THE DECALOGUE TABLETS

SPRING 2021

STANDWITHUS, THE DECALOGUE SOCIETY OF LAWYERS, AND CHICAGO LOOP SYNAGOGUE
INVITE YOU TO ATTEND A VIDEOCONFERENCE SEMINAR ON

THE LEGAL FIGHT AGAINST ANTISEMITISM ON CAMPUS

PROTECTING JEWISH STUDENTS UNDER TITLE VI OF THE CIVIL RIGHTS ACT

What are the administration's responsibilities to protect Jewish and pro-Israel students from discrimination and harassment based on their ethnic identity under the Executive Order formally extending Title VI protection to Jewish students?

DEFINING ANTISEMITISM TO DEFEAT IT

What is the rationale for and function of adopting the International Holocaust Remembrance Alliance (IHRA) Definition of Antisemitism? How can it help guide law enforcement and administrations in investigation of antisemitic acts?

TAKING PREEMPTIVE ACTION TO DEFEND THE FIRST AMENDMENT RIGHTS OF JEWISH AND PRO-ISRAEL STUDENTS

What are the court-guided boundaries of the First Amendment regarding antisemitic speeches, rallies, and disruptions on college campuses?

THURSDAY, APRIL 29, 2021
3:15 PM–4:45 PM PT
5:15 PM–6:45 PM CT
6:15 PM–7:45 PM ET

SPEAKERS

Honey Kessler Amado
Appellate law specialist, national chair of JNF's Bedouin Wadi Attir project, and lecturer on Jewish issues related to the law

Carly F. Gammill
Director and counsel for litigation strategy, StandWithUs Center for Combating Antisemitism

Kenneth L. Marcus
Founder and leader of the Brandeis Center and former assistant secretary for civil rights at the U.S. Department of Education

Register by April 27 at www.decaloguesociety.org/cle (Illinois attorneys)
or www.standwithus.com/legal (attorneys outside of Illinois)

THE DECALOGUE SOCIETY OF LAWYERS
JUSTICE, JUSTICE SHALL YOU PURSUE

TABLETS
Spring 2021

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President's Column
Let's Dance In The Rain

by Patrick Dankwa John

"There's a time for everything under the heavens…a time to mourn and a time to dance."

Ecclesiastes 3:1

It's been said that life isn't about waiting for the storm to pass. It's about learning how to dance in the rain. That sage advice seems particularly hard to follow given what we've experienced in 2020, and are still living through. Over the last year, we've all been living through a pandemic that has taken lives, wrecked the economy, and sprayed gasoline on our nation's smoldering racial tensions. As the year 2020 came to a close, most of us welcomed 2021 with hope. We thought to ourselves that things had to get better—they certainly couldn't get any worse than 2020. Then our nation's Capitol was stormed by a disillusioned angry mob, forcing our elected officials to literally run for their lives.

As I write this message, our nation is still in shambles. Our COVID-19 vaccination efforts have been pedestrian: slow, geographically inconsistent, and racially skewed. Trump is going through his second impeachment trial, for allegedly inciting the mob to storm the Capitol. We are as politically divided now as we were just before the presidential election in 2020. Thousands of hungry unemployed Americans are no longer awakened in the morning by their alarm clocks. They're now awakened by the grumbling in their stomachs—reminding them that it's time to get up and rush to a food bank, where they will wait in a line that may stretch for miles.

In these circumstances, it's easy to despair and become lethargic. I've had to snap myself out of emotional numbness several times over the last year. I had to become my own motivational speaker—talking myself out of despondence and anxiety. Perhaps you've had similar experiences. A year ago, I never thought our woes would be with us a year later, with no clear end in sight. With so much tragedy all around us, sometimes I feel any ambition other than directly saving a human life is trivial. Sometimes I feel like the Roman Emperor Nero, whose name has lived in infamy for supposedly playing a fiddle while Rome was burning. Let me share some of my personal challenges with you—my personal storm experiences, in the hope that you find some encouragement if you ever feel hopeless in the face of our nation's challenges.

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From the Judge's Side of the Bench
The Value of Listening

by Hon. Jesse G. Reyes

"To listen well is as powerful a means of communication and influence as to talk well." ~ John Marshall

Society as a Whole

Ask almost anyone and they most likely will tell you that they always listen effectively. As a result, very few people believe they need to develop their listening skills. In fact, listening effectively is something that very few of us do well. Experts claim that we spend 60% percent of our communication time listening and yet retain little of what we hear.[1] In 2019, according to a study which was conducted by Harvard Business School, researchers found that 30% of the time, listeners tune out during a conversation.[2] The blame for this dilemma is usually placed on the shoulders of the listener. They are either distracted in the smartphone era by multiple screens or they are multitasking.[3] Our present-day culture of listening also seems to be fragmented and reliant on millisecond bits of information, which requires a limited effort of concentration. In today's society, the solution to addressing this lack of communication seems to be putting down our iPhones and iPads. Given this fact, it appears we are doomed to never listen to one another.

One comforting thought is that this concern with listening appears not only to be a modern dilemma, but one which people have had since the earliest days of Western civilization. Zeno of Citium (334-262 B.C.), the founder of Stoicism, proclaimed, "We have two ears and one mouth, so we should listen more than we say." A few centuries later, his philosophical descendant Epictetus taught, "Whoever is going to listen to the philosophers needs considerable practice in listening." Thus, it appears as a society we have not always been very good at listening.[4]

Listening as a Profession

"Like breathing, listening is something we all do, but by doing it consciously, we can make a tremendous difference in…the lives of others."[5]

Given the vast number of professional journals, articles, and treatises analyzing this conundrum, it is evident that this issue has plagued a number of professions, including the legal one. While the subject of listening is not necessarily offered in law school curriculums, many a law student enters the legal profession without any specific training in the area. Students of the law and lawyers spend years learning how to read and write in order to become effective communicators. Yet, they spend very little time learning how to listen, which is an essential communication tool that lawyers, regardless of their area of practice, need in order to succeed.

Listening is often called an "art," but this is a misconception. Listening is a skill that can be developed with practice, the development of which will entail a great deal of work and even more concentration – a skill which is more fundamental to a lawyer's education than knowing how to write a brief or cross-examine a witness. This skill can make a difference in the outcome of a client's case or a judge's determination in a matter, which may set precedent for years to come. Poor listening skills, on the other hand, could have dire consequences for the lawyer and their client. While listening seems so basic, it is not. In fact, it is difficult to master, for it is a multilevel skill with nuances that are applicable to a variety of different circumstances and situations, which this article will attempt to address.

First, We Learn to Listen

"When people talk, listen completely. Most people never listen."[6]

The first step is building a self-awareness of how we listen and learning the benefits and drawbacks of listening in particular ways.[7] As an attorney, listening is not only an attempt to hear, it is also a means by which we process feedback. Thus, we not only listen with our ears, but with our eyes. We listen by being aware of our surroundings and focusing on all that is around us. In this profession, we must listen with an open mind and without judgment or bias. Listening without bias is essential as you want to make sure that you are not allowing inaccurate assumptions to dilute or distort what you hear. While doing this, we must, at the same time, filter out our expectations, attitudes, beliefs, and intentions as they, too, influence what we want to hear. We must always focus and concentrate on what we listen to and not just what we prefer to hear.

Listen with Empathy

"Most people do not listen with the intent to understand; they listen with the intent to reply."[8]

Clients want respect and problem-solving abilities from their lawyers. Having the capability to listen with empathy will go a long way in meeting these objectives. In order to be effective counselors of law, we will need to learn to listen first. Often, we think in terms of how we are going to advise our client. Instead, we first need to listen for what we are going to advise them on.

One means by which we can accomplish this feat is through silence. Silence goes hand-in-hand with striving to listen empathically. The key here is to truly understand what the person is saying. This requires that you stay open-minded and listen. You might think that you know what your client is about to say and drift off in thought. This could lead you to miss essential pieces of information or may prevent you from understanding your client's true motivations or concerns. Once the client has voiced their opinions or concerns, let them know that you listened by allowing their voice to be heard and relate their perspective back to them. This way you have confirmed that you truly listened and have understood them. In the process, you will be in sync with what your client needs.

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When dealing with others, such as opposing counsel during negotiations, empathic listening can also be productive in resolving conflicts or miscommunications. It can also avoid counterproductive results. By being empathetic to the other side, you can be more open to other possible creative solutions to the problem. To be sure, this can be very challenging when we, as lawyers, are expected to be forceful advocates. At the same time, proceeding this way can serve to foster a level of professionalism that allows for collaborative problem solving and may save your client from enduring unnecessary litigation. In listening with empathy, we should strive for the goal expressed by noted trial lawyer Gerry Spence, "Listening is the ability to hear what people are saying, or not saying as distinguished from the words enunciated."[9]

Perceptive Listening

"Let the wise listen and add to their learning."[10]

Counsel should seek to develop the skill of learning to listen not only to what people say, but how they say it. Equally important is to listen for what is not said since much of what we communicate is conveyed through posture, facial expressions, gestures, eye contact, tone, inflection, and even the speed of our speech. An attorney, therefore, needs to be able to listen with their eyes.

Listening with our eyes during a trial is essential. We need to watch our witness, the judge, the jury, and opposing counsel. What impression is the witness giving? How are the judge and jury reacting to our witness? Are they listening or are they bored? Are they taking notes? By noting their reactions to our witness, we can alter our proof and questioning, if necessary.

When our opponent's witness is testifying, we listen for inconsistencies, for impeachable material, for weakness in the witness' observations. How is the witness testifying? What is their body language? How did the witness walk into the courtroom? Did they slump their shoulders down as they walked, or did they enter with a swagger? Are they projecting confidence and boldness, or are they appearing meek? Throughout, we should always be concentrating and listening with our eyes.

By listening, we will know whether to proceed with our prepared cross-examination or be ready to modify our plans to add new questions or explore new areas. Listening is also key in assessing when and whether to question a witness. Inexperienced lawyers sometimes believe that just because they have the opportunity to question a witness, they should proceed. By listening with our eyes and ears, counsel may be able to gage the pulse of the courtroom to assess whether to question a witness. In other words, do not cross just to cross. This is a decision that both the judge and jury might well appreciate.

Listen for Others

"You never really understand a person until you consider things from his point of view"[11]

When listening, be sure that you listen for the different viewpoints in the courtroom. A good time to listen for others is during the examination of an expert witness. During a jury trial, try to listen to your expert's testimony with the jury's ears. On direct examination, listen to your expert witness to determine if he or she has testified as anticipated. Did your expert use the correct language – "probability" vs. "possibility?" Is the jury understanding the testimony? Are they interested? If not, how do you make it interesting for them? Be prepared to interrupt your expert if they go off track. Stop your expert whenever the terminology used is too complex, when the concepts get too involved, or when the testimony has gone into too much unnecessary detail. Go over the points that may not be clear as if you were a juror listening to it for the first time. Keep in mind that verdicts and judgments are based upon answers. Therefore, counsel must be sure the answers provided by the expert can be understood by the jury. This can only be accomplished if we listen to the responses as a member of the jury would.

Judicial View on Listening

"To Speak is to Sow; To listen is to reap"[12]

While I do not speak for all, I would like to relate some views that judges have regarding the topic of listening. One common complaint that judges have about lawyers is that they become so engrossed in their prepared remarks while arguing before the bench, they then fail to listen. They do not listen to the questions posed to opposing counsel, to opposing counsel's responses, and sometimes they do not even listen to the questions posed to them. They do not listen carefully to the judge and wait for the judge to finish speaking before interrupting the jurist sometimes in mid-sentence. If you find yourself so focused on your argument or wanting to interject into what the judge is saying, you may be missing important information that could help your case as well. When reflecting on how to implement better listening skills in our practice, we need to be sure that we listen to everyone in the courtroom.

Conclusion

"It is the province of knowledge to speak and it is the privilege of wisdom to listen."[13]

Listening is not easy. Truly listening is not something that comes naturally to all of us. Lawyers, however, must learn to listen if they are to be effective and successful communicators. In the endeavor of seeking to master the skill of listening, what better role to follow and emulate than Abraham Lincoln. This great communicator was also known as a great listener. "In conversation, he was a patient, attentive listener, rather looking for the opinion of others, than hazarding his own, and trying to view a matter in all of its phases before coming to a conclusion."[14] This was a skill Lincoln first fined tuned as a country lawyer traveling the circuit on the backwood roads of Illinois. Keep in mind that great lawyers, like Lincoln, were also great listeners. As lawyers, we must remember to take in all relevant information, analyze it, and create a plan of action. As I hope this article imparts, this can all be accomplished just from utilizing the skill of listening.

Jesse G. Reyes is a justice on the Illinois Appellate Court, First District and a long-standing member of the Decalogue Society of Lawyers. *want to thank Ms. Abigail Sue and Renee Reyes for their assistance in editing this article.*

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President's Column *(cont'd from page 3)*

I'm originally from Guyana, South America. Guyana is the second poorest nation in the Western Hemisphere—second in poverty only to Haiti. I lived in Guyana during some of my teenage years. There were food shortages and government rationing of certain food items, like wheat. Sometimes bakeries had to be protected by mounted police when bread was being sold. Physical fights would break out over a loaf of bread. There were times when I got in line at the bakery at 4 am so that when it opened at 6 am, I'd have a decent chance of getting a loaf of bread. And when I say a loaf of bread, I mean exactly that: a single loaf, because it was rationed. Only one loaf per pair of hands.

Watching the COVID-19 food lines here in America brought back those unpleasant memories for me. In February 2020, I found myself, at the age of 51, in the hospital with a heart attack. In the next month, March 2020, my father, who lived in New York City,, caught COVID-19 and died within 24 hours of arriving at the hospital. The last time I had seen my father was in late 2018, when I was in New York eulogizing my older brother, who had died of heart disease at the age of 59. My father was very proud I was going to become president of Decalogue. Of course, he told me he would come to Chicago for Decalogue's installation dinner to watch me get sworn in. The Installation was scheduled to take place on June 25, 2020. He wouldn't miss it for all the world.

When he died in March 2020, we couldn't even have a funeral for him. At the time, New York was the nation's COVID-19 hotspot, with bodies being warehoused in ice trucks. I had to have him cremated in New York while I remained in Chicago. At this point, with my recent heart attack, I had a comorbidity that made it unwise for me to travel anywhere. It took a month to get him cremated, and even longer for me to get his urn delivered to me.

In late June 2020, I eagerly anticipated my June 25th swearing in as Decalogue president. At the same time, I was mourning the loss of my father, and frustrated that his ashes were still in New York. The day before my swearing in, on June 24, my father's urn was delivered to my home. Just as he had promised, he was in town to watch me get sworn in. My father was a man of his word.

This is what was going on in my life as I accepted the greatest professional honor I'd ever received—being sworn in as president of the Decalogue Society of Lawyers. I couldn't get the image of my father's urn—by then prominently displayed on my bookcase at home--out of my mind. I fought to hold back tears during my acceptance speech. I had a speech to make, and many people were on the edge of their seat waiting to hear it. I didn't have time to wait for the storm to end. I had to dance in the rain. This is life. We are simultaneously showered with both blessings and burdens, joy and sadness.

What does all of this have to do with the Decalogue Society? Everything. Decalogue is an organization bursting at the seams with brilliant lawyers and judges. But we're not just brilliant lawyers and judges. We are first and foremost just people. I think we too often focus on the mechanics of doing our job, while we neglect our own humanity. We have fears and doubts. We experience joy and sadness. Our emotions affect us, those around us, and those who depend on us. It's ok to cry and pray, and take a break sometimes.

There's a time for everything. We should give ourselves permission to feel the full range of human emotions—we're not robots. When the time for crying is done, we must return to our calling. We help people. That's what we do.

Despite the pandemic, Decalogue's activities are as robust as ever. We have continued to have CLEs and seminars like nobody's business. Of course, all of our events have been virtual because of the pandemic (hey, I said you should dance in the rain, I didn't say not to have an umbrella). We continue to lend our voice to the cause of justice as loudly now, as ever before.

The community's need for our talents has grown even more acute in the past year. While sometimes it may feel like we're playing the fiddle while Rome is burning, let me assure you we're not. We're helping to rebuild a razed community. If you're not a Decalogue member, I invite you to join us. If you are a member, be encouraged as you work hard to live out Decalogue's motto, "justice, justice you shall pursue". Don't wait for the storm to pass. Dance in the rain.

Thank you for giving me the privilege of serving as your president.

"Listening" endnotes *(pages 4-5)*

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Best Practices: Employee Starting Pay from Years Ago Can Come Back to Bite a Business

by Helen B. Bloch

Are you paying your employees what they deserve? Similarly situated employees, not paid on par with one another as a result of a lower starting salary, perhaps need a pay increase.

If there is uncertainty whether your employees are being paid on par with one another for performing similar duties, your business would be well served by conducting a salary audit to ensure that employees who perform similar work receive similar pay. At least that is what the Seventh Circuit would recommend to ensure your business is not unwittingly engaging in discriminatory pay practices.

When a teacher was hired in 2006 by the Indiana Academy the hiring director told her that she did not need a higher starting salary because her husband worked too. This discriminatory approach affected her pay during her tenure. In 2017 she endeavored to rectify the situation. She brought to the Dean's attention that her similarly situated male colleagues made more money than she. The Dean responded that there was nothing discriminatory about the pay disparity. Merely, the others had higher starting salaries, so they happened to earn more than she despite her having received proportionately higher pay increases than that of her similarly situated male colleagues. Since the Academy refused to rectify its discriminatory pay practices that it attributed to "salary compression" she sued in 2018. Her lawsuit alleged sex-based pay discrimination in violation of Title VII of the Civil Rights Act and the Equal Pay Act.

The Academy moved for summary judgment on both claims arguing salary compression and qualification differences were gender-neutral reasons for the pay disparity. The district court agreed, finding that the discriminatory statement by the hiring director, assuming it was true, which at the summary judgment level it had to do, was outside of the statute of limitations.

The United States Court of Appeals for the Seventh Circuit held otherwise. In *Cheryl Kellogg v. Ball State University*, the Court decided her discrimination in pay case should go forward. The 7th Circuit started its analysis with the paycheck accrual rule, codified by the Lilly Ledbetter Fair Pay Act of 2009. Under the Ledbetter Act, discrimination in compensation occurs each time wages are paid that are based on a discriminatory practice, even if that underlying discriminatory practice took place past a statute of limitations. Thus, every time the teacher was paid wages based on the 2006 discriminatory starting salary, she had a new claim against her employer. And since the Equal Pay Act and Title VII prohibit discrimination in pay, the statement by the hiring director in 2006 was sufficient to establish that her employer discriminated against her based on her sex.

Illinois, in its quest to root out discriminatory pay practices, has taken equality in pay a step further. Its Equal Pay Act was amended in 2019 to make it illegal for an employer or a prospective employer to ask a job applicant about their pay history. No longer can an employer screen job applicants based on current or past wages or salaries, request job applicants to provide a salary history to be considered for a job interview, or require that an applicant disclose wage or salary history as a condition of employment. While it's still fair game to ask candidates about salary expectations, employers should tread lightly around the topic. Illinois' Equal Pay Act also prohibits employers from paying a lower wage based on gender for identical or similar work for jobs that are "substantially similar" in skill, effort, and responsibility.

