



DECALOGUE TABLETS







The Decalogue Society of Lawyers

TABLETS
Spring 2015

Note from the Editors:

Dear Readers: This issue is the first of two publications of the Tablets for 2015, the first year of our transition from quarterly publication to two issues annually. With this experiment, we are expanding our length in order to feature pieces of greater depth and substance as well as utility to practitioners, although we will maintain our 'newsy' feel with a continuing Chai-Lites section and updates on Law Student Chapters and Young Lawyer activities. We also have added some special sections: Judges' Corner; Case Law Update, Best Practices and Tech-Tips which may rotate from issue to issue.

This particular issue in your hands is filled with an "abundance of riches" from our gracious contributors. One might almost feel sad about those riches—and we as editors have considered a statement of disclaimer about their content—because several of the articles presented here are about killings and abuses, and incidents of racial, ethnic and religious fanaticism sometimes masquerading as free speech. Misplaced intolerances of different groups have given rise to an excess of horrifically violent and disturbing events in our country and abroad in the past several months that have caused us to feel confused, angry, frightened, helpless and impatient. And yet, out of our deep concern about these events and their consequences, our compassion for those who have suffered from meaningless and deadly acts of violence, and a fervent desire to share our observations with others in seeking some measure of consolation, we must express our views and our faith in the rule of law in the hope of finding a way out of the dark, toward safety and community.

Fortunately, in our democratic land, we are able to do just that without fear of repression or reprisal. Whether you agree or not with the views expressed in this issue's contents or possibly even wish we were more 'upbeat', you and all the rest of us have the luxury to think and say so and to offer a different viewpoint. If you'd like to share what you think about any of this issue's content, please feel free to send a comment to the Decalogue Office at 134 N. LaSalle St., Suite 1430, Chicago 60602, attention: Editors, or to decaloguesociety@gmail.com, and let us know whether we can publish your comment. We also welcome scholarly works and submissions for any of our special sections. We anticipate publishing our second 2015 issue in late summer or early Fall—but it might be time right now to consider what perspectives or practice advice or new case law update you can offer to our readers.

(Cover photos from Decalogue's Judicial Reception November 13. Photo credit: Michelle Kafko)

Contents

President's Column

by Joel L. Chupack

Is it possible that half of our year has already passed? It's full speed ahead into the Tu B'Shvat, Purim and Passover trifecta. Before you know it, we will be back at the Union League Club on June 29th, when I will be passing the gavel to Deidre Baumann.

Much has happened since the last edition of the Tablets. While it is hard to pick one highlight, I must start with our student chapters' participation in The Brandeis Center's Second Annual Student Leadership Conference in Washington, D.C. on December 29-30. Ten of our future leaders representing every Chicago area law school plus the law schools at the University of Illinois and Southern Illinois University spent a weekend at this conference which focused on Jewish civil rights issues. We were able to offer this experience through the generosity of The Louis D. Brandeis Center, but the plan could have not been accomplished without the diligent efforts of Michael Strom and our student board member, Shira Oyserman, Northwestern class of 2015. Jewish students are on the front lines and receiving end of harassment and threats on college campuses but returned from the conference armed with the knowledge and appropriate resources to enable students, through their respective student chapters, to deal with these unfortunate challenges.

On January 14th, we partnered with the Black Women's Lawyers' Association for an ethics lecture using the film "The Rosa Parks Story" as a backdrop. Featured speaker Judge Diane Shelley provided us with a perspective on what was going on in the Northern states during the Civil Rights Era. We extend our special thanks to Prof. Scott-Rudnick and the John Marshall Law School for arranging and sponsoring the film discussion and locale.

More than 100 people were in attendance at the Hon. Gerald D. Bender Memorial Lecture at Lincolnwood Congregation A.G. Beth Israel on December 7th to learn about "How to Combat Anti-Semitism/Anti-Israel from a Legal Perspective". The lecture included the showing of an eye-opening, jaw-dropping film clip of college students testifying as to the harassment they face on campus. Most of us are far removed from the college experience. We did not have to face that animosity. Kudos to Rabbi James M. Gordon, J.D. (and former Decalogue president) for putting together this enlightening program.

The spirit was so effusive at the annual Decalogue Chanukah Party (12/17) that even the typically sorrowful blues by Howlin' Wasserstorm was gaily sung. He and Hound Dog Horwitz made the front page of the Chicago Daily Law Bulletin (see photo on page 23). We had our first Wine Pull to raise money for the Decalogue Foundation. Fine kosher wines were donated by Binny's of Highland Park and other wines were donated by members. All in all, Decalogue raised over $300 in charitable contributions at the event.

By the time this issue is published, Decalogue will have sponsored or co-sponsored two sold-out events: the 2nd Annual Shabbat Dinner at Milt's (1/30) and JNF Lawyers for Israel Lunch and Learn on February 2, presenting "When the First Amendment Silences the People".

Decalogue has scheduled special events for February and in March – one educational, one social. On February 25th at DePaul University College of Law we will present the second of three legal lectures in our Anti-Semitism Series. The program topic, "Boycott, Divestment, Sanctions: Is this Movement Anti-Semitic?" will be presented in the form of a panel discussion.

