotiating/clarifying rules from time to time. Sure, let's get the Jewish guy to do it.

In addition to football, Judge Rosenblum has also played sixteen-inch softball for the Chicago Ants at Horner Park. He was instrumental in the Ants' championship year of 2002. He has also played in numerous "World Series" over the years in something called "Guy Ball" (real baseball with a hard ball) in Northbrook.

One Sunday, Judge Rosenblum was down three touchdowns to none after the first half. He led his team back from that deficit to a six touchdown to three comeback win with a searing, sizzling performance reminiscent of Tom Brady bringing the Patriots back against the Falcons in Super Bowl LI. Now in his fifties, he still has the arm to throw the ball long, even into an often biting wind. But his shorter and medium-range passes are what he's known for, rifling them in with nearly flawless accuracy and velocity.

You can tell he really knows the game too, because he coached me to my first ever sack on defense by essentially teaching me how to "stunt" an offensive lineman. Now in my 60s, I normally don't have the speed to get to the quarterback before he releases the ball. Steve taught me how to do it, with brains over brawn, just like a good Jewish boy should.

This fall, the pickup game's fate is uncertain because of the current pandemic, but if there's a way to play socially distanced touch football, Judge Rosenblum will be out there at Old Wright Junior College almost every Sunday from ten to noon, throwing passes with just the right touch. So look out Mitch Trubisky and Nick Foles. Those footsteps you hear are from another great Jewish quarterback.

The Honorable James A. Shapiro is a Cook County Circuit Court judge, who presides over a domestic relations courtroom at the Richard J. Daley Center.

Hinda Cares Support Program for Women

by Abigail Rabinowitz

Announcing a new initiative under the Hinda CARES Program (Counselling, Advocacy, Restorative Justice, Education and Support)

The Hinda Institute runs a unique program for women and children who have loved ones who are incarcerated. The Hinda institute supports these women by offering counseling, legal support, financial aid, and employment assistance. The Hinda Institute also coordinates a women's peer support group.

Our women's group, HINDA CARES, has now decided to expand by creating an educational package to inform our community on the plight of these children and families to destroy misconceptions and stereotypes. The package would be created by our women, specialists in the field, and would include a documentary video and brochure with contact information and resources. These sessions would be presented to different venues in the community.

Understanding the Issue

When a person commits a crime, there are multiple victims who suffer. All families suffer when someone in a family does a crime and often they also become ostracized from the community. These families, spouses and children of the perpetrator are often innocent, ignorant of the crime, or even have been directly abused.

- Support systems in the community may be falling short due to censure.
- Spouses and families become victimized over and over again even though they didn't do the crime - often for their whole lives. This includes losing their livelihood, being evicted from schools and social organizations and being forced to move out of their communities.
- Often the family has to also deal with the perpetrator's mental health issues, financial support and housing. While the level of the crime can vary, the family will receive a lifelong sentence and often suffer lifelong shame.

Objectives of the Program

- To bring a voice to the silent victims of incarceration.
- To sensitize the community to the ostracism, financial and emotional hardships experienced by families of offenders
- To create a safe, nonjudgmental atmosphere to dialogue and reach out to other members in the community who may have affected by the criminal justice system

We Need Your Support

The Jewish community has had challenges recognizing these silent victims of incarceration and we hope that you could help us to promote and support this program through providing expertise and volunteer support. In particular, **we are looking for a lawyer to be part of the advisory board who has a passion for women's issues and helping the disenfranchised.**

Contact Abigail Rabinowitz, Program Coordinator 708-990-7849

Hon. Gerald C. Bender Memorial Lecture - Sunday, November 22, 2020, 10:00am

Managing Kids, Law School, and Judaism

(Women in Law Series II) (Jewish Lecture Series VI)

1 hour General MCLE credit for all attorneys
Co-sponsored with
Lincolnwood Congregation AG Beth Israel

Sponsorship Opportunity

We are pleased and honored to host Judge Freier for this special event and are seeking donors to defray the costs of the lecture. Donor names will appear on promotional materials and on the website. Individual donations to the Decalogue Foundation are deductible as charitable contributions for federal income tax purposes. Businesses may deduct the donation as an advertising expense.