From experience in representing businesses and individuals in employment matters, the various equal pay laws benefit older workers too. With budget cuts and lay-offs becoming the norm, employees at the senior level who lose jobs tend to be older workers. Many of these individuals are happy to accept a stable job in exchange for a lower rate of pay than their previous job, and less responsibility than their former senior position required. Generally, employers are reluctant to hire individuals for a salary that is lower than what they earned before because they feel that the potential employee will want to make more money and continue to look for other work. By taking salary history out of the picture, it is easier for an older worker to obtain new employment.

When it comes to business decisions, an employer should consider what it wants to pay for the job it wants done, *not* what can it get away with paying the worker to do the job. If the employer maintains the mindset that for a specific position it will offer a certain set salary irrespective of the classification of the potential job candidate, the business will never have to be concerned about running afoul of our equal pay laws.

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

Case Law Update: Equitable Consideration in Bankruptcy Cases

by Michael H. Traison and Amanda A. Tersigni

Among laypersons not extensively schooled in the law who observe the administration of justice in our country, it may go unnoticed that there are actually two sides of the court system in the United States. In some states courts are named law courts and others chancery courts. Conversely, there are states where these two types of court systems are unified and the judge may sit in law or in equity, depending on the nature of the relief sought. The origins of this distinction are found long ago in the structure of the church in old England. Accordingly, the scope of the equitable powers of the bankruptcy court is derived from English Court of Chancery, which had jurisdiction over matters of equity. The courts of equity were established to combat harsh results of common law and provide a flexible and evolving form of relief beyond monetary damages. Equity courts focus on principles of fairness and creating solutions that are just and reasonable under specific sets of circumstances.

Generally, bankruptcy courts are referred to as courts of equity, though this has become more restricted. The equitable nature of bankruptcy is well illustrated by two recent decisions in a Michigan bankruptcy court. These opinions rendered by former bankruptcy attorney and newly appointed bankruptcy court judge, Joel Applebaum, demonstrate fair and just reasoning when defining certain statutory terms.

In *In re Neubert*, No. 20-30771-jda, 2020 WL 6950396 (Bankr. E.D. Mich. Nov. 25, 2020), Neubert filed her Chapter 7 case in a Michigan bankruptcy court, which was fully administered and closed. After the case was closed, but within 180 days of the original filing, Neubert's mother died. Being named beneficiaries of their mother's IRA, the debtor and her siblings each became entitled to one-fourth share of the account.

Pursuant to Section 541(a)(5)(A) and (C) of the Bankruptcy Code (the "Code"), a debtor's estate is comprised of "[a]ny interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date – (A) by bequest, devise, or inheritance; or (C) is a beneficiary of a … death plan."

The outcome of *In re Neubert* depended upon how the terms, "bequest," "devise," and "inheritance," as well as "beneficiary of … a death benefit plan," were defined, which would establish whether Neubert's share of the IRA belonged to the estate.

Judge Applebaum relied upon numerous sources to define these terms, including *Black's Law Dictionary.* Based upon these definitions, Judge Applebaum did not force the debtor to turn over funds received from her deceased-mother's IRA because that money was distributed by contract, not through bequest, devise or inheritance, and could not be considered "property of the estate" under Section 541 of the Code.

Another example of Judge Applebaum's sensitivity to ensuring equity in the bankruptcy system is found in *In re Richardson*, No. 20-30790-jda, 2020 WL 6038893 (Bankr. E.D. Mich. Aug. 13, 2020). That case focused on the definitions of the terms, "provisions" and "comfortable subsistence" in the Michigan exemption statute. The Michigan exemption statute provides that a debtor "may exempt from property of the estate … (b) provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months."

Over the objections of the Chapter 7 Trustee, Judge Applebaum allowed the debtor to exempt the cash on hand and funds from her personal bank accounts as "provisions and fuel for comfortable subsistence." Similar to his reasoning in *In re Neubert,* Judge Applebaum relied upon numerous sources to define these terms. Judge Applebaum also considered what the Michigan exemption statute sought to accomplish and how the definitions of these terms impact this case, finding that "the ordinary meaning of the key terms … is consistent with the intention of Michigan's exemption statutes generally."

Judge Applebaum criticized two prior court decisions that defined these terms of the Michigan exemption provision because those courts' interpretations diverted from the ordinary meaning of "the key statutory times at the time of enactment." Ultimately, Judge Applebaum applied the Michigan exemption provision in In re Richardson broadly and determined that the debtor could exempt the cash on hand and funds in her bank accounts.

In another recent decision, a South Carolina bankruptcy court also demonstrated an equitable result derived from the way the judge defined terms of the statute. In *In re Wright*, C/A No. 20-01035-HB, 2020 WL 2193240 (Bankr. D. S.C. Apr. 27, 2020), Judge Helen Burris allowed the debtor to qualify as a "small business debtor" pursuant to Section 101(51D) of the Code, which would allow him to take advantage of certain benefits through the bankruptcy process.

When evaluating Section 101(51D) of the Code, Judge Burris focused on defining the relevant terms pursuant to their ordinary and plain meaning. By doing so, Judge Burris focused on both the language of the statutory provision and the context that the language was being used with the broad context of the statute as a whole.

Judge Burris emphasized that Bankruptcy provisions were designed to provide relief from debt in various forms and Section 101(51D) to broaden relief available to address small business debt. Judge Burris did not interpret the defining language of "small business debtor" to limit its application to debtors that are only currently engaged in business or commercial activities, which extended the application to the debtor here.

Although not cited by either Judge Applebaum or Judge Burris, in the case of *United States v. Ron Pair Enterprises, Inc.,* 489 U.S. 235 (1989) (where one of the authors herein represented a debtor against the Internal Revenue Service), Judge Antonin Scalia used the often quoted phrase "plain meaning of the law" to guide us on how to interpret ambiguous or equivocal expressions in statutes.

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An Update on Anti-BDS Laws

by Adam J. Sheppard

The BDS movement calls for boycotts, divestment, and sanctions against Israel based on the movement's allegation that Israel violates Palestinians' rights under international law. The "boycotts" are of Israeli products, Israeli companies, Israeli artists, athletes, and other associations with ties to Israel; "divestment" urges banks and pension funds to stop investing in Israeli companies; "sanctions" refer to a campaign to pressure other governments to cease free-trade with Israel and block Israel's participation in international forums. BDS proponents argue that Israel is occupying Palestinian land and discriminating against Palestinian citizens who reside in Israel. They label Israel an "apartheid" government. BDS advocates couch their movement as a human rights issue (protecting Palestinians' rights). The movement's clear effect, however, has been to incite those attracted to the age-old virulent strain of anti-Semitism which attacks Jews as exerting undue influence in world affairs.

In response to the BDS movement, our country's lawmakers have passed anti-BDS legislation – laws that punish groups that boycott Israel. 32 states have enacted legislation that economically sanction companies that participate in the BDS movement. In 2015, Illinois became the first state in the country to enact such legislation (40 ILCS 5/1-110.16). In 2015, Cook County also passed a resolution which calls on the county pension fund to divest from foreign companies that choose to boycott Israel. Resolution No. 15-4701. In 2015, the Chicago City Council passed a similar resolution calling for the Municipal Employees' Annuity and Benefit Fund of Chicago to divest from companies boycotting Israel. R. 2015569.

Federal anti-BDS legislation has also been proposed. "In 2017, Congress considered the Israel Anti-Boycott Act (IABA), which would have criminalized supporting anti-Israel boycotts fostered by international governmental organizations. In 2019, the Senate passed the Combatting BDS Act to clarify that state anti-BDS bills are not preempted by federal law, while the House passed a resolution condemning BDS and 'all efforts to delegitimize the State of Israel.'" https://harvardlawreview.org/2020/02/wielding-antidiscrimination-law-to-suppress-the-movement-for-palestinian-rights/. In 2019, a presidential directive also ordered federal agencies to consider a broad definition of anti-Semitism (promulgated by the International Holocaust Remembrance Alliance) which could render many BDS activities anti-Semitic, and thus, a civil-rights violation.

Despite the above-described legal actions, the public remains confused on the BDS issue. In 2019, a University of Maryland Critical Issues Poll,[1] included questions about BDS, starting with: "How much have you heard about BDS, or the Boycott, Divestment, and Sanctions movement aimed at Israel?" Nearly half of respondents (49%) said they have heard about BDS at least "a little." A plurality, 48%, then said they supported the movement, while only 15% said they opposed it. Id. 72% also opposed laws that penalize those who boycott Israel. Id. Additionally, a number of courts have recently struck down anti-BDS laws as unconstitutional (infringing on freedom of speech). S*ee e.g., Amawi v. Pflugerville Indep. Sch. Dist.*, 373 F. Supp. 3d 717 (W.D. Tex. 2019), *vacated and remanded sub nom. Amawi v. Paxton*, 956 F.3d 816 (5th Cir. 2020).[2] Coupling a lack of public education on anti-BDS laws with judicial reluctance to enforce these laws should serve as an alarm for lawyers – more must be done to educate the public on BDS and craft laws which effectively counterbalance the BDS movement.

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1 Results are described by the Brookings Institute at https://www.brookings.edu/blog/order-from-chaos/2020/01/08/what-do-americans-think-of-the-bds-movement-aimed-at-israel/.

2 Some courts have held that a boycott of Israel is neither speech nor inherently expressive conduct, *see e.g., Ark. Times LP v. Waldrip*, 362 F. Supp. 3d 617, 623 (E.D. Ark. 2019), but some of those cases are on appeal, *see e.g. id.*, and appeals courts have generally struck down anti-BDS legislation.

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The CLE Committee meets in July to plan annual programming
The Judicial Evaluation committee conducts interviews with candidates for appointment and election to the Judiciary
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The Decalogue Board of Managers consists of 26 members including one student selected by the Law School chapters. There is also an Executive Committee of 6 officers. All Board members and officers are elected by the Decalogue membership at the Annual meeting, which will be held virtually on June 29 this year. If you are interested in running, please **email** a short bio including your past activities in Decalogue and how you can help the society's growth and effectiveness. Apply by March 26.

The Israeli Criminal Justice System – Comparisons and Contrasts

by Adv. A. Amos Fried

After 2,000 years of national exile, the founders of modern Zionism sought to restore the Jewish people to normalcy by establishing a Jewish state, i.e. a state of the Jews. Once the Jews have their own national homeland, these forefathers reasoned, they'll be just like all the other nations of the world. Whereas there's an Italian state, a Russian state, a Japanese state and plenty of Arabs states, so too the Jews will have a national polity and thus be recognized as a people in the full sense of the word. Israel's national anthem, "HaTikvah" (the Hope) aspires towards the day the Jews will attain the status of *"being a free people in our land."* Not a "holy nation" (Exodus, 19:6) nor a "light unto nations" (Isiah, 49:6), but simply "a free people" – no more no less.

With a free and normal state of their own, the Jews would certainly be in need of a well-defined criminal justice system, protecting society from all the free and normal criminals roaming about within its borders. In 1936, during the British Mandate period over Palestine, the Criminal Law Ordinance was decreed, annulling the hitherto prevalent Ottoman Penal Code. Though the State of Israel was founded in 1948, it took until 1977 for the indigenous Penal Code to be enacted by the Israeli Knesset. Prior to that, the 1973 Dangerous Drugs Ordinance had already come into legislation. Only in 1982 was the entire Criminal Procedure Law revamped and as late as 1996 the Criminal Procedure Law (Powers of Enforcement – Arrest) had a full make-over. The Prohibition of Money Laundering Law was enacted in 2000, the year 2008 saw the Law Prohibiting Violence in Sports, in May 2020 the Prohibition of Prostitution Consumption Law came into effect, whereas the Nazis and Nazi Collaborators - Punishment Law was legislated back in 1950.

Even a cursory review of the Israeli criminal justice system reveals a number of stark and significant differences from American practice. Firstly, there is no trial by jury in Israel but rather, all cases are tried before judges – a sole magistrate for indictments with a potential sentence under 10 years incarceration and a panel of three judges for more serious crimes.

Second, the hallowed 5th Amendment constitutional protection against self-incrimination and the equally enshrined right to remain silent, have no practical application in Israel. In fact, quite the opposite pertains. Section 47 of the 1971 Evidence Ordinance maintains that "A person is not bound to give evidence involving the admission of a fact constituting an element of an offense with which he is, or is likely to be, charged." However, section 162 of the Criminal Procedure Law stipulates that "The accused's refraining from testifying may serve to add weight to the prosecution's evidence, as well to corroborate such evidence that requires corroboration." In almost total contradiction to the exalted Miranda rights, the Israeli system asserts that not only "anything you say can and will be used against you in court," but anything you *don't say* as well. In other words, in Israel you *theoretically* also "have the right to remain silent," but opting to do so will eventually be brought to bear against you.

Similarly, an individual interrogated on suspicion of having committed a crime is expected to provide an explanation for his actions at the very first opportunity. The Criminal Procedure Law aims to thwart any surprises in the accused's defense, hence under Section 152 therein, the court is obliged to "explain to the accused that if he wishes to claim an alibi (*e.g.* 'I was elsewhere') – whether as a sole plea or in addition to others – he must do so at once," or thereafter be prevented from proving such a claim except with official leave from the judge.

Third, for the most part Israeli case law does not prohibit the prosecution from submitting illegally obtained evidence, which is to say – there are no concrete exclusionary rules forbidding "fruit of the poison tree." Notwithstanding the above, Section 12 of the Evidence Ordinance requires that "Evidence of a confession by the accused that he has committed an offense is admissible only when the prosecution has produced evidence as to the circumstances in which it was made and the court is satisfied that it was free and voluntary." To be sure, the courts at times express uneasiness when presented with admissions achieved by less than scrupulous means, yet the prevailing practice is typically to minimize the effective weight of such evidence as opposed to omitting it altogether.

In a landmark 2006 case (*Yissacharov v. Chief Military Prosecutor*), Israel's Supreme Court found that a soldier's admission of having committed certain drug offenses was inadmissible on account of it having been procured without properly informing him that he was under arrest, and had to the right to consult with an attorney. As a matter of fact, he was deliberately denied such fundamental information. That said, it should be noted that in Israel, a suspect's right to counsel ends the minute the interrogation officially begins. From that point onwards, no one is permitted to be present during the questioning period besides the suspect and the detectives investigating the case.

While the Supreme Court's *Yissacharov* ruling may have seemed revolutionary, in essence the court established quite definitively the absence of any overriding doctrine obliging automatic disqualification of unlawfully procured evidence. Indeed, the court's disposition indicates that only in patently extreme instances, undermining a suspect's fundamental rights under Israel's Basic Law: Human Dignity and Liberty of 1992, is it viable to consider such an unusual measure as disqualifying relevant, yet improperly obtained confessions and evidence. Hence almost invariably, even the most egregious violations of a suspect's right to counsel prior to his interrogation are disregarded and the incriminating admission is thus upheld as admissible.

The *Yissacharov* doctrine was recently revisited extensively in a major controversy arising out of the ongoing legal affairs of Israel's Prime Minister, Binyamin Netanyahu. Two of his top advisors were suspected of harassing a state's witness in the bribery cases being brought against him. During the interrogation, the investigators extracted information from the two aides' cellphones without informing them of their right to refuse such a procedure.

(continued on next page)

Israeli Criminal Justice *(cont'd)*

The suspects' petition to have the evidence disqualified was denied and they appealed to the Supreme Court. In their defense, the police admitted they initially had no valid warrant to undertake this step; however, they did receive retroactive sanction from a judge when they presented to him the evidence they unlawfully accessed. In effect, the police argued that even if their conduct was originally in contravention of the law, the results more than justified their actions, as demonstrated by the evidence they accessed from the cellphones, albeit without authorization. Furthermore, they alleged additional grounds for hacking the cellphones, unrelated to the information they eventually revealed, on the strength of which the judge in any case would have granted the search warrant.

In a 2-1 split decision, the Supreme Court ruled the evidence admissible. The majority justices acknowledged that after the fact, it had become virtually impossible to distinguish between evidence obtained illegally and that which the police claimed already to have discovered. Accordingly, it remains unclear as to just what extent the presiding judge would have consented or refused to issue the search warrant solely on the basis of the additional evidence the police alleged to have in their possession previously. Under circumstances such as these, the warrant was deemed valid, and the initially illegally seized evidence – permissible.

In light of the above, it should come as no surprise that the conviction rate in Israel is astonishingly high. Over 95% of criminal indictments result in a conviction of one sort or another, and most of the remaining 5% conclude by the prosecution retracting the charges as opposed to a full acquittal.

Faced with this rather draconian legal reality, defense attorneys rarely believe they can achieve a comprehensive exoneration for their clients. More often than not, the objective is to negotiate a plea bargain ideally comprised of both a crime of lesser severity and a reduced sentence.

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Bankruptcy *(cont'd from page 8)*

"The plain meaning of legislation should be conclusive, except in the 'rare cases [in which] the literal application of a statute will produce a result demonstrably at odds with the intentions of its drafters." *Ron Pair Enterprises, Inc.*, 489 U.S. at 242.

Our clients, whether holders of secured debt or unsecured trade creditors, are counseled to be aware that the judgment of the court when adjudicating claims in the bankruptcy context may be heavily impacted by equitable considerations.

Further, our clients should be aware of different ways in which judges may interpret a statute. It is important to understand that the plain meaning of a term may not be uniform among every court and that the application of certain statutory provisions is not always black-and-white.

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Bankruptcy and the New Year - Impact of the Newly-Adopted Spending Bill (Consolidated Appropriations Act of 2021)

by Michael H. Traison, Michael Kwiatkowski and Amanda A. Tersigni

The focus of 2020 has been the COVID-19 pandemic. Most recently, Congress demonstrated its continued response to the impact on the economy by passing the Consolidated Appropriations Act of 2021 ("CAA 2021") which President Trump signed into law on December 27, 2020. Our clients should be aware of these developments.

First, well before the outbreak of the pandemic, President Trump signed into law the Small Business Reorganization Act of 2019 ("SBRA"), which became effective in February 2020. SBRA provided Subchapter V Chapter 11 ("Subchapter V") relief to small business debtors with debts less than $2,725,625.

Secondly, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") became effective on March 27, 2020. Among other provisions, the CARES Act raised the qualifying amount to file a Subchapter V under SBRA to $7.5 million. This increased qualifying amount under SBRA is in effect until March 27, 2021. For further discussion of the SBRA and the CARES Act, please see a prior alert at https://www.cullenllp.com/blog/cares-act-expands-bankruptcy-protections-for-small-businesses/.

One of the key provisions of the CARES Act was the Paycheck Protection Program ("PPP"). PPP loans are forgivable so long as they are used to keep employees working on payroll and enable the business to stay afloat. However, shortly after the passage of the CARES Act, bankruptcy debtors seeking PPP loans began to realize their business may not be eligible for PPP loans due to the nature of such business or on account of the company's status as a Chapter 11 debtor. This has resulted in litigation throughout the country as the Small Business Administration ("SBA") has refused certain debtor's applications for PPP loans in many instances.