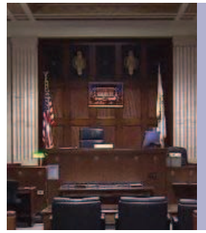
On March 19th, Decalogue will be holding its first ever reception honoring Jewish Presiding Judges in the scenic environs of Jenner & Block. The honorees are Judge Grace Dickler (Domestic Relations), Judge Moshe Jacobius (Chancery) and Judge Shelley Sutker-Dermer (2nd Municipal District). Presiding judges are the unsung heroes of the Cook County Court system, having primary responsibility for the administration of cases within their divisions and the concomitant trouble-shooting. This work takes place outside the view of the public and lawyers. Help us recognize them and show our appreciation by toasting them at the Reception.

That's the past, present and future. Now, for the good, bad and the ugly. Often times when an issue affects Jews in the Chicagoland area, Decalogue is approached and asked to take action. Over just the past few months there have been several such instances. In December, approximately 30 garages in Rogers Park were vandalized with anti-Semitic graffiti. We learned that the Chicago Police Department was not classifying the incident as a "hate crime" under Illinois law. Many Decalogue members live in that area. I called the 24th District Police Station, identified myself as President of Decalogue and asked whether this was true. The officer looked into it and said that it has now been re-classified as a hate crime. I cannot take credit for the change, since I am sure that many other organizations complained as well, but we will not stand idly by. The perpetrators have not yet been apprehended but we are monitoring the matter, and should the occasion arise, we will advocate for civil sanctions against them.

One of our members noticed graffiti at a Chicago bus stop on Addison – a Mogen David with a swastika in the center. Despite his complaints, nothing was getting done. I spoke with the Chicago Department of Transportation and found out that this graffiti appeared at other bus stops as well. The CDOT is alerting the Aldermen of the wards where the graffiti is located to clean it up and to monitor their wards for this type of hate-based graffiti.

Just at press-time we found out that Students for Justice in Palestine was planning a fundraiser for the legal defense of Rasmea Odeh at DePaul University. Odeh was convicted in Israel for the murder of two Hebrew University students. She was a member of the Popular Front for the Liberation of Palestine, a group classified by the U.S. as a Foreign Terrorist Organization. She was imprisoned in Israel, then later released as part of a prisoner exchange.

(Continued on page 6)



From the Judge's Side of the Bench

What Judges Want

By Justice Jesse G. Reyes

This spring the corridors of the courthouses throughout the state will be teeming with newly inducted members of the legal profession. Having satisfactorily tackled the questions bar examiners posed to them, these recently admitted lawyers will have one more question they will have to grapple with as each approaches the bench. It is a question all lawyers, both experienced and unexperienced, have asked themselves throughout the ages—What do judges want?

Professionalism

First and foremost, judges expect professionalism. Counselors before the bench should always strive to be courteous, cordial, and civil to the court and to each other. Conducting oneself in a civil manner is one of the best means by which a lawyer can establish a sound reputation within the profession. Although the very essence of litigation is adversarial in nature and a lawyer has a duty to zealously represent a client, there is no reason a professional presentation before the bench cannot accomplish both of these objectives.

While some may disagree, civility in a court of law is not a sign of weakness. Civility does not diminish zealous advocacy. Quite the contrary, it will permit the judge to concentrate and focus on the substance and not the sideshow. Staunch and aggressive advocacy in pursuing a client's interest can be effectively accomplished in a civil manner. In an address before members of the American Bar Association, Justice Anthony Kennedy stated: "civility is the mark of an accomplished and superb professional…."[1] In other words, getting the job done for the client can be achieved without resorting to unprofessional behavior. Justice Sandra Day O'Connor, in speaking on the deterioration of civility in the profession, remarked that "In my view, incivility disserves the client because it wastes time and energy—time that is billed to the client at hundreds of dollars an hour, and energy that is better spent working on the case than working over the opponent." [2]

Civility

While an advocate has a duty to the client, as an officer of the court she also has an obligation to maintain the dignity of the court and to adhere to the code of civility. Therefore, lawyers should refrain from personal attacks aimed at opposing counsel. Disparaging, denigrating, or demeaning remarks have no place in the courtroom. Insults, whether verbal or written, should be better left unstated. A truly professional lawyer should not pursue unprofessional tactics that do not further the pursuit of justiceTruly professional lawyers should avoid acrimonious exchanges between counsel, whether provoked or not. Keep in mind that judges do not want to have to play the role of fight referee. Any attempt to characterize such conduct and words as zealous advocacy only further demeans the process. Incivility only serves to impede the fundamental goal of resolving disputes in a rational, peaceful, and efficient manner. Civility, on the other hand, enhances the public's trust and strengthens the integrity of the judicial process. As Tranio said in Shakespeare's "The Taming of the Shrew," "Strive mightily, but eat and drink as friends." [3]

One way to insure the proceeding will stay on a professional path is for the lawyer to always address all arguments, objections, and requests to the court and not to opposing counsel. Whenever possible, make a record of all communications between you and opposing counsel, such as through email. A written transcript or record is an invaluable tool to help the matter stay on the professional path. Lastly, do not react to unprofessional conduct. Take the high road, not the bait. Traveling down the road of incivility will divert your focus from your case and instead draw your attention to your opponent. When agitated by your opponent's verbal assaults, keep in mind Thomas Jefferson's words, "Nothing gives one person so much advantage over another as to remain cool and unruffled under all circumstances." [4]

So, what judges want it is quite simple: professionalism and civility, two of the essential and vital components to the practice of law. A lack of adherence to these virtues will only serve to undermine our system of justice. Therefore, as legal professionals, we must commit ourselves to upholding these attributes because to do otherwise is a disservice to a profession we have all sworn to serve to the utmost of our ability.