DONATE HERE

Speaker: Judge Rachel Freier

Rachel (Ruchie) Freier was born in Borough Park, Brooklyn, the eldest of five children in a Hasidic Jewish family. While attending the Bais Yaakov high school in Borough Park, she took a course in legal stenography. Freier worked first as a legal secretary, and, in 1994, as a paralegal. She began studying law at age 30 after realizing she was working for lawyers younger than her. She passed the New York State Bar in 2006 and practiced commercial and real estate law. In 2016 she became the first Hasidic Jewish woman to be elected as a civil court judge in New York State and the first Hasidic woman to hold public office in the United States. She currently serves on the Criminal Court in Kings County 5th Judicial District.

2020-2021 CLE Schedule

CLE credit for Decalogue members only unless otherwise specified

2020 classes will be via Zoom
We will return to in-person classes when public health authorities deem it safe to do so

Wednesday, September 2, 4:15-5:45pm
Jewish Lecture Series: Anti-BDS Legislation
Speakers:
Cong. Brad Schneider, Richard Goldberg, Prof. Sheldon Nahmod
Greetings by Israel Consul General Aviv Ezra
Moderator: Helen Bloch
This lecture is co-sponsored by Chicago Loop Synagogue, Consulate General of Israel to the Midwest, and Israel Bonds
Underwritten by generous donations in memory of Sid Serota and by the MR Bauer Foundation
1.25 hours General MCLE credit for all attorneys
Register by August 31

Thursday, September 24, 12:15-1:15pm
Police Brutality and Civil Rights
Speaker: Jordan Marsh
Register by September 22

Thursday, October 15, 12:15-1:15pm
Cannabis Law Update
Speaker: State Representative Bob Morgan
Register by October 13

Thursday, October 22, 12:15-1:15pm
Evictions
Speaker: Representative from Legal Aid Chicago
Register by October 20

Wednesday, November 4, 5:30-6:30pm
Jewish Lecture Series V
Medicine and Halacha in the COVID-19 Pandemic
Speakers: Dr. Ben Katz and Rabbi Yona Reiss
Moderator: Shellie Karno

Sunday, November 22, 10:00-11:00am
Hon. Gerald C. Bender Memorial Lecture
(Women in Law Series II) (Jewish Lecture Series VI)
Managing Kids, Law School, and Judaism
Speaker: Judge Rachel Freier
1 hour credit for all attorneys
Co-sponsored with Lincolnwood Congregation AG Beth Israel

Thursday, December 3, 12:15pm-1:15pm
Women in Law Series III
How COVID Affects Women Professionals from a Mental Health Perspective
Speaker: Miriam Ament
1 hour Mental Health/Substance Abuse credits pending

Thursday, December 10, 12:15pm-1:15pm
Women in Law Series IV
How to Become a Partner as a Woman and Set Yourself Up to Climb the Ladder
Speakers: Debbie Berman & Amanda Nussbaum
1 hour Professional Responsibility credits pending

Thursday, January 14, Time TBA
Special MLK Day Video CLE "Just Mercy"
3 hours Professional Responsibility credits pending for members of Decalogue and co-sponsoring organizations

Thursday, January 21, 12:15-1:15pm
Hate and Recovery in 2021
Speakers TBA

Thursday, February 4, 12:15-1:15pm
Chapter 11 Bankruptcy
Speaker: Jeffrey Harris

Thursday, February 11, 12:00-1:30pm
Income Tax Update
Speaker: Larry Krupp

Thursday, April 8, 12:15-1:15pm
Strangers in a Strange Land: Political Asylum 101
Speaker: Nancy Vizer

Thursday, April 22, 12:15-1:15pm
Responding to the Cease and Desist Letter in Trademark
Speaker: James Faier

Thursday May 6, 12:15-1:15pm
Women in Law Series V
Negotiating for Yourself
Speaker: Laurel Bellows

Thursday, May 20, 12:15-1:15pm
Ethics Update
Speaker: Wendy Muchman
1 hour Professional Responsibility credits pending

Thursday, May 27, 12:15-1:15pm
Collection and Reinforcement of Real Estate Tax Liens
Speaker: Rodney Slutsky

To be scheduled
Jewish Lecture Series VII
BDS and Free Speech

The Decalogue Society of Lawyers
134 North LaSalle Street Suite 1430
Chicago, Illinois 60602

The Decalogue Tablets is published semi-annually by The Decalogue Society of Lawyers, Inc.