In a decision out of the Western District of New York this past June, District Judge Lawrence Vilardo noted that courts are split on whether eligibility requirements imposed by the SBA for PPP loans (which effectively prohibited certain Chapter 11 debtor from qualifying for PPP loans) contradicted the language of the CARES Act. In *Pharaohs GC, Inc. v. U.S. Small Bus. Admin.*, 20-CV-665, 2020 WL 3489404 (W.D.N.Y. June 26, 2020), Judge Vilardo noted that some courts find the exclusion of certain businesses runs contrary to the Congressional intent of the CARES Act, whereas other courts hold that the SBA does "not exceed its authority in barring certain organizations from obtaining PPP loans." 2020 WL 3489404, at *3. Judge Vilardo agreed with the latter courts and found, in interpreting provision of the CARES Act which makes "any business concern . . ." eligible to receive a PPP loan, that Congress did not intend for "any" business to mean "all" businesses so broadly, noting that a broader interpretation would lead to illogical results such as including illegal businesses. *Id.* at *4-5. Further, Judge Vilardo concluded that the SBA offered a reasonable explanation to exclude the debtor's business (an adult-entertainment club) from eligibility for PPP loans. *Id.* at *6.

Conversely, in *DV Diamond Club of Flint, LLC v. U.S. Small Bus. Admin.*, 459 F. Supp. 3d 943 (E.D. Mich. 2020), District Judge Matthew Leitman determined that "the plain language of the PPP makes clear that any business concern is eligible for a PPP loan if it employed the requisite number of Americans during the covered period," and the SBA could not exclude the plaintiffs from receiving PPP loans. 459 F. Supp. 3d 943, 958.

Recently, on December 22, 2020, the Eleventh Circuit ruled that Chapter 11 debtors were ineligible for PPP loans and the SBA has the authority to deny such loans. *See USF Fed. Credit Union v. Gateway Radiology Consultants, P.A.*, No. 20-13462, 2020 WL 7579338, *16 (11th Cir. Dec. 22, 2020) ("The SBA did not exceed its authority in adopting the non-bankruptcy rule for PPP eligibility. That rule does not violate the CARES Act, is based on a reasonable interpretation of the Act, and the SBA did not act arbitrarily and capriciously in adopting the rule."). By this ruling, the Eleventh Circuit joined the Fifth Circuit, which found that a bankruptcy court exceeded its authority by ordering the SBA to consider debtor's PPP loan application without consideration of its ongoing bankruptcy case. *See Hidalgo Cnty. Emergency Servs. Found. v. Carranza* (*In re Hidalgo Cnty. Emergency Servs. Found.*), 962 F.3d 838 (5th Cir. 2020).

Unfortunately, while the recent CAA 2021 addresses PPP loans, it does not seem to resolve the confusion surrounding bankruptcy debtors' eligibility for PPP loans. While it remains to be seen how courts will rule on the issue of a debtor's eligibility for PPP loans and the new provisions in the CAA 2021, that law appears to provide the SBA more discretion to approve PPP loans to certain debtors. CAA 2021 allows the SBA to submit a written determination to the Director of the Executive Office for the U.S. Trustee regarding the debtor's eligibility for PPP.

Our clients should be aware of the differing views of whether the nature of a business will render it ineligible for PPP loans or whether the business will be disqualified from receiving PPP loans if it is a Chapter 11 debtor.

In addition to the PPP provision referenced above, the CAA 2021 amends and expands upon prior COVID-19 legislation and it addresses many issues brought to the courts' attention this year. Most of the CAA 2021 amendments to the Bankruptcy Code will expire in either one or two years after its enactment. Among the highlights of the CAA 2021 are the following:

Allowing businesses to deduct from taxable income expenses funded with the proceeds of PPP loans, such as payroll costs, covered operations expenses, payment on rent or mortgage, utility payments, and supplier costs.

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COVID-19 Lockdowns Are Unhelpful, Inhumane and Unconstitutional

by Jonathan D. Lubin

As early as June, 2020, CNBC's Jim Cramer was calling the lockdown recession "one of the greatest wealth transfers in history," and it was not in the right direction. As recently as mid-February, some economists were saying the number of jobs lost amid the lockdowns was nearly 10 million. At the time of writing, Congress is debating a $2 trillion stimulus package, only two months after the government approved a nearly $1 trillion stimulus package, and less than a year after a package that pumped $2 trillion into the economy from government coffers, and billions of dollars in direct loans from the federal reserve. Based upon the sheer amount of money being pumped into the economy, inflation is inevitable. Gas prices, for example, are on the rise and are slated to continue their meteoric rise through the summer.

The economy is in serious trouble, despite a strong stock market. The arrival of COVID-19 in America, and the resulting lockdowns, were a massive boon to the wealthiest among us, and a terror to nearly everyone else. Mental health experts have warned the mental health implications of extended lockdowns are likely to be catastrophic. The CDC, in late 2020, warned suicidal ideation and substance abuse rates were "considerably elevated," especially among younger adults and racial and ethnic minorities.

There is, therefore, an obvious question that powerful elites in the corporate media and the political class have strenuously avoided: is all of this necessary?

The entire country locked down in one form or another in March, 2020. Most of the country remains in some form of lockdown. Florida stands out as a fascinating exception. As Justice Louis Brandeis wrote, in *New State Ice Co v. Liebmann*, 285 U.S. 262 (1932), "a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country." This notion, referred to as "laboratories of democracy" was on full display amid the chaos of lockdowns across the country.

By June of last year, it was clear to many the worst of what turned out to be one of two waves of COVID-19 was largely behind us. As states began to open, experts warned of an inevitable second wave. Somehow, the inevitability of that second wave was lost on those who saw rises in COVID-19 cases last fall as a failure on the part of states that had liberalized their lockdowns in the face of falling cases. Florida, in particular, earned the ire of some of the country's biggest lockdown proponents. Dr. Anthony Fauci, for example, claimed in September that Florida was "asking for trouble" by fully reopening restaurants and bars to those who wished to get out of their homes and, heaven help us, spend time with friends like normal human beings.

At the same time, Dr. Fauci lauded the lockdown efforts of Gov. Andrew Cuomo of New York, at one point joking around at a joint press conference with Gov. Cuomo about which of the two would be Al Pacino and which would be Robert De Niro. Cuomo is now famous in the Jewish community for his and New York Mayor Bill de Blasio's targeting of Brooklyn's Jewish communities for special treatment during parts of his state's lockdowns. In one such instance, New York police officers dispersed an outdoor Jewish funeral in April on the same day as New York residents elsewhere congregated openly to watch a flyover of the Thunderbirds and Blue Angels. In another such instance, Cuomo used a photo from a 2006 Chassidic gathering as evidence of Jewish recalcitrance.

Today, New York state's deaths per capita rate is the second worst in the country, behind only New Jersey. Cuomo now finds himself under fire for his policy of forcing COVID-19 patients into nursing homes. New York state's deaths per capita numbers dwarf Florida's. Florida leads both California and New York in population over 65, the most at-risk population for COVID-19. But somehow, Florida has escaped many of the negative repercussions of COVID-19 as compared to states that locked down significantly more.

This very short piece is obviously not the place for a statistical or epidemiological analysis of the effectiveness of lockdowns. Others, far more qualified than this writer, have already tackled that question. For example, an early study in The Lancet, entitled "A Country Level Analysis Measuring the Impact of Government Actions, Country Preparedness and Socioeconomic Factors on COVID-19 Mortality and Related Health Outcomes" found lockdown measures were "not associated with statistically significant reductions in the number of critical cases or overall mortality." More recently, a European Journal of Clinical Investigation piece entitled "Assessing mandatory stay-at-home and business closure effects on the spread of COVID-19" found "there is no evidence that [lockdowns] contributed substantially to bending the curve of new cases," including in the United States.

Meanwhile, CNN has described the number of people leaving locked down states like New York and California as an "exodus." An August NY Post article called New York City "dead forever" in large part due to the effects of the lockdown policies on what was once a center of culture and metropolitan life. Closer to home, Illinois (and Chicago in particular) continue to lose people to greener pastures at an even greater rate than usual.

The fact that Illinois, New York, and California (among many others) have suffered under draconian policies while Florida has done comparably better should create an obvious question: was all of this necessary? The jury may be out, but the evidence points more and more to an answer in the negative. A free people should have the option to live their lives as they see fit, incurring whatever risks leaving one's house, going to a bar, or visiting a museum, may involve. A nation of sheep wait in their homes to be told when it is safe to leave (and die at the same or greater rates than those who live in freedom, as Florida's experiment has demonstrated).

As lawyers, we have another question to answer: whether holding a state or a nation's natural and constitutional rights in abeyance indefinitely is consistent with the constitution or our national values.

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Appropriations Act

(cont'd from page 12)

Expanding PPP assistance to businesses and allowing certain entities employing 300 or fewer employees (500 or fewer for "accommodation and food service employers"), to apply for PPP second draw loans ("PPP2") if there was at least a 25% reduction in gross receipts in any quarter of 2020 compared to that same quarter in 2019, and if the business already used the full amount of the original PPP prior to the disbursement of the PPP2.

Exempting certain coronavirus relief payments from being treated as "property of the estate" pursuant to Section 541 of the Bankruptcy Code.

Providing for certain creditor claims arising out of forbearance agreements set forth by the CARES Act, which amends Sections 501, 502 and 1329 of the Bankruptcy Code.

Amending "preferential transfers" pursuant to Section 547 of the Bankruptcy Code to prevent payments deferred by a debtor on or after March 13, 2020 from being recovered, so long as the deferred payments do not exceed an amount the debtor would have owed without the deferral.

As these are relatively new issues which continue to evolve in these unprecedent times of the COVID-19 pandemic, we expect that future case law will address many of the issues discussed above. We will continue to follow the progress of how the law advances and issue future alerts on relevant developments.

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Lockdowns *(cont'd from page 13)*

It may not be more important or more urgent than the question about the efficacy of lockdowns, but it is important, nonetheless. Anyone who lived through 9/11, and who remembers life before Al Qaeda changed New York's skyline forever, can attest to the well-known aphorism: there is nothing so permanent as a temporary government program. The power that governments appropriated for themselves after 9/11, ostensibly as a momentary security measure, they have yet to relinquish. As those who have been placed in charge of (hopefully) easing the lockdowns move the goalposts again and again (on February 21, 2021, Dr. Fauci told CNN's Dana Bash that Americans might reach "a significant degree of normality" by the end of 2021, but then refused to define "normality"), we stand again to lose more of our freedoms not temporarily, but permanently.

And for what?! Courts that have taken up the question of appropriateness of holding fundamental rights, like the right to one's profession, the right to a jury, and the right to assemble, in total abeyance always come back to a single Supreme Court decision: *Jacobson v. Mass.*, 197 US 11 (1905). See, for example, *In re Abbott*, 954 F.3d 772 (5 Cir., 2020). In that decision, an appeals court found "under the pressure of great dangers, constitutional rights may be reasonably restricted as the safety of the general public may demand," including the "right to peaceably assemble, to publicly worship, to travel, and even to leave one's home," Id. at 778 citing *Jacobson*. Notably, *Jacobson*, which found the state could force individuals to be vaccinated, even against their will, was decided in 1905. Twenty-two years after that, the Supreme Court approved of forced sterilization – one of the more offensive elements America's experimentation with eugenics – in *Buck v. Bell*, 274 US 200 (1927). Just less than forty years after *Jacobson*, the Supreme Court approved of locking Japanese Americans in concentration camps due to their national lineage in *Korematsu v. United States*, 323 US 214 (1944). *Jacobson* belongs in a category with those stains on our history, not in appellate decisions being written in the modern day.

The legal precedent of *Jacobson* belongs to a (thankfully) bygone era. In January, 2020, nearly anyone in America, if asked whether it was high time to overturn *Jacobson v. Mass.*, after being told the decision's central holding, would have said "hell yes." It belongs to a time when inhumane treatment at the hands of government was socially and legally acceptable. To the extent that we believe ourselves to be better than that, it is high time to revisit that precedent and overturn it. Individual natural rights should not be held in abeyance over perceived communal threats to something as vague as public health. The COVID-19 lockdowns are not evidence against that obvious conclusion. More and more, they are evidence in its favor.

Jonathan Lubin is a past President of Decalogue Society. He is managing partner of his law firm in Skokie, specializing in civil litigation.

Fear No Evil: COVID-19 Driven Anxiety

by Tony Pacione

The New Normal

Not too many things in our lives motivate us to change our behavior like fear. I was in a grocery store early on a Sunday morning after the Illinois Governor issued a "Shelter in Place Order." The store was not as crowded as it was only a week or two earlier. Some people wore PPEs as they quietly, orderly and deliberately shopped while keeping their social distance. Just a week or so earlier the same store was a mass of confusion, anxiety and worse, as common items like toilet paper, soap and hand sanitizer flew off the shelves at speeds approaching that of light (the fastest known quantity in the universe).

Fear and anxiety, driven by the uncertainty of a new pandemic, seemingly changed my world and my own behavior in the course of a few days. I no longer saw my neighbors, acquaintances, or colleagues as supportive and friendly souls who share my daily world, but as potential carriers of a deadly disease; and I'm certain they viewed me in the same light.

What drives me and others I know as stable, rational denizens of my sphere to act in this manner? The straightforward answer is a well-researched and predicable concept named the "loss aversion effect" (Kahneman & Tversky, 1979). The effect has shown people respond to potential losses twice as much emotionally as we do to potential gains. The fear that your daily lives, health and happiness can be swept away in a matter of days or a couple of weeks is strong enough to change how we think and behave. In other words, feelings about losing something (money, health, freedom of movement, etc.) are stronger than feelings about gaining the same thing. It's a powerful bias that is summed up as "potential losses loom larger than potential gains."

Certainly, the loss aversion effect does produce helpful and positive change in this current pandemic: We wash our hands more often, we are careful about where we go, or what we touch, and we have increased our mindfulness monitoring of potential for flu like symptoms. I was amazed at my 30 year old millennial son when he turned down an invitation for a home cooked meal by his mother, stating he was at a crowded bar on St Patty's day celebrating, and he should not see his 'elder' parents for at least two weeks. How thoughtful I mused!

Many years ago, when I was an undergraduate student, a wise person once said to "act on your hopes and not on your fears." The loss aversion effect tricks us into acting "on our worst fears." My belief is this: Fear and anxiety are often driven by two things a) uncertainty and b) using availability as a heuristic, or short cut in our thinking, and in making predictions of future events.

The Role of Uncertainty in Anxiety

Consider many of the situations in your life that are associated with anxiety. There often exist elements of uncertainty in these circumstances, as with the current pandemic. Questions abound like "will I or my family get stricken with the disease and how severely? What will happen to my law practice, my income, or my investments in an unstable stock market? Will my life and lively hood return to 'normalcy'?" I believe there is a simple correlation between uncertainty and anxiety. We tend to conflate high salient emotions (like fear) with reality. Once the fear of uncertainty starts, we unwittingly practice becoming more anxious with each passing day. Fear and anxiety are contagious and self-supporting, and the more we and others practice it, the better we become at producing it.

We can employ strategies to manage and decrease uncertainty in reasonable ways. The Governor and public health officials remind us frequently during this pandemic of actions to be taken that reduce the risk of becoming infected, but also in reducing uncertainty: washing your hands frequently, social distancing, and other practices that have been demonstrated to lower risk and uncertainty.

The Role of Mental Heuristics in Anxiety

Often media reports are presented over and over by different sources until they become very "available" to us in our thinking on a daily basis. This in large part generates the heuristic effect of using highly charged emotional states as mental shortcuts in making quick decisions (e.g., "I need 400 rolls of toilet paper stat!"). If we see others panicking and making quick decisions, we too will be less likely to take the time to consider the long-term consequences of quick and emotionally driven decisions.

Another way our mind and thinking generates quick emotional decision is through the formation of mental images or "pictures" we develop in our thoughts, which are associated with strong emotions like fear or anger. It has been demonstrated our thoughts are constructed from mental images, which are associated with positive or negative emotions that then influence future perceptions of events (Damasio, 1996). When I think of myself or a loved one becoming stricken by COVID-19, I have a mental image of myself or one of my sons lying in a crowded hospital ward attached to a ventilator and unable to have visitors. This image generates immediate and strong fear.

Having fearful images constantly available to us (media images of overcrowded hospitals with the very sick and dying) tend to confuse the "possibility" of a bad outcome that may occur, with the "probability" that it will occur. It's also important to remember we often can survive bad outcomes. All we need is a healthy, flexible mindset and good support, and we can overcome a deleterious outcome.

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Fear No Evil *(cont'd from page 15)*

Strategies to Mitigate Our Thoughts and Emotions in Uncertain Times

Individuals may develop a habit of practicing anxiety laden thoughts or fear until they get very accomplished at generating them. To counter this effect, they need to spend an equal amount of time practicing non-anxious or relaxing thoughts. The following link is to LAP's website where you can down load a clinical tool to help develop the "relaxation response:" https://illinoislap.org/mental-health-resources/mental-health-videos/.

This type of "mindful meditation" can help stimulate the longest nerve in the human body: the Vagus Nerve Complex (vagus meaning "wanderer" in Latin because it wanders throughout your upper torso). This nerve signal pathway only travels in one direction—from the diaphragm up to the brain. This deep and relaxed breathing meditation can stimulate the vagus nerve, sending a calming signal to the brain. Research has demonstrated a positive feedback loop between vagal stimulation, positive emotions, and good physical health (Bajbouj et al, 2010). Try it!

The other method for helping to remove high salient emotion and quick decision making is by challenging your automatic and quick emotional thoughts. I have developed this method and used it successfully with many attorneys over the last decade. I refer to it as ICE.

I = Identify the Thought
C = Challenge the Thought
E = Evaluate the Thought

The first step is to identify a thought that keeps reoccurring and is associated with strong emotions. For example:

I-"My practice will suffer irreparable harm from the pandemic."

The next step is to rate how strongly you believe this thought to be true: 75%.

C-Now challenge the thought, like any good attorney would do: list the evidence for the thought being "mostly true" and the evidence "against the thought being mostly true."

Evidence - thought being mostly true	**Evidence - thought mostly not true**
this pandemic is creating a recession	I did survive the 2008 recession
it will affect millions of Americans	the State is taking steps to limit the spread
many court functions are now closed	The courts will re-open at some point
I can get sick	I can take precautions to limit my exposure
my clients will get sick or can't afford me	many clients will still need me, and I will still get new clients

E- Now re-evaluate the original thought

a) Now re-rate how strongly you believe this thought to be mostly true: 45%.

b) How would you re-word the original thought to make it more truthful/evidenced based? "Like most businesses and people, I will suffer some economic hardship, but with support and hard work I will most likely survive as I've done before."

During this time of great fear and uncertainty you can help to more effectively manage your thinking and emotions by understanding how uncertainty, fear, and emotional decisions can create a quickly descending spiral of anxiety and despair.

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Lessons from Lockdown: How Jewish Organizations Have Pivoted During the Pandemic and What They'll Carry with Them into the Future

by Logan Bierman, Carrie Seleman, and Erin M. Wilson

Businesses of all kinds were hit hard by the pandemic. Directors and executives have had to learn to adapt quickly or risk shutting their doors permanently. This was an unprecedented process, one of trial and error, and many lessons were learned. We spoke with leaders from five different Jewish organizations - a federation, an advocacy organization, a bar association, a youth organization, and a synagogue - to find out more about their experiences over the last year, exploring how they shifted their programming, what silver linings of the pandemic they'll maintain once we re-enter normalcy, and what they were doing before the pandemic that will stay behind.

Who are you, what organization do you work for, and what's your position?