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[1] Justice Kennedy's remarks at the ABA's 1997 Annual Meeting.

[2] *Paramount Communications, Inc. v. QVC Network Inc.*, 637 A.2d 34, 52, (Del., 1994) (quoting Justice Sandra Day O'Connor, Civil Justice System Improvements, Speech to American Bar Association at 5 (Dec. 14, 1993)).

[3] Act 1, Scene 2, p. 12.

[4] The Quotable Jefferson, by John P. Kaminski, Princeton University Press.

Justice Jesse G. Reyes sits on the Appellate Court, 1st District. As a Decalogue member, he generously offers his time to our Communications Committee.

Supreme Court Holds Officers Need Warrant To Search Cell Phones Incident To Arrest

By Adam J. Sheppard

As cell phone evidence becomes increasingly commonplace, practitioners must remain acutely aware of *Riley v. California*, 134 S. Ct. 2473 (2014) together with the consolidated case of *United States v. Wurie,* No. 13-212. The Supreme Court decided *Riley* and *Wurie* in June of 2014. In a unanimous opinion delivered by Chief Justice Roberts, the Court held that officers may not, without a warrant, search digital information on a cell phone they seize from an arrestee's person.

Officers arrested petitioner Riley on weapons charges, seized a cell phone from his person, and accessed the phone's messages, videos and photographs. That evidence connected Riley to a gang shooting that occurred weeks earlier. He was tried and convicted of that earlier shooting.

Respondent Wurie was arrested for participating in an apparent drug sale and officers seized his phone from his pocket. Officers noticed that the phone was receiving a call from the label, "my house." The officers opened the phone and traced that number to Wurie's apartment. Officers then used that information to obtain a warrant to search Wurie's apartment. The search revealed contraband.

The question for the Supreme Court was whether those searches were justified under the "search-incident-to-arrest" doctrine. Under Supreme Court precedent (*Chimel/Robinson/Gant*), officers, without a warrant, could search an arrestee's person and the area within his immediate control. Officers could also open objects they came across during those searches. Thus, an officer could look through an arrestee's purse incident to an arrest, the theory being that officers could search those items to ensure the arrestee is not armed and to prevent the destruction of evidence.

Riley held the justifications for the search-incident rule are less compelling in cell phone cases. The data in cell phones doesn't pose an immediate risk to officers. Additionally, even if a cell phone contains relevant evidence, once an officer seizes the phone, arrestees cannot readily delete the information stored on them.

Moreover, *Riley* recognized that a cell phone search is substantially more intrusive than a search of other objects we might carry on our person. "Cell phones differ in both a quantitative and a qualitative sense from other objects that might be kept on an arrestee's person."

The Court noted that, in today's era, cell phones might just as easily be called "cameras, video players, rolodexes, calendars, tape recorders, libraries, diaries, albums, televisions, maps, or newspapers." Furthermore, the Court stressed a phone's "immense storage capacity."

The Court noted that officers could still apply for a warrant to search a cell phone that was seized incident to arrest. The "exigent circumstances" exception, which allows for warrantless searches in emergency circumstances, would also still apply to cell phone searches. Thus, the Court reasoned that law enforcement interests are not unreasonably constrained by this ruling.

Riley is a prime example of Fourth Amendment jurisprudence adapting to "keep pace with the inexorable march of technological progress." See *United States v. Warshak*, 632 F.3d 266, 281 (6th Cir. 2010). With its stunning 9-0 decision in *Riley,* the Roberts Court has apparently signaled it will vigilantly protect cell phone privacy interests in the digital age. Accordingly, it is incumbent on practitioners to carefully scrutinize all cell phone searches, particularly those made without a warrant.

About the Author: Adam J. Sheppard is a partner at Sheppard Law Firm, P.C., which concentrates in defense of criminal cases. Mr. Sheppard is a Decalogue member and serves on the CBA editorial board as well as on several committees of the CBA's Young Lawyers Section, including criminal law. He also serves as a "panel" attorney in federal court pursuant to the Criminal Justice Act. Mr. Sheppard is a member of NACDL, IACDL, ISBA, and the ABA.

President's Column *(continued from page 4)*

In applying for citizenship in the U.S. in 2004, she concealed both her conviction and her PFLP association. On November 10, 2014, Odeh was convicted of immigration fraud.

We were outraged that DePaul University would allow a fundraiser for a murderer and terrorist. It is highly insensitive to its Jewish students and puts them in an even more hostile environment. On January 29th, I sent a letter to Reverend Fr. Dennis Holtschneider, the President of DePaul University, requesting that he not allow this event. Much thanks to Michael Rothmann, Chair of our Committee on Anti-Semitism, for his research and input. We will keep you advised of the status and outcome of what we hope will be a non-event.

Finally, my door is open and I welcome your suggestions to make Decalogue the bar association you want it to be. Call me (312/782-8888), e-mail me (jchupack@h-and-k.com), or meet me for coffee (my treat). Thank you.

A Few Words on Discovery of Social Media Evidence

By Deirdre Fox

Few Facebook posts are as caustic as those before the Supreme Court in *Elonis v. U.S.*, 13-983 U.S. ___ (2015), in which SCOTUS will soon rule as to when and if a Facebook rant goes from expressive speech to criminal threat. The facts before the Court follow.

After his wife left him, Elonis posted on Facebook that there were "a thousand ways to kill ya, and I'm not gonna rest until your body is a mess, soaked in blood and dying from all the little cuts." He posted this and other comments he referred to as rap-style lyrics. In an effort to overturn his conviction for posting threatening messages, Elonis argues that the focus should not have been on whether a reasonable person could have seen the posts as threats, but rather on his intent. Many posts in the instant, unmediated world of social media carry legal risks and are a significant source of powerful evidence to be discovered.

To properly obtain this kind of evidence, lawyers should exercise caution and seek social media information about parties and witnesses only through legitimate channels -- either through searches of publicly available parts of sites or through appropriate discovery channels in litigation.

Discovery requests should be directed at litigants and not at site providers. The Stored Communications Act ("Act") prohibits providers such as Facebook from divulging the content of private, electronic communications to the government or to private parties. The Act exempts providers from civil discovery subpoenas. *Crispin v. Christian Audigier, Inc.*, 717 F.Supp.2d 965, 976 (C.D. Cal. 2010). Facebook has taken the position that the Act prohibits it from disclosing user content such as messages, posts, photos, etc. in response to a civil subpoena. Caution is crucial as the Act provides (with certain exceptions) a private civil right of action, as well as criminal penalties, against anyone who has unauthorized access or who exceeds authorization. 18 U.S.C. § 2701(a); 18 U.S.C. § 2701(b); 18 U.S.C. § 2707(a). This "anyone" potentially can include the lawyer issuing a subpoena, or a lawyer or other party deceptively "friending" someone or improperly pressuring someone to obtain access to privacy-protected social media content. Lawyers also must stay within ethical bounds. See, e.g. Philadelphia Bar Association Professional Guidance Committee, Opinion 2009-2 (March 2009) (unethical for attorneys, themselves or through an agent, to use deceptive means to "friend" or cause another to "friend" a person to access social media postings that have a heightened privacy setting).

The formal discovery request can be directed at a litigant because the Act allows a provider to divulge contents if it has lawful consent of the originator or recipient of the communication, and users may voluntarily consent to disclose their social media content. A user can download Facebook content by logging into his/her account, selecting "account settings," clicking on a link entitled "download a copy of your Facebook data," and following the directions on the data download page. Of course, to proceed with a motion to compel a litigant to provide social media evidence, the lawyer will first have to demonstrate its relevance.

Asserting privacy expectations will not shield relevant information from discovery. *EEOC v. The Original Honey Baked Ham Company of Georgia Inc.*, 2013 U.S. Dist. LEXIS 26887 (D. Colo. Feb. 27, 2013) is instructive. In that case, the court sanctioned the EEOC for failing to provide social media discovery and for causing unnecessary delays in the e-discovery process. The defendant sought social media evidence and text messages of class claimants to dispute liability and damages claims. Characterizing social media content as akin to a "file folder titled 'Everything About Me,' which [class members] have voluntarily shared with others," the Court rejected the EEOC's argument that the discovery violated the class members' privacy rights. *Id.* The magistrate judge appointed a special master and provided that only relevant information would be turned over to the defense after an *in camera* review. Mindful of the burden on judicial resources such as an *in camera* review imposes, other courts have relied on counsel in light of their own ethical obligations to review their client's social media for documents responsive to document requests and to turn over responsive social media.

Deirdre Fox is Counsel at Scharf Banks Marmor LLC

Representing Buyers Of Distressed Real Estate

By Decalogue President Joel Chupack

I. OVERVIEW

Remember the adage "caveat emptor"? Its spirit is alive and well with distressed real estate transactions. A corollary to that adage, for lawyers representing clients in such transactions, is "caveat juris doctor". This is particularly true for those attorneys representing buyers as it is an area filled with land mines (pun intended). This article details the best practices an attorney can employ in representing buyers of distressed real estate.

Distressed real estate has no formal definition but some examples are foreclosed property, property lost for nonpayment of real estate taxes and property severely neglected by the owner. These transactions differ from conventional ones in several regards.

An initial difference is the physical nature or status of the real estate. The building and systems are likely in disrepair, personal property is likely inoperable, missing and/or not owned by the seller, and there may be non-paying tenants or unlawful occupants.