Rachel: Rachel Rapoport, Jewish United Fund, Director of the JUF Young Families department.

Meredith: Meredith Jacobs, Jewish Women International (JWI), CEO.

Helen: Helen Bloch, immediate Past President of the Decalogue Society of Lawyers.

Daniel: Daniel Warshawsky, United Synagogue Youth, Engagement Director for the three Midwest regions.

R' Gellman: Rabbi Scott Gellman of Temple Sholom of Chicago.

What are the demographics you serve?

Rachel: The JUF Young Families department focuses on families raising Jewish children ages 0-11 years old.

Meredith: We have a number of different audiences:

- Jewish women, young professionals (22-34), who make up our Young Women's Impact Network
- Jewish women over 40, who make up our Women's Impact Network and Women to Watch
- Jewish women in senior positions at Jewish communal organizations, who participate in our Jewish Communal Women's Leadership Project
- Additional cohorts of women and girls (i.e. moms and teens) through our financial literacy offerings
- Students on college campuses (SDT, ZBT, Hillel), who participate in our Change the Culture (healthy relationship and healthy masculinity) and financial literacy workshops
- Men who are staff or who serve as lay leaders in Jewish communal organizations through our Men As Allies program
- Domestic violence advocates, who work directly with survivors of intimate partner violence (IPV) through the National Alliance to End Domestic Abuse
- Advocacy staff with faith-based anti-violence organizations through the Interfaith Coalition Against Domestic and Sexual Violence
- Jewish clergy interested in working to end domestic violence through our Clergy Task Force to End Domestic Violence in the Jewish Community

Helen: First and foremost, we serve our members who are either licensed attorneys or law students. We also have Friends of Decalogue, who are non-attorneys who join the Society and receive all the benefits of membership except that they are not eligible to vote or serve on the Board of Managers or our Executive Board. Also, we serve the Jewish community at large and act in partnership with other bar associations and community organizations.

Daniel: I serve Jewish 5th-12th graders across 18 states and Canada, but I function mostly as the primary staff member for the students and families in the Chicago area.

R' Gellman: We serve the Reform Jewish community of Chicago, incredible people of all ages.

What was the primary type of programming you were doing pre-pandemic?

Rachel: We support the PJ Library program, providing monthly Jewish children's book subscriptions to over 9000 children in the Chicago area. In addition to the books, we create programming for families to engage in Jewish life beyond the books and build community. Before the pandemic, this ranged from large holiday celebrations at popular family destinations (Chanukah at the Chicago Children's Museum and Passover at the Peggy Notebaert Nature Museum) to smaller neighborhood meetup events to celebrate Shabbat to volunteer projects around the community. Our team of Parent Connectors hosted monthly gatherings in neighborhoods across Chicago to connect families and build Jewish community. Additionally, in the last year we introduced a family camp program specifically designed for families with children ages 0-5. Our first camp in partnership with JCC Camp Chi back in October 2019 sold out and was a huge success. Our second weekend in partnership with URJ OSRUI (also sold out) was canceled on March 13th as stay-at-home orders were issued.

Meredith: Prevention workshops to address violence against women and girls; community building and up skill workshops for young professionals to build a pipeline of women's leadership; as well as healthy masculinity and men as allies workshops for fraternity men and men in the Jewish community. Advocacy for legislation that supports survivors, works to end violence against women and girls, pay and workplace equity, addresses gun violence (especially the intersection of gun violence and domestic violence), abortion rights, and access to long-term economic security for women.

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Helen: Prior to the pandemic Decalogue carried on as usual. In February we hosted one of our most prominent annual events of the year, our Judicial Reception, and we maintained our customary programming, such as bi-weekly CLEs, monthly socials, and educational programs for the community. Our committees met as usual. In fact, in January we had the inaugural meeting of our newly formed Womxn's Committee. We continued to conduct judicial evaluations as part of the Alliance of Bar Associations for judicial screening of candidates and we remained vigilant against anti-Semitism and hatred of others that seemed to be increasing in the community.

Daniel: Seasonal weekend conventions for teens in September, November, December, February, and April. We also hold day-programs every few months.

R' Gellman: Oh wow, all kinds of programming! Just a few highlights across the demographics:

- Gan Shalom with preschool and child/parent classes
- Beit Sefer Religious School from pre-K through high school
- Adult education classes multiple days a week
- Many affinity groups: Makom 20s/30s, Or Chadash (LGBTQ+Allies), It's Our Turn (50+). All here: https://www.sholomchicago.org/community-groups
- Social justice work and advocacy

And of course, worship: Friday night service, Saturday morning minyan and Torah study, Monday morning minyan services, and multiple worship services during the week for religious school.

When the pandemic hit, what were your greatest challenges?

Rachel: Of course, a big challenge was shifting our offerings beyond events and gatherings - so much of our work was about bringing community together and helping people build relationships; however, the pandemic did not allow for these gatherings. We had to rethink how we bring people together, how we can show community while physically apart. A second challenge was figuring out what families needed - as children were home for school and parents stressed, needs of a family shifted from trying to find a sense of belonging to basic survival needs. We needed to find ways to be supportive of parents and families.

Meredith: Fundraising — not only for our largest, annual fundraiser, Women to Watch, but also with smaller Jewish women's foundations or other funders, who would have considered funding our work but were pivoting to focus on COVID relief, or who had decided not to consider new grantees.

Helen: Determining quickly how to continue to serve our membership. Luckily, my law practice includes employment and business counseling. So I had to get up to speed quickly to assist my clients on transitioning into pandemic mode. Thus, I was keenly aware of issues that may impact our membership. Immediately I worked with our Foundation President Robert Matanky and our Executive Director to put a list of resources together that could be beneficial to our membership. Our Society and Foundation jointly sent out this list. Keep in mind that when the pandemic hit we were already approaching the end of our bar year. One of the things we did not know was whether our members had the financial resources to maintain their membership. We did not want anyone to drop their membership solely because of a job loss or loss of income. While Decalogue always had an unwritten rule that we will never turn away a qualified member solely for financial reasons, we needed to make this known to our members. We tailored our membership renewal notice to make it clear that folks should rejoin irrespective of financial ability to do so and to contact us privately if they needed to make payment arrangements. Contemporaneously, we turned to programming so that we could continue to offer benefits to our members so that they could see that their membership remained a valuable asset. Well before CLE became mandatory, Decalogue's signature program had been providing CLEs to our members and the community at large. Quickly, we transitioned CLEs into Zoominars. This was especially important because in-person CLEs that had been scheduled by other organizations were cancelled and many attorneys were approaching the end of their reporting period; therefore, folks really needed the credit hours. On top of simply providing CLEs, we introduced new CLEs that had not been scheduled previously that focused on issues related to the pandemic; in the beginning of the pandemic, we were holding two CLEs a week! For instance, I, along with three of my fellow Decalogue colleagues who practiced in the employment arena, put on a joint CLE on employment issues with an emphasis on the pandemic. Some of our judicial members taught courses tailored to practicing during the pandemic.

Daniel: Finding a way to transition from a fully planned in-person convention to an online format in a matter of weeks. We went into lockdown about two weeks before our final convention of the year was to take place, and had to scramble to find the best online platform with which to conduct the programming. We also had to change some of the programs to fit the new online format. One of the biggest challenges was finding a secure way to conduct online elections for our new student board. Following that convention, we had to figure out how to conduct an entire year's worth of programming online.

R' Gellman: Keeping people involved. We live in a world where people pay for services that they can quantify what they receive: i.e. I can pay for Netflix for X amount and know how much I get in return. To quantify the return on investment for a religious institution is silly in normal times, how much more so when you have not seen the building in a full year!

How did you rise to meet those challenges?

Rachel: Our team thrives on creativity; this was an opportunity for us to try new things and change it up. Additionally, it was an opportunity for us to think about how to make deeper connections with families rather than worrying about how many people come to an event. At the start of the pandemic, we immediately had to cancel a much-anticipated family camp weekend that was scheduled for March 13th. Our team quickly pivoted, creating Shabbat kits of materials for these families, and we drove around the city and suburbs hand delivering the bags and invited families to join us for a candle lighting on Facebook Live and Havdalah on Zoom. While we did not know it then, this was the start of our pandemic shift. We hosted additional holiday virtual events for Passover and Yom Ha'atzmaut, as well as an in-person drive-in celebration for Rosh Hashanah, welcoming families to celebrate together. Our most successful program in the last year has been at-home kits, working in partnership with local businesses to create ways in which families can bring Jewish experiences into their home while stuck at home.

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Lessons from Lockdown *(cont'd from page 19)*

After selling out our DIY Bagel kit and a series of Rosh Hashanah-themed kits, this fall we introduced a monthly values-based kit that provides a number of different activities for families to explore a holiday and value theme. We continue to sell out these kits each month. While our families can still not gather, we have found that by providing ways in which families can infuse Jewish activities into their homes we are celebrating our Jewish community and sharing in an experience together, while still apart.

Meredith: We drastically decreased our budget (without letting go any staff — that said, we froze hiring, which is putting a strain on staff), we increased our virtual offerings to build communities, we sought opportunities to partner with other organizations to increase our visibility, we wrote op-eds to increase visibility, we sought out meetings with new funders/donors (virtually), we re-envisioned Women to Watch as a half-day virtual conference (brought in half the normal funds, but engaged a new audience), and we launched a new network for women over 40.

We also saw that the issues that were laid bare by COVID are our issues — the uptick of domestic violence, the devastating financial impact on women. We sought out opportunities to connect our work with what was happening in the world and new found understandings and awareness. As a result, we found more people understanding and connecting with our mission and work.

Helen: See above.

Daniel: My team (and the teens we work with) spent a lot of time researching different options of platforms to use for the upcoming programs. Following the immediate convention, we also created an entirely new online platform specifically for our members to find and access interest-based programs throughout the summer and the year.

R' Gellman: A very quick move to online programming. Our absolute goal has been to continually build community, which is difficult in a big room on Zoom. We do this by working our myriad of affinity groups (listed above) and building on our small groups. We make sure that people have engagement and learning opportunities with smaller groups so that relationships can be built, even on Zoom! Additionally, we have regularly had board members make phone calls to every member of the congregation to check in and just share love. One of the best advantages we have is that we can very easily bring in speakers and special guests. From bigger name speakers like Randi Weingarten and Judith Heumann, to easily bringing in fellow rabbis to guest teach a class, we are taking advantage of availability regardless of location.

What would you have done differently?

Rachel: We had lots of trial and error, many Zoom programs where no one joined or a social media post that falls flat. That said, these trials were all important. These are new and challenging times; we are blessed that we had the freedom to experiment and try new ideas. We were also able to recognize that every families' needs were different now. By trying different types of programming, we were able to meet new needs.

Meredith: I think we did everything we could, and don't believe there is anything I would have done differently. That said, I'm completely burned out. Especially as a new CEO, who started only two months before the pandemic hit; I had to learn the job, while completely pivoting to meet the challenges. Not certain how I should have or, looking forward, even could reduce the amount of time I'm on Zoom any given day or how much work I've personally taken on in attempts to reduce stress on my team, but personally, that's what I wish I had done differently — the pace that I felt (and feel) compelled to work.

Daniel: In an ideal situation, I would have wanted to find a way to make all online programming free for the year. There was already such a barrier for entry based on the fact that it's hard to come into a new group of people, but now that it was online I wish we could have taken down any walls that existed that prevented teens from accessing our programs.

R' Gellman: The only thing I think we would have done differently is to plan further ahead. Of course in March 2020 we had no idea how long this would last. Despite not having a crystal ball, we have rallied quickly to make sure that our programming is top notch.

How did you measure the success of a program before the pandemic? How do you measure it now? How do you plan to measure it after the pandemic?

Rachel: Before the pandemic we talked a lot about numbers. While of course tracking our attendance and interactions is still important, the pandemic has helped us realize the value of connection and sharing our story.

Meredith: Before, we may have been more in the mode of focusing on the financials — what did this program cost and how much did it bring in? Now, we're investing more in engagement. With the low-cost of hosting a Zoom call (granted, there is a lot of staff time that goes into these), we are investing in building a community of future supporters. I have spoken with several other organizations and when I suggest ideas, I still hear, "We need funding to do that." And, while that is very practicable and understandable, I'm taking more risks now and hoping the money will follow. And, I say this as an organization that does not have a safety net. We're not sitting on an endowment fund or investment account that funds our work — we need donations and grants to survive. Perhaps this is why I'm taking on so much of these new ideas — as a way to make it happen without adding to our costs (or actually eating the costs of my additional time).

Daniel: Before the pandemic, we measured success almost solely on numbers -- how many teens came to any program, convention, etc. Now, we have a much more nuanced approach to understanding success. We believe that numbers are important, but what's more important is how teens feel after our events. Even if we have a smaller number of members at programs and conventions, if they leave feeling revitalized and happy, then we've done our jobs well.

R' Gellman: The biggest change is measuring the programs' quality over quantity.

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If we have a great program for five people who felt spiritually uplifted and connected to their community then we had a very successful program. Before the pandemic, there was more concern about costs. Is it worth it to keep the Temple open, paying for security and maintenance? Now, those concerns are naught.

This takes A LOT more logistics and education work for preparation. Before, if a programming space wasn't set up, anyone could help to arrange chairs. Now, we need to be absolutely sure that it has been advertised in the proper places, the Zoom rooms have been arranged, the technology is set, the tech supports during the program are in place, and the program has been fully thought through. For example, on Sunday mornings we have about 9-12 different Zoom rooms happening at the same time. Keeping track of all those individual room links and making sure they get to the right people and in the right calendars is a task unto itself!

What were you doing before the pandemic that you won't be doing anymore?

Rachel: I am not sure yet - I do think it is going to be a while longer before families want to gather in large groups. We will continue to think smaller about our programs, more neighborhood-based rather than big event spaces.

Meredith: Travel. I was scheduled to be on the road for weeks when the pandemic hit. We have learned how easy it is to schedule a virtual Zoom call rather than take the time and expense to travel for meetings.

Daniel: I was going into work every day. We're fairly certain that our organization is going to close down our office and have us work from home indefinitely.

R' Gellman: We will never have services which are not live-streamed. We know that, regardless of vaccinations, there will always be people who cannot or do not wish to join us in person. The work to make sure that all feel that they are part of the Temple Sholom family and that they are actively community members is crucial.

What did you learn from the pandemic that you'll take with you?

Rachel: Relationships before programs. Values over activities. Creativity, innovation, and trial and error.

Meredith: We'll keep virtual events — it's been an incredible way to build national communities. The blessing of the pandemic is the way it fast-tracked our ability to be "present" nationwide. I believe there is a significantly increased awareness of our organization because of what we've done since March 2020.

Helen: It strengthened the view that when you are given lemons, make lemonade! Many beautiful advances came about due to the pandemic. We have been able to offer speakers from other parts of the country that we never would have considered to speak for our CLE programs.

Daniel: The ability to completely rearrange programming and make a fast pivot to something new. Also, the ability to innovate and create our own markers for success in a space where there is no precedent for how to be successful.

R' Gellman: I have been reminded how important community is for people. We see many of our congregants show up to programming almost every day of the week. I believe we will continue to offer daily online programming so that anyone can join in the community whenever they would like.

What can other Jewish organizations learn from what you've done?

Rachel: Same as above - relationships and values. Additionally, I think our partnerships with small local businesses have been beneficial in this time - 2020 was about working together, let's continue that model.

Meredith: Take advantage of every and all opportunities. Be creative. Understand your mission and know how to communicate it quickly. Take on projects that allow you to reach new audiences while still staying true to your core mission and work.

Helen: One always needs to think outside of the box to continue to serve the mission of the organization.

Daniel: Being flexible and open to change. Many Jewish organizations are incredibly rigid in the ways that they work, and we've learned that in order to be successful we need to be able to pivot quickly and easily change to new environments and situations.

R' Gellman: All organizations can learn that online programming is great, is engaging, and keeps people connected, both to their community and to their clergy.

We would like to thank Rachel Rappaport, Meredith Jacobs, Helen Bloch, Daniel Warshawsky, and Rabbi Scott Gellman for taking the time to share with us their insight and reflections. Although each organization has its own mission, there are lessons learned that can benefit them all. Our hope is that the leaders of various Jewish organizations can utilize this article as a tool to grow and prosper in the wake of the pandemic, and to be an even more successful organization when we are all gathering in person again. The Jewish community is at its strongest when we are all thriving and, by sharing the challenges we've faced and how we've overcome them, we can all not only outlast those challenges, but actually prosper together on the other side.

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Hate and Recovery in 2021: Decalogue Society Co-Sponsors Multi-Bar Event to Address Hate Experienced During the Time of COVID

by Mitchell B. Goldberg

On January 21, 2021, the Decalogue Society of Lawyers, Cook County Bar Association, and the Asian American Bar Association Chicago hosted a forum to address issues regarding the hate experienced by the Jewish, African American, and Asian American communities in Chicago and nationally, primarily during the COVID-19 Pandemic in 2020. The well-attended event, entitled "Hate and Recovery in 2021," featured a lineup of powerful speakers addressing specific issues, including legal issues, faced by, and the legal remedies and resources available to, the respective communities. The speakers also addressed how their bar associations and the legal community, generally, can support each other going forward into 2021.

The event's moderators, Decalogue President Patrick John and AABA Board member Sonni Choi Williams, opened the event emphasizing the importance of this topic in light of the frustrations experienced by so many during the pandemic and recent events in Washington, D.C.

Speakers included Illinois Attorney General Kwame Raoul; Jacqueline Carroll, co-chair of Decalogue's Committee Against Anti-Semitism and Hate and chair of the Simon Wiesenthal Center Midwest's Community Engagement Committee; Jerrod Williams, immediate past president of the CCBA, chair of the working group on legislative criminal justice reform for the ISBA's Steering Committee on Racial Inequality, and board member of Austin Coming Together; and Gary Zhao, immediate past president of the AABA and member of the executive committee of the National Asian Pacific American Bar Association.

Each of the speakers has been directly involved in confronting hate and fighting racist attacks and discrimination directed against various communities in Illinois and beyond. Each speaker delivered extremely important and powerful remarks regarding examples of hate experienced by the respective communities and the importance of joining together to combat such hate.

Jacqueline Carroll spoke about the fear and concern within the Jewish community over the past years following the attacks on synagogues, cemeteries, and sacred spaces in Pittsburgh, Poway, and elsewhere, the rise in anti-Jewish rhetoric and intimidation online, and mainstreaming of anti-Jewish ideas on both the right and left of this country, including litmus tests and discriminatory exclusion from student government and social justice activities directed against Jewish students on college campuses, particularly at the University of Illinois. With the coming of COVID-19, such activities have only escalated, with false accusations made that Jews and Israel are responsible for the coronavirus, and calls for harming Jews and infecting them with the virus. She also discussed legal issues impacting online hate and Title VI remedies against state universities that permit hostile environments towards Jewish students.

Jerrod Williams spoke about concerns and frustrations within the African American community regarding various injustices in recent years. He discussed the protests in the summer of 2020 that came following the death of George Floyd at the hands of police in Minnesota, issues of government interference with protestors' speech, and the impact of the protests on significant criminal justice reform in Illinois. He also spoke about issues of inequality and food security impacting the African American community, how the pandemic has highlighted and exacerbated the problems, and potential solutions.