A second difference is the status of title and encumbrances thereon. The validity of the mortgage foreclosure or the tax deed actions through which the seller obtained title to the real estate may be defective. Mandatory injunctions may affect building code proceedings and/or the real estate. Often, the property taxes are delinquent as well.

A possible third issue is the dynamic of the parties. If the property is an "REO" (acronym for "real estate owned" or property taken back by the lender), the seller will know little if anything about the real estate. The lender also will not negotiate contract terms. Your client, the buyer, may lack sophistication, but he or she may be very motivated because of what the buyer perceives is a "deal".

More work is required in representation of a buyer of distressed real estate than a buyer of conventional real estate. Do not let down your guard because of the relatively low sales price, that it is a cash deal, that it is a quick deal, or that you do not want to "over lawyer" the transaction. By all means, do not undercharge for your services.

II. DUE DILIGENCE

The key to effective representation in these transactions is spotting the issues. The lines between being an attorney and a counselor may blur. You must be clear with your client as to which of you will be performing due diligence. You should address the following due diligence issues:

A. Building Code Issues in general

1. Administrative Code Cases. Call the municipality or, if the real estate is located in Chicago, look up the property on its web-site, www.cityofchicago.org.

2. **Building Court Cases.** At www.clerkoftheciruitcourt.org. you can check the docket. Obtain copies of the court orders.

3. **Beware of the dismissed case.** If you find an injunction against occupancy, file a motion to reopen the case and lift the injunction.

4. **Beware of demolition orders.**

B. Other Building Code Issues (Chicago). To record the deed, you will need a Zoning Certification (if between 1 and 5 units) and/or a Multiple Dwelling Registration (if 4 units or more). If the building is vacant, the buyer must register it within 30 days of taking title pursuant to the Vacant Building Registration requirement ($250 fee).

C. Inspection. The buyer should have a detailed inspection performed of the electrical, plumbing and foundation systems by specialists in those fields. Do not rely on a home inspector. Do not rely on the Residential Real Property Disclosure Report.

D. Personal Property. The judicial sale/sheriff's deed conveys only real estate. You may not get a bill of sale for personal property; if you do, it may not mean much. If property is commercial, perform a UCC search.

E. Possession. Are there occupants? Are you buying into an eviction, or worse, are you effectively prohibited from evicting? See III below.

F. Real Estate Taxes/Assessments/Exemptions.

1. Taxes may be delinquent. If taxes have been sold, check redemption date. Beware of multiple tax sales. Title company may not insure you if a sale in error was filed post-policy date.
2. Check www.cookcountyclerk.com under delinquent real estate tab.
3. Assessments may not have been contested for many years.
4. The homeowner's exemption may have been lost for the current year.

G. Utilities. Water meter may have been removed and buyer will need to pay to install a new meter. Other utilities will need to be activated.

III. TENANTS IN FORECLOSED PROPERTIES

Federal, Illinois and Chicago laws affect the rights of owners to terminate tenancies in foreclosed rental property. The federal law is known as the "Protecting Tenants at Foreclosure Act of 2009" (the "Federal Act").

(Continued on page 10)

Best Practices *(continued from page 9)*

Under the Federal Act, an "immediate successor in interest" of a foreclosure of a federally-related mortgage loan, **or on any dwelling or residential real property,** must provide tenants with a 90-day notice to vacate before proceeding with filing an eviction. There is an EXCEPTION to the 90-day rule. If a "bona fide lease" was entered into before the "notice of foreclosure", then the immediate successor in interest must honor the tenancy for the remainder of that term. The term "notice of foreclosure" refers to the date on which complete title to a property is transferred to a successor entity or person as a result of a court order. In Illinois, this is the date of issuance of the judicial or sheriff's deed. There is an EXCEPTION TO THE EXCEPTION. If the immediate successor in interest will occupy the property as a primary residence, then the term ends at the conclusion of the 90-day period, not on the lease expiration date.

The Federal Act served as the basis for the Illinois statute (the "Illinois Law"). Section 9-207.5 of the Code of Civil Procedure (effective November 19, 2013) protects the rights of tenants in foreclosed residential property. There are differences between the Federal Act and the Illinois law. While the Federal Act limits its applicability to residential properties of 1 to 4 units, the Illinois Law has no such limit. Under the Illinois Law, the latest date that an owner can rent a dwelling unit is earlier in the foreclosure process than under the Federal Act and thus avoids the problem of the foreclosed owner renting a unit just prior to the judicial deed being recorded. The Illinois Law applies to mortgagees in possession and receivers as well.

The Illinois Law also adds a requirement of notice to the occupants. Section 1508.5(a) of IMFL requires that the purchaser perform due diligence in identifying the occupants of the property and to give notice to those occupants. A good faith effort must be made to ascertain the identities and addresses of all occupants following the judicial sale, but not later than 21 days after confirmation of the sale. 735 ILCS 5/15-1508.5(a) (1).

After the identities and addresses are ascertained, a written notice must be served on the occupants within twenty-one (21) days following the order confirming the sale. The statute specifies what must be in the notice and on whom it must be served and also requires a second notice to be posted on the door of each apartment.