Gary Zhao spoke about fears and concerns within the Asian community resulting from hateful rhetoric, starting at the beginning of 2020, as the SARS-2 virus began spreading around the world. He addressed specific issues of hate directed towards the Asian community during the COVID-19 pandemic, including matters that were escalated due to hateful speech coming from the highest offices in the country. He also addressed how the Asian community, generally, and the Asian American bar associations in Chicago and nationally, came together to respond to such hate. This included working with local and state governments to educate the community about resources available to victims of hate.

Attorney General Kwame Raoul spoke about his own experiences with hate, the framework of Illinois' hate crimes statutes, the cooperation between his office and the offices of other state attorneys general and local governments to identify and combat hate-based crimes. He spoke of his own trip to Israel and Yad Vashem, and how that experience has helped his drive to work against attempts to dehumanize others. He spoke of his work with the Jewish, African American, and Asian American communities to address their specific concerns, and the resources available to those communities to report instances of hate crimes.

Following the speakers' individual remarks, the panel addressed questions from the audience and engaged in a discussion about various issues, including health care disparity and the potential for the respective bar associations to continue working together to combat hate and support each other's communities.

The event was conceived by Decalogue board members the Hon. Megan Goldish, Mitchell Goldberg and Jacqueline Carroll as a response to the extraordinary hate experienced by communities, specifically during the COVID-19 pandemic. Event coordinator and Decalogue past president Mitchell Goldberg stated as to the purpose of the event: "We all know what is going on in our communities. We feel attacked and alone. The racists want to isolate us. Accordingly, to defeat them, we have to come together and stand together." In her remarks, co-moderator Sonni Williams expressed her support for the program: "This is the first program that I participated in which had three communities affected by hate during the pandemic come together in unity."

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A Mobile Museum of Tolerance – Just In Time

by Jacqueline Carroll

2020 was an unprecedented and eye-opening year for the world. Not only did the coronavirus pandemic shut down the way we eat, work, and move around in society, it instilled a deep fear of getting and spreading the disease and led to the deaths of over two million people worldwide. Whilst stuck in our homes, we saw the bubbling rise of hatred and venom for "the other" spew out in catastrophic ways. This included the horrifying day where our Capitol was besieged by insurrectionists, some carrying the Confederate flag and another wearing a "Camp Auschwitz" shirt. If ever there was a need to lower the flame, take a breath and learn about our similarities and experiences, it is now. Which is why the launch of the Simon Wiesenthal Center's Mobile Museum of Tolerance ("MMOT") could not be more timely. I have had the great honor of being one of the first people to step foot in the MMOT. I believe it is an important vessel to teach people to recognize racism, anti-Semitism and hate, and to empower and inspire people to raise their voices against such hate to promote human dignity.

When visitors first arrive at the MMOT, they know they are in for something special by witnessing the images of human rights heroes Dr. Martin Luther King, Jr., Mahatma Gandhi, Anne Frank and Malala Yousafzai staring back at them. Walking inside the state-of-the-art, COVID-friendly bus, visitors are provided with masks and hand sanitizer as well as powerful scrolling quotes surrounding the theater-style seats. Once visitors are seated in moveable seats, a trained educator, like Elizabeth Blair, will engage in a brief discussion. One of four currently offered lessons (which will have been decided upon prior to the visit to the MMOT) will start by the educator playing a video produced by the Simon Wiesenthal Center's Academy Award winning film division-Moriah films. Those lessons include:

- The Anne Frank Story: a striking and compelling film aimed for younger audiences to teach topics such as anti-Semitism, prejudice and stereotypes, and the power of the pen;
- Lessons and Legacy of the Holocaust and WWII: a film which demonstrates that the Holocaust is not just a Jewish story but a human story and provokes the viewer to recognize and speak out against hate and intolerance in their own communities;
- Dynamics and Discrimination: a powerful video which covers the American Civil Rights movement and shows viewers the historical inequalities which existed before and still persist to this day; and
- Ordinary People: a video which portrays the "bystander effect" and importance of speaking up and acting out against hate.

Personally, I found the video, "Ordinary People," to be the most profound and impactful. Many of those who committed heinous acts of murder and violence against the Jewish people during the Holocaust were, in fact, so-called "ordinary people." An example given is that 500 "ordinary people" were given the chance to shoot Jews (women and children included) and were told that if they did not want to participate in the killing, they would not be penalized. Only 100 walked away. This lesson teaches visitors to think about a hero's characteristics, including integrity, courage, responsibility, and standing up for others. After one of the videos is presented, visitors will be led in a discussion tailored to that class on the perception of self, community, and the broader world. They will discuss the power of words and acts and then create a dialogue around critical issues such as racism, bigotry, and anti-Semitism.

The MMOT, which is the first of its kind in the United States, will be traveling across the State of Illinois to reach diverse groups of students, faith groups, law enforcement agencies, businesses, and community and government leaders. Lessons were developed through collaboration with the Illinois State Board of Education and comport with 105 ILCS 5/27-20.3 ("Holocaust and Genocide Study"). For more information or to book the MMOT, please visit mmot.com, email MMOT@wiesenthal.com, or call (312) 981-0105.

Jacqueline Carroll, Decalogue Board Member and co-chair of Decalogue's Committee Against Anti-Semitism and Hate, was a Cook County Assistant State's Attorney for over eleven years and is Founder of We Persist!, a legal consulting firm dedicated to the advocacy of human rights. Jacqueline works with the Simon Wiesenthal Center and Chairs the Simon Wiesenthal Center Midwest Region's Community Engagement Committee.

Hate and Recovery *(cont'd)*

Following the program, Goldberg said, "The issues addressed, and the comments and questions raised, were illuminating of the shared issues and concerns facing our communities, and of the importance of offering our visible and vocal support of each other. It also reminded us all of our important roles as attorneys and volunteers to help address them." Decalogue President Patrick John closed the program emphasizing the importance of promoting education and dialogue between groups that experience hate and expressing his hope that this event is the first of many opportunities to continue the dialogue.

Mitchell B. Goldberg is a past President of the Decalogue Society and Co-Chair of the Committee Against Anti-Semitism and Hate.

Representative Rashida Tlaib Tests Her Boundaries

by Jacqueline Carroll and Cathy E. Horwitz

In a video interview for DemocracyNow.org, made on January 19, 2021, Congresswoman Rashida Tlaib specifically called Israel a "racist" and "apartheid" state. Her comments were based on a false legal premise and violate the International Holocaust Remembrance Alliance's ("IHRA") working definition of anti-Semitism. Was she testing that definition? Whether she was or was not, it is our duty to speak up against her comments—NOW. Rep. Tlaib stated:

> I mean, I think it's really important to understand **Israel is a racist state** and that they would deny Palestinians, like my grandmother, access to a vaccine, **that they don't believe that she's an equal human being that deserves to live**, deserves to be able to be protected by this global pandemic. And it's really hard to watch as this apartheid state continues to deny their own neighbors, the people that breathe the same air they breathe, that live in the same communities. You could put a settlement wherever you want, but on the other side of that wall is a farm community, a village, where my grandmother lives, and many of our, you know, various family members and others that I know are trying, again, to live a good life, a free life, free from these oppressive policies, **these racist policies, that deny them access to public health**, deny them access to freedom of travel, deny them access to economic opportunities.
>
> It is so critically important that we call it out. Our country continues to enable that country and enable Netanyahu, who continues to spew anti-Arab rhetoric that allows violence towards Palestinians to continue in a way that is so inhumane and doesn't follow international human rights. And so, I think it's very important. If anything, I hope my colleagues, I hope our country, sees what the Palestinians have been trying to tell us for a very long time, that **Israel has no intention of ever being caring** or allow equality or freedom for them as their neighbors.
>
> **And you can see it with the distribution of vaccine. You also saw it with the testing and tracing**. My family told me they didn't have access to testing. They would get some side effects, and they would use the small little house that they had and quarantine the family member. They had no access at all for any preventive measures, any medication. And again, that continues on. And we allow, again, enabling Israel to continue to do that. **They have the power to distribute that vaccine** to the Palestinian people, their own neighbors, again, feet away from where they live, many of which, again, could expose them and their family. And it doesn't — if anything, it just reiterates what the Palestinian people and even human rights groups have been telling us, is **that this is an apartheid state**.[1] **[Emphasis added]**.

There are several problems with this statement. First and foremost, Israel is not responsible for Rep. Tlaib's grandmother's health care because she lives in the village of Beit Ur al-Fauqa, a village located in Ramallah and al-Bireh Governate in the northern West Bank.[2,3] Ramallah currently serves as the de facto administrative capital of the Palestinian National Authority ("PA").[4] Pursuant to international law, Israel is *not* responsible for the health care of Palestinians living in Beit Ur al-Fauqa or any other Palestinian village located within the PA. Specifically, paragraph 2 of Article VI of the Oslo I Accord, officially called the "Declaration of Principles on Interim Self-Government Arrangements," provides "authority will be transferred to the Palestinians in the following spheres: education and culture, **health**, social welfare, direct taxation and tourism."[5] **[Emphasis added]**. The Oslo I Accord was agreed to and signed by Israel, the Palestinian Liberation Organization ("PLO"), the United States of America and the Russian Federation on September 13, 1993.[6] The responsibility of the Palestinians for their own health care was reiterated in the Oslo II Accord signed and agreed to by the United States of America, the Russian Federation, Israel and the PLO on September 28, 1995.[7] The Palestinian responsibility for vaccinating its population was specifically mentioned. Both Israel and the Palestinians are responsible to "exchange information regarding epidemics and contagious diseases" and to "cooperate in combatting them…"[8] Since that date, no subsequent agreements have altered the PA's responsibility for the health of its populace. Therefore, if in fact Rep. Tlaib's grandmother has been denied access to public health services including testing, vaccines or other preventative measures and medications, the fault lies squarely with the PA and not with Israel.

Israel has provided equal access to vaccinations to all of its citizens and residents including Palestinians with residence status.[9] Additionally, in accordance with its obligation under the Oslo II Accord and with regard to COVID-19 specifically, Israel transferred professional Arabic language materials to the Palestinian government, trained Palestinian medical teams, laboratory technicians and hospital staff, donated thousands of test kits and supplies and facilitated donations from others to the Palestinians.[10] Prior to May 2020, the coordination between Israel and the PA regarding the pandemic was considered "excellent."[11] However, the PA decided to sever that coordination in May of 2020. The United Nations Office for the Coordination of Humanitarian Affairs noted "[t]he PA's cutting of ties with Israel further impacted Palestinians seeking medical care in Israeli hospitals for treatment not available in PA areas, who already had been harmed by the PA's March 2019 decision to cease medical referrals to Israeli hospitals."[12] The PA also refused to accept delivery of medical supplies from the United Arab Emirates "because it was coordinated between Israel and them [the UAE]."[13] It has even been reported some Palestinian officials stated the PA denied delivery of vaccines that were offered to them by Israeli NGOs.[14]

Well prior to Rep. Tlaib's interview, the Palestinian government had already announced its own plans to acquire vaccines for its people, without cooperation or help from Israel.[15] On December 12, 2020, the PA announced it expected to receive four million vaccines from Russia by early January.[16] On or about January 9, 2021, the PA announced it had reached agreements with four companies to provide COVID-19 vaccines.[17]

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Representative Rashida Tlaib *(cont'd)*

On the very day of her interview, it was reported the PA would receive its first shipment of the Russian Sputnik COVID-19 vaccine within the week.[18] Even though the PA's efforts to obtain vaccines has not been as effective as they may have hoped, that is certainly not Israel's fault. More importantly, it is not evidence that Israel is a racist or apartheid state.

As both a member of the United States House of Representatives and presumably as a caring and concerned granddaughter, Rep. Tlaib should have been well aware of the above facts prior to her interview on January 19, 2021. So, it is relevant to ask, why would she have said what she said? Why would she have made such hateful, misleading and downright false statements? She had to have known when she used the terms "racist" and "apartheid" to describe the State of Israel, her incendiary words were false and anti-Semitic pursuant to IHRA's working definition.[19] Maybe that was part of the point.

The IHRA working definition, along with its guideline and eleven examples of anti-Semitism, was adopted by thirty-one member states of the International Holocaust Remembrance Alliance at its plenary in Bucharest on May 26, 2016.[20] The United States was one of the members who adopted this non-binding working definition. President Trump adopted it in an Executive Order to use when evaluating claims of anti-Semitic discrimination under Title VI.[21] Nonetheless, there are those who are opposed to this working definition.[22] They fear its adoption will have a chilling effect on political speech, especially political speech critical of Israel. However, the definition specifically exempts "criticism of Israel similar to that leveled against any other country."[23] Only when the speech targets Israel "as a Jewish collectivity" or denies to Jews "their right to self-determination, e.g., by claiming that the existence of a state of Israel is a racist endeavor," would such "political" speech be considered anti-Semitic.[24] The definition states, in relevant part, "Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews, frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for 'why things go wrong,'" and "employs sinister stereotypes and negative character traits." Based on the above, Rep. Tlaib's statement falls well within this general definition. Rep. Tlaib used the terms "racist" and "apartheid" to describe the State of Israel three times in her statement. She also blamed Israel collectively, frequently using the word "they" when referring to Israel, for the problems the PA is having in vaccinating its populace. Rep Tlaid stated "they" do not care whether people like her grandmother live and "they" deny her grandmother access to vaccines. Her comment "they have the power to distribute that vaccine" also violates the following example provided by the definition: "[m]aking mendacious, dehumanizing, demonizing, or stereotypical allegations about … the power of Jews as a collective."

Unfortunately, this is not the first time Rep. Tlaib has said such things. She has a long history of making such anti-Israel and anti-Semitic statements and actions. Here are just a few examples of her statements and actions, considered anti-Semitic under the IHRA working definition:

- She tweeted that the creation of the State of Israel was "the ethnic cleansing of indigenous Palestine."[25]
- She is known to be a supporter of the Boycott, Divestment and Sanctions Movement ("BDS"). It is most critical to recognize the goal of BDS is the elimination of the State of Israel as a Jewish state. [26]
- She leant her support to an effort by faculty at Pitzer College in California to suspend its study abroad program at the University of Haifa,[27] thus boycotting an Israeli academic institution.
- She participated in a panel titled "Dismantling anti-Semitism, Winning Justice." Every member of the panel supported the BDS movement and one had even called for "a free Palestine from the river to the sea."[28]
- After it became public President Biden was going to nominate Anthony Blinken, a Jewish American, for Secretary of State, Rep. Tlaib tweeted, in part, "[s]o long as he doesn't suppress my First Amendment right to speak out against Netanyahu's racist and inhumane policies."[29]

Given what we know of Rep. Tlaib's opposition to the existence of the State of Israel, could it be her statements are expressly made to challenge the IHRA definition? It seems as if she is attempting to test the boundaries of the definition to determine to what degree she can continue to engage in hate speech without being held accountable. Of course, if she is called on it, we might expect her to double down on her comments by claiming the IHRA definition, for all its specificity, is in fact promoted by those who want to keep Palestinians oppressed and to suppress political speech. This could devolve into a public controversy which many might prefer to avoid. However, if we fail to engage in this battle now, demanding anti-Semitism like this is not accepted and normalized, we will end up facing a more dangerous situation further down the road. We cannot allow anti-Semitism to become politically correct again. We must send a message anti-Semitic speech and actions, whether aimed against Jews as individuals or as a group, or against the State of Israel as a nation, must not be tolerated. We must demand our representatives in Congress move to censure Rep. Tlaib. She is testing and crossing boundaries. We must emphatically tell her "NO."

Jacqueline Carroll is a Decalogue Board Member and co-chair of Decalogue's Committee Against Anti-Semitism and Hate. Ms. Carroll was a Cook County Assistant State's Attorney for over eleven years and is Founder of We Persist!, a legal consulting firm dedicated to the advocacy of human rights. Jacqueline works with the Simon Wiesenthal Center and chairs the Simon Wiesenthal Center Midwest Region's Community Engagement Committee.

Cathy E. Horwitz, currently retired from private practice, is a former Illinois Assistant Attorney General and legal aid attorney. She is a board member of the American Association of Jewish Lawyers and Jurists, a member of Decalogue Society's Committee Against Anti-Semitism and Hate, and a member of the Legal Committee of SHALVA.

(endnotes on page 27)

Words Have Meaning

by Aviva Miriam Patt

Words have meaning. Racism. Colonialism. Zionism. Anti-Semitism. Each of these words has been in common usage for a century or more, with universally recognized definitions.

"Racism" is the most recent term, first entering the lexicon in 1902 to describe the belief that race is a fundamental determinant of human traits and capacities and that each of the races is superior or inferior based on presumed inherent differences. "Colonialism" is the most ancient, derived from the Latin *colonia* (settled land). It appeared as "colony" in the 14th century in historical descriptions of Roman settlements outside Italy, and as "colonialism" in 1864 to describe the movement of people from their native land to a new one while remaining subject to the mother country.

In 1890, writer and publisher Nathan Birnbaum coined the term "Zionism" to describe the movement for the return of the Jewish people to their homeland. He expounded on the concept in 1893 with the publication of a pamphlet calling for a "National Rebirth of the Jewish People in its Homeland." The ideas articulated in the pamphlet became known as "Political Zionism" and later as "Practical Zionism," which laid out steps to achieve the movement's goals through immigration, agricultural settlements, and the establishment of educational institutions.

"Anti-Semitism" was first used by German nationalist Wilhelm Marr, author of *The Way to Victory of Germanism over Judaism* and founder in 1879 of the *Antisemiten-Liga* (League of Anti-Semites). The *Antisemiten-Liga* rejected the idea that Jews could be assimilated, calling for their expulsion from the country. Although the term "anti-Semitism" could be interpreted as applying to descendants from any of the Semitic-language tribes in the Near East, since its coinage in the 19th century it has been understood to mean hostility toward or discrimination against Jews as a religious, ethnic, or racial group.

These long-established words have been subject to misuse in the current political debate about Israel. The notorious "Zionism is Racism" resolution of the United Nations in 1975 was not the first attempt to falsely equate the movement for a Jewish homeland with ideas of racial superiority. In 1973 the UN General Assembly condemned the "unholy alliance between South African racism and Zionism." The July 1975 Mexico City Declaration of the Equality of Women included the elimination of Zionism with racism and colonialism as necessary for international cooperation and peace. The following month, the Organization of African Unity condemned "the racist regime in occupied Palestine" as part of the same imperialist campaign of racist policies in South Africa and Zimbabwe. Later that month the Conference of Ministers of Non-Aligned Countries condemned Zionism as a threat to world peace. The previous resolutions were all cited in the November 1975 resolution of the United Nations which "Determines that Zionism is a form of racism and racial discrimination."

None of these resolutions explain **how** Zionism, the national movement for a Jewish homeland, is racist. Race, however one defines it, has no bearing on whether someone is or can become Jewish. Jews come in every color and all are equal under religious law and community standards. There is nothing in Zionist theory about the superiority or inferiority of any race or the superiority of Jews over any other ethnic group. Jewish identification as a people, seeking self-determination in the land of their origin, is no more racist than any other ethnic group's national aspirations.