CHICAGO'S LEGISLATION PROTECTING TENANTS

Not to be outdone, the City of Chicago has enacted its own legislation to protect tenants in foreclosed properties: Chapter 5-14 of the Municipal Code, known as the "Protecting Tenants in Foreclosed Rental Property Ordinance." The Chicago Ordinance has three substantive areas: 1) notice to tenants; 2) tenant relocation assistance; and 3) registration of foreclosed rental property. An explanation of each follows:

A. Notice to Tenants. Notice is essentially the same as the Illinois Law, EXCEPT that it includes the right to relocation assistance.

B. Tenant Relocation Assistance. The Ordinance does not identify whether or how the owner would or could terminate a tenancy (that is the purview of state law). Instead, it prescribes what an owner must do if the owner does not renew a lease in the foreclosed rental property. If the owner does not renew a bona fide lease, that owner is required to pay a one-time relocation assistance fee of $10,600 to the qualified tenant. §5-14-50(a). In essence, this is a statutorily-sanctioned "cash for keys" transaction.

1. The owner can deduct from the relocation fee all rent due on the unit prior to the date that the unit is vacated.
2. Annual rent increases are limited to 2%.
3. If the owner fails to comply, then tenant "shall be awarded damages in an amount equal to two times the relocation assistance fee."

C. Registration of Foreclosed Rental Property. The owner must register the property within 10 days of becoming an owner on a form provided by the City. There is a $250 registration fee, fines and a private cause of action for violations.

D. Constitutionality. Under Article VII, Section 6 of the Illinois Constitution, a home rule municipality has the power to regulate for the protection of the public health, safety, morals and welfare. But does mandating payment for relocation assistance or capping the rental increase on a renewal have anything to do with protecting and promoting the health, safety and welfare of its residents?

IV. PURCHASING FORECLOSED CONDOMINIUM UNITS

There is additional cause for concern for a lawyer representing a buyer of a foreclosed condominium unit. The root of the problem is a poorly drafted, if not incomprehensible provision of the Illinois Condominium Property Act (§9(g)(4)). This section states:

"The purchaser of a condominium at a judicial foreclosure sale, other than a mortgagee, who takes possession of a condominium unit pursuant to a court order or a purchaser who acquires title from a mortgagee shall have the duty to pay the proportionate share, if any, of the **common expenses** for the unit which would have become due in the absence of any assessment acceleration during the **6 months immediately preceding institution of an action to enforce the collection of assessments,** and which remain unpaid by the owner during whose possession the assessments accrued. If the outstanding assessments are paid at any time during any action to enforce the collection of assessments, the purchaser shall have no obligation to pay any assessments which accrued before he or she acquired title." (Emphasis added.)

In reading this section, can you advise your client what his or her financial obligation is to the association upon the purchase of the unit? The following details some of the problems:

- What does "institution of an action" mean?
- When would "an action" have to be filed?
- What does "the proportionate share, if any, of the common expenses" mean?
- The 22.1 form has no separate line item for this disclosure.

These ambiguities have not been resolved and, to my knowledge, have not even been addressed by the courts. Purchasers, associations, mortgagees, real estate brokers and attorneys are forced to struggle with a poorly written statute. So, what can you do to protect your client?

Do not wait to receive the assessment letter from the association. Your client's money may already have 'gone hard' at that point. In your attorney approval letter:

- Require that the REO seller pay the 9(g) (4) obligation.
- Make the deal contingent upon receipt and approval of the 22.1 disclosure.
- Since the statute does not have a line item in 22.1 for the 9(g) (4) obligation, specifically request this disclosure. Make sure that the 9(g) (4) disclosure includes the associations' attorneys' fees.

A few other issues to address with your client are the amount of reserves and whether any special assessments have been levied or are anticipated. While these items are always of concern, they are more pronounced in foreclosed condominiums because the entire building may be in some degree of distress.

In conclusion, when representing buyers of distressed real estate, do not let your guard down, impress upon your client all of the potential problems, and charge appropriately. Sometimes the best deals are the ones that the client does not make.

Anti-Semitism Here and Around the World

(Special program for Erev Yom Hashoah)

Wednesday, April 15, 2015
5:30 Reception
6:00-7:30 pm Seminar

Eric Fusfield
B'nai B'rith International
Kenneth Marcus
Brandeis Center for Human Rights

Seyfarth Shaw
131 S Dearborn, Chicago

1.5 hours General MCLE Credit
Co-sponsored by Decalogue, B'nai Brith, and Brandeis Center for Human Rights Under Law

Registration required: www.decaloguesociety.org

The Haunting Specter of Race

By Justice Michael B. Hyman

When will America finally say it has had enough--enough of the racial disparities, inequities and injustices that permeate and poison our nation and adversely affect minorities, particularly African Americans?

We have seen and heard again and again the kind of frustration, anger, and rancor that followed the tragic deaths of Michael Brown, Eric Garner, and the two NYPD officers. In time, the excessive media attention and divisive public debate always wane, and a sense of normalcy returns. And the overarching and interweaving culprit behind every one of these tragedies—the nation's perpetual struggle with race— resets as if nothing happened.

Race is a spectre that has haunted American social, economic and political life generation after generation, decade after decade, year after year.

Almost 50 years ago the authors of *Black Rage* characterized "the black norm" as "a suspiciousness of one's environment which is necessary for survival." Blacks, they wrote, "must be on guard to protect [themselves] against physical hurt… cushion [themselves] against cheating, slander, humiliation, and out-right mistreatment by the official representatives of society." Some 25 years later, in 1993, the tennis great Arthur Ashe made the same point in explaining how race affected him and African Americans generally, confessing that "A pall of sadness hangs over my life and the lives of almost all African Americans because of what we as a people have experienced historically in America, and what we as individuals experience each and every day."

This same lament appeared in Prof. Andrew Hacker's now classic study of race, *Two Nations: Black and White, Separate, Hostile, Unequal*: "What every black American knows, and whites should try to imagine, is how it feels to have an unfavorable—and unfair—identity imposed on you every waking day." The book's title came from the National Advisory Commission on Civil Disorders (the Kerner Report), released in 1968, which warned that "To pursue our present course will involve the continuing polarization of the American community and, ultimately, the destruction of basic democratic values."

While America today differs from America of the late 1960s or 1990s, we have yet to achieve either a constant forward motion toward a harmonious society or the possibility of a post-racial world. Race persists as the Achilles heel of American society. In fact, race relations appear to be edging backwards. A recent national telephone survey by Rasmussen Reports indicated that only 17% of American adults rate race relations as good or excellent, down by half from 34 % just a year ago. Twenty-nine percent describe race relations as poor, compared to 19% in January 2014.

Consider the implications of the following disturbing statistics that illuminate some of the disparities between blacks and whites in the criminal justice system, education, and economic performance. These examples, culled from numerous studies conducted over the past several years, indicate just how pervasive and negative a role race plays in government, education, business, the economy, law, and daily living.

Criminal Justice System

- Juveniles: While black youth represent 17% of their age group within the general population, they represent 46% of juvenile arrests, 31% of referrals to juvenile court, and 41% of waivers to adult court.
- Prison: Thirty-eight percent of jail and prison inmates are black. A black male born in 2001 has a 32% chance of spending time in prison in the course of his life while a Hispanic male has a 17% chance, and a white male has a 6% chance.
- Drugs: Blacks constitute almost one-third of those arrested for drug possession and trafficking but make up only 12% of the population and 13% of drug users.
- Sentencing: In 2010, in federal courts, blacks received 10% longer sentences than whites for the same crimes (U.S. government report).
- Life-Sentences: In 2009, two-thirds of the defendants receiving life sentences were non-whites. In the State of New York, the figure was almost 85%.

According to a Washington Post-ABC News poll released earlier this year, just one in 10 blacks say they and other minorities receive equal treatment with whites in the criminal justice system. The reason for this disproportionate treatment, as with the recent tragedies, squarely lies with what Dr. King called "the curse this society has put on color."

Education

- Suspensions/Expulsions (across age groups): Black students are suspended or expelled at triple the rate of their white peers.
- Suspensions (preschoolers): Black children make up 18% of preschoolers but constitute nearly half of all out-of-school suspensions.
- High school graduation: Black high school graduation rate is 68% overall; the rate for whites is 85%.
- College graduation: The college graduation rate for black students is almost half that of the total U.S. graduation rate.
- College debt: Black college students are 17% more likely to graduate with debt than white students.
- Teachers: Black students are three times as likely to attend schools where fewer than 60% of teachers meet all state certification and licensure requirements.

Given the pivotal role of education, these and many other disparities in education cannot be explained away by benign factors. While the past decade has brought signs of improvement in some areas, race must be eliminated as a barrier to individual opportunity. The reason has been succinctly expressed by educator Marian Wright Edelman: "Education is a precondition to survival in America today."

Economic performance

- Unemployment: For 50 years, black unemployment has consistently been twice as high as white unemployment rate.
- Wealth: During the past 25 years, the gap in wealth between blacks and whites has nearly tripled largely due to inequality in home ownership, income, education and inheritances.
- Household income: In 1963, black households earned 55 cents for every dollar earned by whites; in 2011, black households earned 66 cents for every dollar earned by whites.
- Inheritance: Whites are five times more likely to inherit money than blacks, and usually the size of the inheritance is 10 times larger.
- Children and poverty: The poverty rate among black children is about 2.5 times greater than white children and black children are 7 times more likely to be constantly poor.

In terms of economic status, resources and well-being, blacks chronically fall short of parity with whites. This situation, which has many historical precedents, embodies one of our greatest social crises. The former dean of Boalt Hall, Christopher Edley, Jr., once summed up the problem this way: "The pattern of racial disparities in economic and social conditions remains painfully stark. This is not the America we want; the most unrepentant apologist for the status quo cannot dress it up to make an appealing portrait of American justice."

Fairness and equality in classrooms and courthouses, in public squares and town halls, in institutions and individual lives, has been slow and uneven despite occasional perceptible efforts. Too often rhetoric and unfulfilled promises take the place of real change and structural reforms.