The equally fallacious conflation of Zionism and imperialism is also unexplained. The Zionist movement was not a colonial enterprise—the transfer of people by one nation to exert its sovereignty over another. It was the emigration of people from various nations to escape government discrimination, oppression, and violence. Jewish settlers in Palestine were not agents of any imperial power, holding the land and extracting the resources for the benefit of the mother country. They were refugees seeking a life of freedom in another land. They did not come by force in defiance of local authority, but with the approval of the government, which from the birth of the Zionist movement until 1917 was the Ottoman Empire. Under the British Mandate, Jews came both with the permission of the government and without it, but never as representatives of the British Empire to maintain its dominion over Palestine.

So how did Zionism come to be equated with racism and colonialism despite the lack of any connection by definition? The answer is politics, specifically Israeli policy toward Palestinians in the land occupied by Israel since 1967. Israeli law guarantees equal rights to both Jewish and non-Jewish citizens and it is this equality under the law that refutes the claim that Israel is an apartheid state. But Israeli law does not extend to Palestinians in the occupied territory, and even Palestinians living in East Jerusalem, which has been formally annexed by Israel, do not hold Israeli citizenship. A people living for over 50 years under military occupation and military law, without the right to vote for the government that rules them, is contradictory to democracy.

Physical separation of the occupied territory with barriers and checkpoints, and the requirement for the occupied to get permits to leave their areas looks very much like apartheid, as does the establishment of alleged self-rule, which can be overturned at will by the Israeli government. Critics of Israeli policy toward the Palestinians in the occupied territories have adopted terms they are familiar with to condemn the similarities of Israeli policies to the practice of Europeans' occupation of African and Asian lands. But words have meaning. Condemning Zionism, which is a political philosophy wholly disconnected from racism and colonialism, is not the same as condemning policies of the Israeli government. Like any government, the Israeli government may be racist or colonialist.

Words have meaning but definitions are not static. In recent decades, "racism" has come into common usage as a term to describe not just an ideology of racial superiority, but actions that deny or impair civil rights of a racial group.

(continued on next page)

Words Have Meaning *(cont'd)*

"Racial" has also found an expanded meaning, applying to national origin or language groups, as a substitute or synonym for "ethnic." Not all ethnic groups are covered by this new definition, however, and its application to Jews varies, usually coincident with discussion of Israel.

A new definition of "anti-Semitism" has also been offered, although it has not gained wide acceptance as it is embroiled with the politics of Israel and Palestine. Developed in 2016 by the International Holocaust Remembrance Alliance as a "working definition" for education and academic research purposes, it was adopted by the US State Department (DOS) in 2019 as a tool to recognize both discrimination and hate crimes, adding several illustrations of anti-Semitism to the DOS working definition of 2010. Some examples, such as violence against Jews or collective responsibility for individual actions, are universally accepted as manifestations of anti-Semitism. But those that relate to Israel and Israeli policy are more controversial and there are some contradictions. Although the definition includes the caveat that "criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic," many critics of Israel have been branded as anti-Semites for complaints similar to those made against other countries. Claiming that "the existence of a State of Israel is a racist endeavor" is deemed a violation, yet being a racist endeavor is a charge that many of Israel's critics also make against the United States. "Drawing comparisons of contemporary Israeli policy to that of the Nazis" is also a violation, yet other nations, including the United States and some European countries, also have been accused of enacting Nazi-like policies.

When we call those with whom we have political disagreements "anti-Semites" despite their having no animus toward Jewish people, or "racists" despite their not being purveyors of racial superiority ideology, we are engaging in ad hominem attacks to discredit them rather than debating the merits of their ideas. Worse, we are defining who they are in a way that denigrates their humanity. Words have meaning.

Aviva Miriam Patt is a third-generation Labor Zionist and a 50-year veteran of the struggle for social and economic justice.

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

Tlaib Endnotes *(pages 24-25)*

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Do Women Need Equal Rights, or Equal Power?

by Patrick Dankwa John

"I did everything he did, but backwards and in high heels."
~ Ginger Rogers, commenting on what it was like dancing with Fred Astaire.

What is the world's oldest form of bigotry? I have heard many say it is anti-Semitism. Is anti-Semitism older than sexism? If so, that means Abraham (the world's first Jew) was born into a world free of sexism thousands of years ago. Does anyone really believe that women were treated equally, but then somehow, when no one was looking, men got the jump on them all over the world? Well, if sexism has been around longer than anti-Semitism – and it has – then why do we keep saying that anti-Semitism is the world's oldest bigotry? Because women have not had equal power to decide what's good, what's right and what's true. Whoever started the story that anti-Semitism is the oldest form of bigotry must not have considered women a group even worthy of mention. Discrimination against women must have been accepted as so natural to them that it required no justification or explanation. But that is not how we feel about women's rights today, is it? If not, then why do we do rarely hear anyone say that sexism is the world's oldest form of bigotry?

According to linguist Deborah Tannen, language is not just some sounds that come out of our mouths to communicate. Language is the vehicle culture, and as such, language is one of the tools those in power use to maintain their dominance. Tannen observes that men and women use language differently because men and women have different views about how power should be shared. She asserts that most women seek to govern by consensus and collaboration whereas most men govern by dominance and imposition.

Tannen provides an excellent example of how this gender difference plays out in the workplace. At a department meeting, a woman may make a suggestion by posing a "question" to the group. Her male supervisor will summarily dismiss her "question" because he feels that she hasn't put much thought into it or she would have made an aggressive suggestion rather than ask the group a "question." Minutes later, a man will aggressively make a suggestion identical to what the woman's question posed, and the male supervisor will invite him to elaborate to the group and then praise him for his brilliant insight. Tannen points out that this is not just blatant sexism; what likely happened is that the male supervisor interpreted things through a male prism that he didn't even know he had. Usually it is women, not men, who pay the price for such misunderstandings.

In 2009, President Obama's first bill signed into law was the Lilly Ledbetter Fair Pay Act. Ledbetter alleged that she was paid less than her male counterparts for many years. She initially won her case at the trial court level and was awarded $300,000.00; however, the Supreme Court later ruled her claim was time-barred. Ledbetter had no idea she was being underpaid until the information was leaked to her by a co-worker. Most companies do not have income transparency, so how was Ledbetter to know that she was being underpaid?

This leads to questions such as why women are underpaid in the first place, and why women were denied the right to vote and the opportunity to engage in various professions like law and medicine. Women face discrimination for the same reason any group faces discrimination: some other group won the power grab. "Winners" of power grabs are rarely satisfied to mistreat subordinate groups using only naked aggression. They tend to add a potent mix of gas lighting and propaganda as well. Instead of claiming they are dominant because they won a power grab, "winners" claim they are dominant because they are in some way inherently "better". Subordinate groups then often adopt the dominant group's propaganda. In the face of White Supremacy, many Blacks feel inferior to Whites. Just as Whites have implicit bias against Blacks, so too do many Blacks have implicit bias against themselves. The same could be said for all subordinate groups, including women.

Subordinate groups often argue for their rights by using the framework and rules that the dominant group has already set; oftentimes without even realizing they are doing so. Can you imagine if opposing counsel in one of your cases had the ability to write the statutes, case law, and rules of evidence that would govern your case? You would lose for sure. Trying to prove you are "equal" to the dominant group is a fool's errand. You will never be "equal" because the truth is you were always "equal," but you lost the power grab.

Two examples highlight this point. Studies have shown that female doctors are better than male doctors because they listen better to their patients, resulting in fewer missed critical diagnoses and more saved lives. Studies have also shown that female police officers are not only as effective as their male counterparts at tackling violent offenders, but they are much better at de-escalating situations and making arrests without shooting people (which also leads to more saved lives). There was a time when men excluded women from these professions, claiming that women were simply unsuited for it. Despite several studies making a convincing case that women are better than men at these professions, where is the public outcry for more women doctors and cops so we can save more lives? Discrimination has never been about performance or ability; it has always been about power.

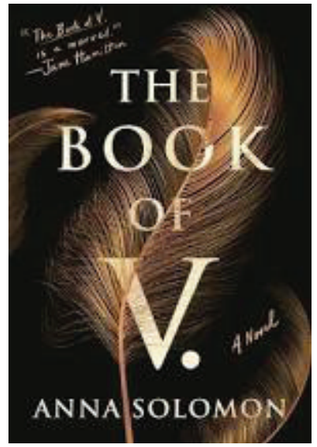
I believe two things, if done simultaneously, will greatly advance the cause of equality for women. First, women should be granted equal political power. Not equal rights, but equal power. Rights are theoretical entitlements, written on paper, with procedural obstacles which diminish their utility. Power is the ability to sufficiently punish someone for ignoring demands or to reward them for complying with requests. There is no equal rights without equal power. We see evidence of this in how Blacks and other minorities are treated. It is already illegal for the police to beat handcuffed suspects to death. Yet, we all saw what happened to George Floyd. George Floyd did not lack legal rights; he lacked what the Black community generally lacks - sufficient political and economic power. We can come one step closer to equality for women if there is an equal number of seats in every legislative body set aside for women.

(continued on next page)

Review: *The Book of V.*

by Carrie Seleman

In the midst of another Purim, albeit an odd one, what better way to celebrate than by reading a rewriting of Esther's story? Anna Solomon takes on the task of imagining what details might fill in the gaps left by the Book of Esther in her novel *The Book of V*. She doesn't stop with the old story, though; the book alternates between following the Esther we know and love and two more modern women: Vivian ("Vee") and Lily.



Solomon's version of Esther is not the one we love to share with children. It is dark and, frankly, more realistic. Esther's uncle, Marduk, resents her and sends her away to the king's pageant for selfish reasons alone. Once there, Esther spends months waiting with numerous other young women to be beckoned by the king, using their bodies to get what they want and need from the eunuchs assigned to care for them. Esther's life is no bask in the sun once selected to be queen. All she wants is to go home. All she wants is to warn her people, who are under constant attack by the Persians. Her attempts to escape, or at least get word out to the Jews, are thwarted by Haman time and time again.

This story is juxtaposed with that of Lily, a second wife in 2016 who spends her time comparing herself to Esther (with Purim quickly approaching). We watch her battle with her mother over the extent that Judaism will weave into the lives of her children and her battle with herself as a stay-at-home mom who turned down a tenure-track position at a university.

Lastly, we have Vee, a 1970s wife of a senator who represents a modern embodiment of Vashti. Vee's husband, like King Ahasuerus, throws two separate parties, one for the men and one for the women. Vee's husband, like King Ahasuerus, summons Vee to the men's party and demands her to undress. Vee, like Vashti, refuses and is exiled (in this case, to her friend's home).

We all know the Book of Esther as a story highlighting a heroine, the strength of women in a time when most stories erased the impact that women had on them. Solomon's retelling doesn't just do that justice; it is a raw and honest exploration of feminism through the experiences of three different women in three vastly different times. All three of the stories have parallels in their struggles with what feminism means to both the main characters and society as a whole. Solomon shows that, as much as we may think things have changed, we are actually still facing the same challenges that women generations before us fought to extinguish. Solomon also uses her novel as an opportunity to show that there is no right way to be a feminist, and no one is a perfect embodiment of feminism.

The *Book of V.* is an important reminder to women of all ages that there are many before us who set the foundations for the progress that has been made, but that there is still more that must be done. At the same time, Solomon shows through her stories that each woman must recognize the most precious form of feminist success as living her life however makes her happy, whether that means as a stay-at-home mother of multiple children, as a mom who works full-time, as a woman who never marries nor has children, or anything in between.

Carrie Seleman is a member of the Decalogue Society of Lawyers' Board of Managers and Chair of Decalogue's Women's Committee. She works as an Assistant Public Guardian in the juvenile division of the Office of the Cook County Public Guardian and serves as the President of Jewish Women International's Chicago Young Women's Impact Network.

Equal Rights or Equal Power *(cont'd)*

Every district, at every level of government, should have two seats - one male, one female. What would be the objection to this; that men are afraid of sharing power equally with their wives, mothers, sisters and daughters? Is such an objection morally defensible?

Second, we need income and wealth transparency, like Scandinavian nations already have. It is no accident that Scandinavian countries have less gender inequality than America. Women are closer to achieving equality there than most other nations in the world. Income and wealth transparency may strike most Americans as a violation of privacy. But how can we manage what we don't measure, and how can we measure what we cloak from public scrutiny? Is it really privacy being protecting, or is it secrecy? And who benefits more from this privacy: the powerful or the marginalized? Who benefits from the current status quo? Surely not the Lilly Ledbetters of the world.

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.

Wyatt Earp's Journey with Judaism

by Justice Robert E. Gordon

Wyatt Earp's modern-day reputation is that of the Old West's toughest and deadliest gunman of his day. He worked in law enforcement as an assistant U.S. marshal and a deputy sheriff and held other law enforcement positions. He was also a gambler, saloon operator, professional boxing referee, gold miner, and worked in the movie industry. He is a cultural icon, a man of law and order, a mythic figure of a West where social control and order were notably absent. Since then, he has been the primary figure in many movies, television shows, biographies that greatly differ, and works of fiction.

Earp's third wife was Josephine Sarah Marcus, who initially was his common law wife who worked alongside of him in the saloon business and in exploring for gold. They lived together for over 50 years until his death on January 13, 1929, at age 80. They had no children as "Sadie" (that is what Wyatt called her) had three miscarriages, one when she was 40 years old.

History reveals that Wyatt always kissed the mezuzah on the front of whatever residence he lived in after his marriage to Sadie. We do not know whether he ever adopted the Jewish religion, but Sadie kept a Jewish home and followed the tradition of her people. Wyatt's good friend "Doc" Holliday called Wyatt the "Jewish Boy." Wyatt's Hollywood friends conducted a funeral for him at the Congregational Church in Los Angeles, California, but Sadie did not attend and later gave him a Jewish funeral. Many books and articles say that Earp was cremated and buried in the Marcus family plot at a Jewish cemetery in Colma, California, and that Sadie was buried alongside him when she died in 1944. A whole marble headstone was placed for both of them and was stolen, and a second stone of granite was then put up and also stolen. Grave robbers dug up his grave; they didn't find his ashes or a body, but they did steal the 300-pound stone. A third headstone memorializing Wyatt and Sadie stands in Colma today. However, the legends surrounding Wyatt Earp even extend to the location of his final resting place. A Jewish cemetery in Carson City, Nevada, next to property where Irving Berlin had a home, has also been identified as the site where Earp's ashes were buried. I visited this grave many times when I visited Lake Tahoe, before his ashes were reportedly moved elsewhere in the early 1990s.

Sadie claimed that the couple were married on a gambling boat, but researchers have been unable to obtain any verification of their marriage and she is referenced to as his common law wife in most historical writings.

Wyatt never referred to himself as Jewish, and we will never know whether he adopted the religion, but in those years, most people in the public eye would hide that fact. Some historians have written that, on the Jewish High Holidays, Sadie usually left the towns they lived in when there was no synagogue to pray in, but Wyatt remained. Actually, in all of these instances, Wyatt held law enforcement positions that required his presence in the town where they lived.

Wyatt and Sadie's reputation has been confused by inaccurate, conflicting, and false stories told about him by others and by the claims of Wyatt and Sadie that cannot be corroborated. But one fact that everyone agrees to is that Wyatt was in many known shootouts and was never wounded. Sadie was depicted as a woman who ran a saloon employing many other women, before and during her relationship with Wyatt – somewhat like Miss Kitty in the "Gunsmoke" series.

In the many books and articles on Wyatt Earp, he is depicted as either a hero or a bum. However, there is only one confirmed instance where his honesty was in question. In his later life, he was the referee in the heavyweight championship fight between Bob Fitzsimmons and Jack Sharkey. Fitzsimmons was winning the fight and had Sharkey, the champion at the time, on the ropes and knocked him out. But Wyatt called it a low blow and awarded the decision to Sharkey. The two judges of the fight did not observe a low blow, nor did the media, or the people in attendance. The newspapers called the fight "fixed," and Wyatt's reputation as a professional boxing referee was tarnished without repair. Other than that instance and some disputed gambling situations, Wyatt Earp's reputation was a man who stood out for law and order in a Wild West.

The Honorable Robert E. Gordon is an Illinois Appellate Court Justice in the First District, 4th Division of Illinois, and a Decalogue board member.

COMING UP!

May is Jewish American History Month and Decalogue is planning a special virtual event.

May is also the start of the 2021 Baseball season
so we will celebrate with special appearances by Jewish players.

Watch your email for more information

2021 and the Martin Luther King, Jr. Holiday

by Sharon L. Eiseman

When was the Martin Luther King, Jr. ("MLK") Holiday established and why?

First, before turning to a discussion of Dr. King's legacy and what it means, let's review how a holiday in his memory was established. Are you surprised to learn that serious controversy arose in 1983 when Congress moved to create a national holiday to honor Dr. Martin Luther King, Jr. and commemorate his legacy? It did, from southern legislators as well as from President Ronald Reagan, who opposed any national observance for Dr. King, a man variously described as "an outside agitator" (by Senator Strom Thurmond in 1968 following King's assassination) and as someone who "welcomed collaboration with Communists" (by North Carolina Senator Jesse Helms). To express his resistance that year, Helms led a sixteen-day filibuster of the MLK Holiday bill, but ultimately voted for it in exchange for Congress' approval of his tobacco bill. Despite this opposition, the bipartisan vote in favor of the bill handily won the day, possibly because many Republicans may have believed they needed to show the public their support for civil rights.

And did you know, or do you recall that Dr. King died before he even reached the age of forty, having been assassinated in Memphis, Tennessee on April 4, 1968 when he was in the midst of preparing to lead a protest march in support of the city's striking sanitation workers? Yet, in his short lifetime, Dr. Martin Luther King accomplished the unimaginable, especially for a black man from the South and one advocating for peaceful integration. Thus, this year, as in every previous year the holiday has been observed, people all over our country—and beyond—will pay homage to this great man, preacher, and acknowledged leader of the civil rights movement in America who has defined for generations what our country must acknowledge and address in order to eliminate racism in our society.

Dr. King's early and relevant education

Even before he stepped onto the national 'stage' and ignited a widespread movement for peace, justice, and racial equality through his electrifying voice and powerful words, invoking hope for the dreamers in his audiences, Dr. King had achieved many impressive goals. At an early age, and in short order, Dr. King proved the belief that he was bright, articulate and driven by earning a B.A. in sociology from Atlanta's Morehouse College when he was only nineteen, a B.A. in divinity just three years later, and then, in 1955, a doctorate in systematic theology from Boston University. Those studies and his degrees both reflected his interest in canonical teachings and grounded him in the power of oratory of a spiritual nature that would engage his listeners and move them to action.

How Rosa Parks' courage helped inspire Dr. King's early activism and advocacy for the oppressed and dispossessed

Also in 1955, Dr. King was chosen by local civil rights activists to lead a one-day boycott of the bus system in Montgomery, Alabama. Their protest was spurred by area residents upset when Rosa Parks, a black woman, was arrested and fined on the bus she was taking home from work for violating the city's segregation laws. Parks had refused the order of the bus driver to give up her seat to a white man who had been standing on the crowded bus. Under local law governing public accommodations, that man was entitled to preferential seating because of his race. That single day turned into a year, which is how long it took Montgomery to desegregate the buses.

By persisting in its defense of racial segregation within its public transportation system, the city not only faced legal and financial challenges, but it also, perhaps unwittingly, simply stoked the flames of a significant and growing national civil rights movement. That movement, which engendered many other battles for racial equality, was borne of one black woman's use of her voice to demand equal access to public services. Ms. Parks later explained that she claimed her seat that fateful day not because she was physically tired, but because she was "tired of giving in." For more about Rosa Parks, who was lauded for her courage, wrote two compelling memoirs, and lived into her nineties, see https://www.biography.com/people/rosa-parks.

Etched forever in our collective memories: Dr. King's compelling words

Events in the sixties related to Dr. Martin Luther King, Jr. are forever etched in our memories and in America's history. On August 28, 1963, King delivered perhaps his most stirring and memorable speech, one that has come to be known as the "I Have a Dream" speech. To the 250,000 participants in that day's organized march to D.C., King pronounced: "I have a dream that one day this nation will rise up and live out the true meaning of its creed, 'We hold these truths to be self-evident: that all men are created equal.'" In that same speech, he made the dream personal when he stated: "I have a dream that my four children will one day live in a nation where they will not be judged by the colour of their skin, but by the content of their character." The theme of non-judgmental equality and respect for human rights and opportunity for all without regard to color resonated with many individuals besides the marchers, which is what King intended: that his message of hope would take hold across the nation and trigger needed changes in the law.

In the face of many threats to him, his family, and all of his supporters, Dr. King receives the Nobel Peace Prize in 1964

The era of the sixties was also witness to the award of the Nobel Peace Prize to Dr. King in 1964. In the presentation to King, Nobel Committee Chairman Gunnar Jahn described the Reverend as an "undaunted champion of peace" who had distinguished himself by showing that "a struggle can be waged without violence." Mr. Jahn also praised Dr. King for never abandoning his faith despite his having been subjected to numerous imprisonments and bomb threats, as well as repeated death threats against him and his family.

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MLK Holiday *(cont'd from page 31)*

Although detractors continued to attack Dr. King's teachings, much progress had been made toward the goals of equality, justice and peace that King was preaching. As notable examples, in the mid-sixties, Little Rock High School and the University of Mississippi were integrated, Congress enacted the 24th Amendment to the U.S. Constitution, and President Lyndon Johnson signed the Civil Rights Act of 1964.

Dr. King's assassination: a dark day for all, and its aftermath

Sadly, as we all know, that decade didn't end well. Dr. King's good fortune, and possibly the momentum toward a more civil and just society, took a tragic turn on April 4, 1968 when Dr. King was assassinated in Memphis, Tennessee, and it seemed the world had come to a stop. By that time, many who questioned his motives and his means to achieving peace and equality had begun to appreciate the import of his messages and his work on the ground toward implementation of his mission—even though some believed Dr. King was espousing more aggressive actions to bring about the change he wanted. While his death left a terrible void, his legacy as a 'champion of peace' has continued to move us forward toward a more just society, even if slowly and with 'bumps' in the road in recent years. Still, we all need to remain vigilant to make sure we don't lapse in our efforts or allow prejudice, anger and distorted perspectives to further divide us as a nation into separate and unequal factions. This is where Vernon Jordan enters the scene and shares a somewhat different, and thus refreshing, view of how to best honor the work done and progress achieved by Dr. King.

Who is Vernon Jordan and what does he have to say about MLK, Jr.?

Vernon Jordan, who is African American, graduated from Howard University Law School in 1960, and joined the firm of a prominent civil rights attorney in Atlanta as a law clerk earning $35 a week, eventually became a well-known civil rights advocate in his own right. As a new lawyer, Jordan was part of an NAACP team representing a young black man who, in a mere 48 hours, had been arrested, arraigned, indicted, tried, convicted, and sentenced to death by electrocution. That was a time when 'colored' people had to find outlying black-only motels when transacting business in the courts—or anywhere. And, because they were banned from restaurants, they had to buy food at a grocery store and eat in their car.

Mr. Jordan's firm, which included Constance Motley*, sued the University of Georgia in Federal Court, alleging that its restrictive admission policies constituted racial discrimination. Despite challenges and a stay that was reversed, the case concluded successfully for the plaintiffs in 1961 with a court order directing that the two named African American plaintiffs be admitted to the University. *See Holmes v. Danner*, 191 F. Supp. 394 (M. D. Ga. 1961). In 1970, having left his firm, Jordan became the executive director of the United Negro College Fund and, in 1971, he assumed the presidency of the National Urban League, a position he held until 1981 when he resigned to become legal counsel in the Washington, D.C. law office of a Texas firm.

Aside from serving as a presidential advisor and a consultant to other high level government officials, and in demand for appointment to the boards of multiple corporations, Jordan has recently held the position of senior managing director for an investment banking firm. He has also authored two books, most recently, in 2008, *Make It Plain: Standing Up and Speaking Out*, a collection of his public speeches with commentary. The title certainly makes plain what Jordan has fought for all of his life and career. This indefatigable humanitarian has continuously used his legal and oratory skills and his talent for advocacy to help move the dial forward on the task of eliminating racial injustice.

Vernon Jordan's characteristic 'call to action' as a means to change

It is on the stage before attentive audiences such as college graduates that Jordan is most effective. In June of 2015, speaking to Stanford's graduating class at a multi-faith celebration for the students and their families, he minced no words, instead urging the audience to be 'disturbers of the unjust peace.' Using a question from the prophet Isaiah, "Who will go, and whom shall we send?" as a basis for his message that day, Jordan said he prays the answer is "Here am I. Send me." He continued on: "Send me to help clear the rubble of racism still strewn across this country. Send me to be one of the bulldozers on behalf of equality and in the cleanup crews against injustice. Send me to 'disrupt' injustice. Send me to 'hack' bias and bigotry. Send me to 'lean in.'" These words read today remind us of how much more work needs to be done to address inequities within communities of color in education opportunities; health care; jobs that meet and exceed minimum wages for workers; affordable, quality housing and day care for children of working parents; and access to legal representation and to justice through the court systems.

And now, 'fast tracking' to 2018: Vernon Jordan, at 83 years of age, was invited by Dr. Otis Moss III, the young and engaging Senior Pastor of the Trinity United Church of Christ in the Washington Heights Community on Chicago's South Side, to give the guest sermon at the church's September 30, 2018 Sunday morning service focused on 'Honoring Our Elders.' How did I learn about this meaningful event? Attorney Juan Thomas, a member of the Illinois State Bar Association's Standing Committee on Racial and Ethnic Minorities and the Law ("REM Committee"), had invited his REM Committee colleagues—which includes me—to this special church service, and I decided to attend with my husband Noel.

Besides being quite touched by the warm welcome we received from the congregants that day in a venue where we were two of just a handful of white people in attendance, we were moved by Pastor Moss' sermon and by Mr. Jordan's compelling insights.

The primary message Jordan conveyed is simple: While it is important to honor MLK, Jr. for his accomplishments and celebrate his storied career as a civil rights activist, we cannot, must not, stop there as we often do, assuming it is enough to pay a yearly tribute to Dr. King as our means of supporting racial, ethnic and gender equality.

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MLK Holiday *(cont'd)*

Instead, we have to keep King's dream alive by working to achieve the goals he pursued. In other words, we should consider ourselves the heirs of his legacy and take on the tasks he left to us—unfinished—until they are finished.

What can we do to make a difference 'going forward'?

For us to stay on track toward achieving justice for all, we must have strong leadership in our local, state and federal governments and in the private sector, as well as great teachers in our schools. It is also through the polls at each election and, of course, through our political discourse and educational systems, that we can encourage each new generation to attain a better understanding as to the positive outcomes when diverse communities live and work together in mutual respect for their differences. *See generally* Diversity & Inclusion, *The University of Chicago*, http://diversity.uchicago.edu/. We must also do what we can to assure that equal opportunities for achievement are available to all. Part of this equation is having the will to speak up when we see imbalances and inequities suffered by individuals of color segregated in 'minority communities,' which are prone to a long history of poor health care and lack of access to supportive services and healthful food, making them far more vulnerable to becoming infected with Coronavirus. It is especially important that, as lawyers, we also use our knowledge, our words, and our penchant for persuasion to convince others to join the movement and commit to action toward a more fair and just treatment of those groups in our communities who have no voice, few advocates, and waning hope.

Meanwhile, let us not forget the Martin Luther King, Jr. Holiday to be observed on Monday, January 17, 2022. We hope you will join in the tributes likely taking place all over Chicago and other Cook County towns and villages, especially in our public schools and in other public arenas, as Chicago is a city that particularly and warmly embraced King and to which he had many close ties. For example, between 1956 and 1966, Dr. King gave three speeches at the University of Chicago's well-known Rockefeller Chapel, all of which became famous for his inspiring messages and brought him to the attention of the public.

Resources for learning more: A few years ago the University of Chicago offered an interesting challenge to students, faculty, and the general public, to 'voice' their dreams on an MLK Dream Wall. Now, however, one can find coverage of the University's 2021 tribute to MLK, Jr. at: https://mlk.uchicago.edu/, as well as an inspiring review of a book that challenges us to consider how to carry on the work that Dr. King was unable to complete. That review can be found at: https://www.journals.uchicago.edu/doi/10.1086/701090. Much historic detail is available on the website for the National Park Service's Martin Luther King, Jr. Memorial located in Washington, D.C. That site is accessible at: https://www.nps.gov/mlkm. Teachers will also find many resources for observing the holiday at www.MLKDay.gov. For the younger and older, participating in a 'Day of Service' as part of the MLK, Jr. holiday is a way to help preserve Dr. King's legacy and keep the torch of equality burning.

One additional reference is The Martin Luther King, Jr. Center for Nonviolent Social Change ("King Center") in Atlanta, Georgia, which Mrs. Coretta Scott King established in tribute to her husband, not as a 'dead monument' but as a living testimonial that would engage and empower visitors. The King Center includes a library and an archive, and it has recently undertaken a project for an "innovative digital strategy and conference series." It also offers a chance to enter your dream and choose up to five 'themes' to tag it. If your dream is approved after review, it will be posted on the Center's website. Check it all out at http://thekingcenter.org.

*Constance Motley, widely known as an early civil rights activist, was born in 1921, the ninth of twelve children, to parents who emigrated from the West Indies. At the age of 15, having been inspired by reading about civil rights heroes, Motley decided she wanted to be a lawyer and, ultimately, became the second black woman to graduate from Columbia Law School, where she met Thurgood Marshall, chief counsel for the NAACP Legal Defense Fund where Motley worked while a law student. She later clerked for Supreme Court Justice Marshall, became chief counsel of the NAACP Legal Defense Fund, and wrote the draft complaint for *Brown v. Board of Education*. As a practicing attorney, Motley argued before the Supreme Court, winning nine out of her ten cases. As lead counsel, Motley was also successful in defending protestors arrested in the early sixties for taking part in the Freedom Rides, and for helping James Meredith gain admission to the University of Mississippi in 1962. Ultimately turning to the political arena, Motley became the first black woman to serve in the New York State Senate. In another first for an African American woman, Motley became a federal judge when President Lyndon Johnson appointed her to the Manhattan Federal District Court in 1966.

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

The Student Prince

by Judge James A. Shapiro

I first visited Heidelberg in 1974, when my father took me there as part of a Central European "grand tour." I was immediately smitten with the gothic architecture and what I misapprehended at the time as being the oldest university in Europe, the Ruprecht Karl University of Heidelberg. It was merely the oldest in Germany.

We stayed at the gothic Zum Ritter Hotel, literally, at "the knight's place" and it was magnificent. We dined on fine Rhein wine and *Bachforelle*, brook trout sautéed in butter and a rich cream sauce. My father said it was the best meal he had ever had.

Heidelberg inspired me so much on that trip with my dad that I decided to study German there on my own two years later. The only problem was that I was still in high school, and Heidelberg was a university. But I applied anyway to their *Ferienkurs für Ausländer*, their vacation course for foreigners. Somewhat surprisingly, they accepted me despite my age. So two years after my "grand tour," my own personal odyssey began.

It was a brutally long bus ride from the Luxembourg Airport to Mannheim, then-West Germany, especially after the overnight Icelandic Airlines flight, but thankfully it was a mercifully short train ride from Mannheim to Heidelberg. I arrived at the *Hauptbahnhof*, the main train station in Heidelberg, and took the *Strassenbahn* (streetcar) down *Hauptstrasse* (Main Street) toward the Ruprecht Karl University, where I had hoped to find my accommodations.

When I finally got to the University, it was late in the day, and the gates were locked. Ironic, since the University's motto is *semper apertus* (always open). I started asking around in my high school German whether anyone knew about my *Ferienkurs für Ausländer.* The Germans were typically congenial, *gemütlich*, if you will, but no one knew about my summer program. It was getting dark, and I started to panic. That's when I made my way to the only hotel with which I was familiar, the closest thing I had to a home away from home, the Zum Ritter, where I had stayed with my father two years earlier. Maybe I could catch my bearings after a good night's sleep and start afresh in the morning.

Problem was, it was one of the most expensive hotels in Heidelberg at 150 Deutsche Marks a night, the equivalent of about $70, a pretty penny for a high school student in our bicentennial summer of '76. A night spent there consumed about ten per cent of my total budget for the summer. These were the days before credit cards were widely used, and I didn't have one. They were the days when traveler's checks were still the coin of the traveler's realm, and I had to travel all the way to the Chase Bank at a nearby army base to cash them.

That first night at the Zum Ritter was one of the most frightening of my young, 17-year-old life. I had traveled to Europe twice before, but both times with family, once even at the very same hotel. Now I found myself overseas on my own for the first time, completely jet lagged, having wandered around town with a heavy suitcase all day with no one who knew anything whatsoever about my summer program.

Yes, I sweated. Yes, I cried. And yes, I actually thought about chickening-out and returning home the very next day. But I somehow managed to get some kind of sleep in the angled, attic-like room the hotel clerk assigned me, perhaps the cheapest she had available. And in the morning I begged the clerk to help me find a more affordable room for the next few nights until I could find the more permanent accommodations I had booked with my summer sublet. If I had made this request in my native New York, the clerk would have laughed and told me where I could stick it. But the Germans were more "*höflich*" (polite) than most New Yorkers, and she immediately started calling around to some of her less expensive colleagues in the Heidelberg hospitality industry. That's when she sent me trudging across the Neckar River to one of the most humiliating experiences of my young life.

I rode the Strassenbahn back down Hauptstrasse to Bismarckplatz, Heidelberg's main plaza, and then across the Neckar to the newer part of town. I found the address the lady at the Ritter had given me and dragged my heavy suitcase up several flights of stairs to what appeared to be a woman's apartment. Though I was sweating profusely and panting from lugging my suitcase up those stairs, the woman sat me down in an empty room and proceeded to interview me, apparently to see if I was an appropriate boarder.

"What do you feel in *zis* room?" she asked me. I was positively languid after lugging that suitcase up four flights of stairs to meet her. I told her, "I feel a room."

"Yes, but what do you *feel* in *zis* room?"

I simply couldn't answer her. I surmised she must have been wanting me to feel the "vibes" of all the brilliant Marxist literature she had birthed in her room, but I couldn't lie. Jet lag, thirst, and exhaustion from wandering around Heidelberg for two days in the early July heat had made me numb to the spirituality she sought in me.

"You are too met-realistic," the Marxist hausfrau told me.

"I'm not meta-*real*istic!" I protested, not understanding at the time what she was accusing me of in her German-accented English. "I'm very realistic!" It was my own father who, upon my arrival home, helped me realize she was calling me "materialistic" in her thick German accent. Perhaps the plaid canvass suitcase was a dead giveaway. Maybe if I had had a backpack like all the hyper-cool Heidelberg hippies she would have relented and rented me the room. I felt mortified. Here I was carrying a heavy suitcase clear across town trying to find a cheap place to stay for a few nights, and this socialist woman refused to rent me the room. My very first experience with cancel culture.

(continued on next page)

The Student Prince *(cont'd)*

Although I was too bourgeois for the Marxist hausfrau, she took enough pity on me to call a presumably less leftist friend of hers back downtown on the other side of the river. So I lugged my bourgeois suitcase back across the river. I realized I was getting tired from its sheer weight. After all, I had brought some heavy pots and pans to cook for myself and save some money. I started searching for a luggage store to find some wheels for it. Now mind you, this is the mid-70s, before "wheelies," and even those old suitcases on leashes, the kind that were barking at each other in the movie "Airplane." But I couldn't come up with the German word for what I was looking for. I knew that a suitcase was called a *Koffer*, but I had no idea what the Germans would call a contraption on which suitcases could roll. Eventually, I managed to describe what I was looking for *auf Deutsch*—in German—to the clerk at a luggage store. Finally, the clerk had an epiphany and realized it was a *Kofferroller* I was looking for, literally "a suitcase roller." Leave it to the Germans to have a cognate to the English word right under my nose. They apparently had a word for it, but they didn't have the *Kofferroller* itself in stock. I would be stuck lugging around my heavy bourgeois suitcase by hand for the rest of the summer. I suppose that's why we call it "luggage."

Suitcase in tow, I arrived at the address the Marxist hausfrau had given me. It was a "garden" unit downstairs, and I had to share it with a college professor from the University of Buffalo. But the price was right, the equivalent of about $10/night, which I could handle for a few days.

Now that the financial pressure was off, I could set about trying to find my *Ferienkurs für Ausländer* with a bit less panic, and maybe even enjoy Heidelberg a bit before I started my classes in German language and literature. It was not only Fourth of July weekend, but the bicentennial Fourth of July, and there happened to be a big American army base nearby. GIs flooded into Heidelberg for the 4th, and I quaffed a huge stein of strong German beer to celebrate with them on *Hauptstrasse*. I have never done hard drugs in my life, but stumbling down *Hauptstrasse*, Heidelberg's Main Street, after chugging that strong beer was the closest I ever imagined to tripping on acid. I was so "*betrunken,*" (drunk), that I felt as though I was floating down the street with the troops.

I should have known better. My dad had let me drink a stein of that strong German beer at the Hofbräuhaus in Munich two years earlier at the tender age of 15. I got so drunk he literally had to carry me out of the place. I was singing some kind of German drinking song I had learned in my German class that year. "*Ein Prosse, ein Prosse, dein Gemütlichkeit . . .*" You may know the rest from Oktoberfest at Lincoln Square.

But two years later I was on my own, with no one to carry me down Hauptstrasse. I had to make it on my own. I had to make it through the entire summer on my own.

So what was a nice Jewish boy from New York doing in West Germany anyway during the mid-'70s? Was it some kind of weird Stockholm syndrome? Through studying German in high school had I come to identify with the people who had systematically enslaved and exterminated my people? Had my German teacher back home, Dr. Rosenstein, brainwashed me? Why had I even convinced my father two years earlier to take me there, despite his rather typical Jewish reluctance to visit the land that started World War II and the Holocaust?

As best I can recall, it was something of a rather naive, adolescent curiosity as to why so many Jews stayed so long after they surely must have seen the writing on the wall throughout the 1930s. Did they not see that writing before *Kristallnacht*, the Night of Broken Glass pogrom in 1938 that turned out to be the beginning of the end for European Jews? Did they not see it with the passage of the racial purity laws even earlier than that? What was it about Germany that made them stay for what seemed like so long? I know it was their home, but couldn't they see they weren't wanted there?

The long bus ride from the Luxembourg airport to Mannheim began to answer my questions. The sublime countryside captivated me. It was almost perfectly manicured, with squared and rectangular plots of forest and spring greens, pristine meadows, and amber fields of hops used to brew their vaunted beer. The cities and towns featured spectacular gothic architecture along with quaint bridges across picturesque rivers.

"That's why they stayed," I naively thought. They were attached to this beautiful country. It would be years before I learned about incidents like the "St. Louis", and that many Jews stayed because no one else would take them in.

After a few days in the "garden unit" with the Buffalo professor, the folks from the summer program finally decided to set up something of an orientation center at the train station. I tracked them down and lo and behold they had the keys to my summer sublet across the river. Back across the river I traipsed yet again lugging my heavy suitcase, without the *Kofferroller*. I easily found the address for my summer sublet, and yet again lugged the suitcase up several flights of stairs to get to my flat. It was a small, one-room unit with a twin bed and a sink for washing up (and washing dishes, it would turn out). My landlord (a student himself) left me a lovely welcome note touting the previously opened, half-eaten bag of some kind of German snack food he left me, which I promptly eschewed and tossed in the garbage.

There were no shower facilities anywhere in or near my little flat, so all bathing that summer would take place at the Heidelberg public swimming pool, the *Schwimmbad*, where mercifully there were showers. The first time I hopped in I have to admit I briefly thought about the Xyklon B gas that came out of similar shower heads elsewhere in Germany for my Jewish forbearers little more than three decades earlier. But I quickly put those macabre thoughts out of my mind for the rest of the summer. At least I could bathe periodically, even if I did have to take public transit clear across town to do it.

(continued on page 36)

The Student Prince *(cont'd from page 35)*

Classes started a couple days later. They originally placed me in *Mittelstufe II*, the more advanced of the two intermediate German language classes. The only thing I recall learning in *Mittelstufe II* was the southern German and Austrian greeting "*Grüß Gott,*" literally "greet God" or "God's greetings." But my Mittelstufe II professor made clear that if you greeted someone like that in a northern city like Hamburg, they would think you're a priest or something. Unfortunately, during our opening conversation I had some obvious difficulty describing in German my own little pre-term odyssey to the professor and the class. He promptly dropped me down to *Mittelstufe I*, which turned out to be more my speed. In fact, nothing should have been my speed, since I was a mere high school student who had talked his way into a college-level program. I really didn't belong in Heidelberg that summer.

Belong or not, my *Mittelstufe I* professor turned out to be a kindly old confirmed bachelor who later that summer invited me over to his home to watch the '76 Olympic Games in Montreal. They featured then Bruce—now Caitlyn—Jenner becoming the greatest athlete in the world as the gold medalist in the decathlon. I don't remember learning a lick of additional German from him, but my German did improve that summer simply by speaking it as often as possible.

"As often as possible" was something of a challenge, because English had truly become the "lingua franca" of the world by that time—if you'll pardon the irony. It was difficult to get any of the *Ausländer,* the foreigners, not to break into only slightly accented English when my (or their) German failed them.

About the only *Ausländer* I could reliably count on to converse exclusively in German were the Chinese students, who were still under the thumb of Chairman Mao at the time. Consequently, they were extremely formal, deeply repressed, and spoke no English. They always wore white shirts, dark ties, and dark slacks every day to class and between classes. Jeans, the official uniform of the "Me Generation" in the '70s, were clearly verboten in China. Too western and bourgeois for them and Mao. But with Nixon having gone to China merely four years earlier and the country having recently opened up to some extent, these Chinese German students positively riveted me. I tried to engage them in meaningful German conversation, but I could never get anything more than mere pleasantries and polite smiles and nods out of them.

In addition to my *Mittelstufe I* German language class, I also had a German literature class called "Goethe, Schiller, und Lessing." Unfortunately, the class was way beyond my meager high school German comprehension abilities, and I missed out on an opportunity to learn about Germany's three greatest literary figures. The only thing I recall from the class is the professor's question, "*Bin ich verständlich*?" (Am I understandable?), and the cute girl next to me nodding "yes," which left me feeling like a buffoon for not understanding a word of it. I was out of my league—perhaps literally as a high school student trying to compete in college level classes.

Eventually, my life in Heidelberg began to settle into a routine. I would stop every morning for coffee on *Bismarckplatz* on the way into classes from my little one room flat across the Neckar. I would stand in line with the locals and listen to the coffee lady ask each customer in her high pitched, sing-songy voice, "*Milch und Zucker*?" Her repetitiveness annoyed me, so I would always try to interrupt her before she could get it out by saying, "*Ja, bitte*"—"yes, please."

German cognates like *Milch* und *Zucker* often helped me navigate the language barrier. But sometimes those cognates could get a little tricky. I ran into this problem at the Coke machine in the University of Heidelberg cafeteria. The lettering on the machine read, "*Köstlich und Erfrischung*." The "*erfrischung*" was an easy enough cognate to figure out, especially from the context of a Coke machine. It meant "refreshing." It was the "*köstlich*" I was having a hard time with. It sounded like "costly," but why would the Coca-Cola Company advertise its product being "costly and refreshing," even in then West Germany?

It would take me years to learn that "*köstlich*" is simply not a cognate. It bore no etymological relationship to its English meaning, which is "delicious." But "Delicious and Refreshing" made a lot more sense than "Costly and Refreshing" on the side of a Coke machine.

During the mid-'70s, left-wing terror groups like the Symbionese Liberation Army, the group that kidnapped and then brainwashed Patty Hearst, were prevalent throughout the world. The German analogue to the SLA was the Baader Meinhof Gang, also known as the Red Army Faction. Posters warning of the Baader Meinhof Gang were ubiquitous throughout Heidelberg in 1976. As a 17-year-old naive to the ways of the world, this terrorist group succeeded in terrorizing me. I thought, "What a prize an innocent young Jewish American boy would be to a group like this." So when I was alone I would carry myself as though the dreaded Baader Meinhof Gang were stalking and otherwise pursuing me. I would sneak around by placing my back against a building's wall, peering around the corner to make sure the coast was clear. Apparently, it always was, because I'm here, and I was never kidnapped that summer.

On *Hauptstrasse*, Main Street, I made friends with a caricature artist from what was then Ceylon and what is now Sri Lanka. I couldn't afford to buy a caricature of myself, so he drew one for me for free. We would speak at length about what life was like in Ceylon and America. He still had family in Ceylon and wished to bring them to the West. That was the first time I can recall wishing I had money so I could give some of it to help nice people like my Ceylonese friend.

(continued on next page)

The Student Prince *(cont'd)*

My very favorite feature of Heidelberg was its famous Philosopher's Walk. The view of Heidelberg's "Old City" from the heights of the Philosopher's Walk was truly breathtaking. From there one can look down on the *Alte Brücke*, the old bridge over the Neckar, the *Heiliggeistkirche*, the Church of the Holy Ghost, and the ruins of the famous Schloss, or castle.

Rumor had it that one of Martin Heidegger's former students used to roam the Philosopher's Walk from time to time, and it was not hard to imagine philosophic inspiration springing from every step along the way. It was this famous walk that inspired me to major in Philosophy in college.

By this point in the summer I was finally developing a tolerance for the strong German beer, so on the way back from the Philosophers Walk I would stop at the famed *Zum Roten Ochsen*, or "Red Ox," for a stein or two. The Red Ox was featured in "The Student Prince," the famous operetta about a young royal studying and romancing in Heidelberg. The beer in Germany was actually cheaper than the soft drinks, so if you were thirsty after a long hike in the woods and the Philosopher's Walk, that's what you drank.

And I found the more I drank, the better my German became. I don't think I ever became fully "*fließend*" (fluent) by the end of that summer, but I at least became conversant. I could carry on a creditable conversation auf Deutsch with fellow students, and even with strangers I met.

By mid-August, the end of my *Ferienkurs für Ausländerhad* finally arrived. I received a certificate stating I had passed the course with a grade of *Befriedigend*, the German equivalent of a "Gentleman's C," about the only grade less than an A I had ever received in high school. No matter. I had not taken the course for either high school or college credit, so it would not count for anything other than my pride, which was admittedly a bit wounded. It did let me know how much more German I had to learn and did somewhat foreshadow the B- I would get in the only German class I took in college.

More importantly than my German skills, however, I realized I had survived on my own in a foreign country despite the challenges of a too-early arrival. Even my own father later told me he knew I could take care of myself in life based on my survival alone that summer. There would be many more coming of age challenges ahead for me in college, but at least I had the confidence of knowing I could survive on my own in a foreign environment. I had become my very own Student Prince.

The Honorable James A. Shapiro is a Cook County Circuit Court Judge assigned to the Domestic Relations division and is a past President of the Decalogue Society.

2021 Vanguard Awards

Wednesday, April 28, 12:00pm

Michael J. Chmiel
Advocates Society

Vivian R. Khalaf
Arab American Bar Association of Illinois

John K. Kim
Asian American Bar Association

Hon. LaShonda A. Hunt
Black Women Lawyers' Association of Greater Chicago, Inc.

Hon. Tommy Brewer
Chicago Bar Association

Virginia Yang
Chinese American Bar Association of Greater Chicago

Toi Hutchinson
Cook County Bar Association

Hon. Megan Goldish
Decalogue Society of Lawyers

Mary Carmen Madrid-Crost *(posthumously)*
Filipino American Lawyers Association

Juan Morado, Jr.
Hispanic Lawyers Association of Illinois

Hon. Sophia Hall
LAGBAC, Chicago's LGBTQ+ Bar Association

Hon. Gloria Chévere
Puerto Rican Bar Association

Tejas Shah
South Asian Bar Association of Chicago

Maggie Hickey
Women's Bar Association

Watch your email for registration information

Chai-Lites

by Sharon L. Eiseman

The 'Chai-Lites' routinely, for each *Tablets* Issue, features news about our busy members coming, going, celebrating, being recognized, speaking, writing, making new career moves, standing up for the oppressed, fighting anti-Semitism on college campuses and almost everywhere else, volunteering, acquiring more new titles and awards than seems possible, giving birth to future lawyers and Decalogue members, and running and running…for office, for the bench, to court, and in Race Judicata to raise funds for CVLS! **This past challenging year, however, everything is upside down due to the coronavirus pandemic.**

But being upside down does not mean we have forsaken all of the important goals identified above, even if it does mean our lawyers are working remotely. Our members and colleagues who serve in the Judiciary are staying 'virtuous' through their amazing efforts to create new systems for enabling litigants and their counsel to 'appear' in court—hopefully fully and appropriately dressed. These new ways of appearing include email submissions of agreed orders and appearing virtually for hearings that can be conducted in a fair manner for all participants and allow the judges presiding to rule effectively. Attorneys are meeting virtually with their clients, engaging in public school projects with students eager to learn about the law, penning interesting articles for us to read when we are not staring at our computer screens, and volunteering for 'judging' high school student mock trials. To the judges and attorneys, Decalogue extends a message of gratitude for your endurance and your devotion to keeping the 'wheels of justice' turning in the right direction in spite of the new challenges we all must face and continue to face and will overcome. **Don't despair… hope is around the corner even if that corner isn't on your block!**

And now comes the 'drum roll' for the accomplishments of the following members and board members and judges and spouses and other family members:

Let us begin with our first-ever non-Jewish, Christian and Black Decalogue President, **Patrick Dankwa John**, who has been receiving accolades from near and far on his leadership position, to which he ascended in June of 2020. Patrick has made tremendous progress with diverse bar groups in the Chicago area on initiating projects focusing on diversity and inclusion in the profession. Patrick was the subject of several articles, one being his interview with the Chicago Daily Law Bulletin, and another, a feature about his background and mission as the DSL President published in the *Austin Weekly News*. He is also a prolific author, including of a screenplay, "The Black Jewish Jesus," which was revealed at the February 24 CBA Dickerson Awards Luncheon at which Patrick was one of 5 recipients to receive this special Award named for a pioneering Black Chicago civil rights lawyer. One of his recent pieces, titled 'Black Christian anti-Semitism: a sad irony,' appeared in *The Times Of Israel*. In it, Patrick takes on the heady subject of unjust criticism leveled against Israel and the Jewish people by supporters of the Movement for Black Lives Matter, who themselves, and like the Jews, are objects of discrimination and hate crimes. He calls upon all of us to be aware of our similar histories and common goal to fight against such hatred, so prevalent among different religious and ethnic groups and based solely on immutable, seemingly random differences. See: https://blogs.timesofisrael.com/black-christian-anti-semitism-a-sad-irony/

Robert Matanky, Decalogue Past President and current President of the Decalogue Foundation, was honored by the University of Illinois at Chicago College of Engineering, with its Outstanding Achievement Award. For more, please see: https://engineeringalumni.uic.edu/profiles/matanky-robert/. Our question to Bobby: Where do you find room to display this award?

How about this as a major achievement and a great aid for real estate practitioners: In November 2020, as part of its Illinois practice series, Thomson/Reuters published the 3-volume treatise on Illinois real estate, authored by DSL member, **Solomon Gutstein**, and his son, **Joshua Gutstein**. This is the second updated version of the 4th edition of the treatise. Thank you, Sol and Josh!

No surprise here, but we nevertheless extend to him our congratulations with a message to keep up the good work. DSL Past President, **Mitchell Goldberg**, was named a Super Lawyer in Securities Litigation by Thomson Reuters. https://profiles.superlawyers.com/illinois/chicago/lawyer/mitchell-b-goldberg/123f111b-6dcf-46c9-ae9a-660d91599363.html?fbclid=IwAR3vL3vC2l9YIWfVEjsPZuD39fnxu1u2NyxqRq8vqsp7L5OB1DahLs1LUJ8.

Always reaching higher, **Gail Schnitzer Eisenberg** is excited to share she has joined forces with her husband, David Eisenberg, and his partners to establish an employment and civil rights practice group at Loftus and Eisenberg. She will continue to represent women, minorities, and the differently abled with empathy, pragmatism, and legal sophistication just as she has approached all she has done in the legal profession. Gail is happy to chat with colleagues in law regarding discrimination, harassment, retaliation, and related workplace violations. Gail@LoftusandEisenberg.com

We need almost a whole section to note the awards and recognitions **Michele Katz** has received in 2021: Michele was one of a number of 'elite professionals' in the IP practice area who was recognized with other outstanding IP practitioners as a 'Global Leader.' These lawyers both draw from and contribute to this specialty practice and related service providers and also confer with specialists from the major IP markets in the Americas, Europe and Asia. Michele and her fellow 'elites' were invited to reflect on their professional journeys and offer insight and guidance to other patent professionals across the globe, and to those considering entering the field, as to career development, practice management, and market trends. Additionally, Corporate Intl Global Awards recently informed Michele she had been chosen as the winner of the 2021 Corporate Intl Magazine Global Award, for which the group received the most nominations this year than in the ten years during which the Global Award program has been in operation.

Chai-Lites *(cont'd)*

Michele was also named 'Trademark Litigation Expert of the Year in Illinois–2021.' Finally, but not least important, Michele was included in the annual list of Super Lawyers.

Past President **Helen Bloch** has been recognized for the third year in a row by Super Lawyers Magazine as a Super Lawyer for 2021 in the field of employment law. She certainly has 'staying power.' We also appreciate her special efforts in presenting exceptional CLEs on employment issues for Decalogue as well as collaborating with **Carrie Seleman**, Chair of the recently established Women's Council, on planning several other Decalogue hosted CLE programs.

Congratulations to **Kenneth Anspach**! He is now a published author! His article, co-authored with Carlie Leoni, entitled "Killing Factory Farm Funding to Resuscitate the World Food Economy," appeared in the Winter 2021 edition of the *ABA Journal on Natural Resources & Environment*. This should be an interesting read even for those not familiar with the practice area affected because, given the article's title, it should address and analyze the impact of the Pandemic and other economic and industry forces on food consumption.

Barbara Boiko's daughter, Maddie Remish, was sworn in as a new member of the Illinois Bar following her passage of the Bar Exam this past October. In these challenging and unusual times, that is a special feat of perseverance. Maddie will be working on behalf of local and international unions at Gregorio and Marco. Maddie is now the second generation of women lawyers in the family.

Samuel Levine has been elected Treasurer of the Society of Illinois Construction Attorneys. Always active in CLE endeavors, Sam recently served on a panel of construction lawyers offering guidance to members of the American College of Real Estate Lawyers on the "Advantages and Disadvantages of Construction Litigation," and he moderated a seminar for the ISBA Commercial Banking Collections and Bankruptcy Section on "Chancery and Equitable Remedies."

Past President Hon. **Michael Strom** is participating in CBA's Lawyers in the Classroom program with an 8th grade class at Lovett Elementary, a CPS school on the West Side. The high-quality and pertinent program materials engage the students in discussions on legal rights/issues. It has been a modest but impactful commitment of 3 sessions via the remote platform, *Google Meet*. The students and their teachers became more interested as the first class proceeded—no small feat since the sessions took place on Fridays at 2:45 p.m. when their attention spans were likely at the lowest in the day! Thanks, Michael, for being involved in this important project aimed at connecting youths to the world of law.

Our other 'Michael' to be highlighted, **Michael Rothmann**, also a DSL Board member and Past President, but of the Northwest Suburban Bar Association, routinely volunteers his skills and insights for projects aimed at educating public school youth about the justice system in Illinois. As this Chai-Lites was being prepared, Michael was preparing for the February 4, 2021 High School Mock Trial Invitational, which the NWSBA hosted via a remote participation platform. It is exciting to learn that more than 60 attorneys and judges volunteered their time and services to make this event a success for all.

Diane Redleaf had an article published on Reason.com, which is entitled "During a Routine Child Services Check, Cops Hog-tied a Mom and Carried Her Out 'Like a Pig Upside Down.'" The piece, which should be a thought – and emotion – provoking read, can be accessed at: https://reason.com/2020/09/24/aurora-police-hogtied-child-services-abuse/.

Baby news, career news, and news about our talented, theatrically inclined Board member:

Board Member **David Lipschutz** was promoted in the fall to Managing Attorney at his firm, Trunkett & Trunkett, P.C. Also, in his free time, David has been busy writing. His play, *PerSEVERance*, was recently produced by and performed at Left Edge Theatre in Santa Rosa, California.

Congratulations to Decalogue Board of Managers Treasurer **Michelle Milstein** on her new career move. She has joined the Office of the Illinois Attorney General as an Assistant Attorney General in the Office's Charitable Trust Bureau. We TRUST there will be sufficient work there to keep her both occupied and fulfilled.

Decalogue Board member, **Nicole DeBella**, and husband, Joey, welcomed Santino George in December, joining delighted big brother, Salvatore Chaz.

In November, **Lindsey Seeskin**, and husband, Zach, welcomed Naomi Tovah. Big brother Ari has been filled with smiles as he introduces Naomi to his world.

And that's all there is…until the next Chai-Lites. If you would like us to feature you and your achievements, please let us know what you are doing. Keep in mind it's ok to 'kvell' for yourself, because when you do, we will also 'kvell' for you!

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

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The Decalogue Society of Lawyers 87th Annual Installation and 2021 Judicial Reception

SAVE THE DATE

Tuesday, June 29, 2021
Virtual Event

5:30pm Networking
6:00pm Installation of Board and Officers
6:15pm Judicial Merit Award Presentation
6:30pm Networking

Watch your email for more information
Registration opens in May

Presentation of the
Hon. Charles E. Freeman Judicial Merit Award
to **Justice P. Scott Neville, Jr.**