As members of the legal profession and as Jews, we should not be complacent in the presence of unequal treatment, discrimination, and abusive authority. The Jewish faith values and respects differences, embraces equality and due process, celebrates social justice and social responsibility. Judaism follows a tradition that recognizes the dignity of all human beings without regard to color, beliefs, culture, or class.

Recall Hillel's summation of the essence of the whole Torah—*Ma d'sani lakh, l'chavrakh al t'avid*. What is hateful to you, do not do to your neighbor. Thus, for example, the Torah says not to oppress the stranger "for you know the feelings of the stranger, having yourself been strangers in the land of Egypt" (Exodus 23:9). It also says that all of God's children are "created in the image of God" (Genesis 1:27) and that equality before the law was ordained from above (Leviticus 24:22). These and other passages of Torah should be reflected in both private as well as public attitudes, actions, and thinking on race.

Every racial incident takes its toll on the nation's psyche, spurs dialogues and assessments, and then –*poof,* little changes, and things eventually go back to "normal." If *E Pluribus Unum* is ever to become what it was meant to express, then America has a lot to answer for and a lot of work ahead of it.

When will America confront head-on and set right the social inequities that blacks encounter day-in and day-out?

When will racial equality no longer be viewed as immutable?

When will America become the inclusive, tolerant nation that today's Constitution ensures?

When will the many be truly part of the unum?

When?

Justice Michael B. Hyman, a former president of the Decalogue Society of Lawyers, sits on the First Appellate District, Third Division. Justice Hyman will be presenting a CLE "Perceptions of Justice in Black and White" on April 1. Please see the calendar on page 26 for registration information.

Congratulations to Jerry Schur on his 80th Birthday Milestone!

Jerry is a past president of Decalogue Society of Lawyers and current President of the Decalogue Foundation.

Concurrent with Jerry's big birthday is the 5th Anniversary of the Gerald S. Schur Book Award which assists students at JMLS' Veterans Law Clinic.

Help Jerry celebrate by supporting this special cause. Tax-deductible donations can be made payable to the JMLS Foundation and mailed to Gerald S. Schur Book Award, c/o Decalogue Society of Lawyers, 134 N. LaSalle, Suite 1430, Chicago, IL 60602 OR by joining his friends and family at a fundraiser in August at John Marshall Law School. Contact Leisa Braband at wkendwarrior@sbcglobal.net for more info on this event.

Je ne suis pas universelle - The Law and Religious Cartoons

By Gail Schnitzer Eisenberg

On January 7, 2015, Saïd and Chérif Kouachi, two terrorists from Al-Qaeda's Yemen branch, stormed the Paris office of the French satirical weekly *Charlie Hebdo*, killing 12 people and injuring 11 others.[1] The terrorists were seemingly motivated by revenge for the paper's publication of cartoons featuring the Islamic Prophet Muhammad.[2] Four days later, millions, including more than 40 world leaders, rallied for unity in France.[3] Among them were Israeli Prime Minister Benjamin Netanyahu, Palestinian President Mahmoud Abbas, German Chancellor Angela Merkel, British Prime Minister David Cameron, and American Ambassador to France, Jane Hartley.[4] Millions more took to social media to proclaim, "Je sui Charlie," I am Charlie, a statement of their solidarity with the slain satirists.[5]

But the sentiment is not universal. Hundreds rallied in support of the terrorists in Afghanistan and Australia, and many tweeted their approval with their own trending hashtags.[6] Even in America where 60% of adults surveyed had heard of the *Charlie Hebdo* attacks supported the weekly's publication of cartoons depicting the Prophet Muhammad, 28% did not support that form of satire.[7] When considering only non-whites, the portion who disapproved of the *Charlie Hebdo* cartoons approached half.[8]

Pope Francis denounced the attacks, insisting that religion can never be legitimately used to justify violence, while espousing a view of freedom of speech that is unlikely to have found room for *Charlie Hebdo*'s religiously offensive cartoons: "If my good friend Dr. Gasbarri says a curse word against my mother, he can expect a punch . . . . It's normal. You cannot provoke. You cannot insult the faith of others. You cannot make fun of the faith of others."[9]

Pope Francis' comments are reminiscent of the Fighting Words doctrine in American legal jurisprudence enshrined in *Chaplinsky v. New Hampshire*, 315 U.S 568 (1942). Walter Chaplinsky was convicted under a statute making it a crime to "address any offensive, derisive or annoying word to any other person who is lawfully in any street or other public place … with intent to deride, offend or annoy him, or to prevent him from pursuing his lawful business or occupation." 315 U.S. at 569. He had called a local marshal—and, according to bystanders, religion generally—"'a G-d damned racketeer' and 'a damned Fascist.'" *Id*. The Supreme Court held those appellations constituted constitutionally unprotected fighting words, "epithets likely to provoke the average person to retaliation, and thereby cause a breach of the peace." *Id*. at 574. According to the Court, "such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality." *Id*. at 572.

So how would religiously offensive cartoons have fared under America's Fighting Words doctrine? In *Beauharnais v. Illinois* the Supreme Court affirmed a man's conviction under an Illinois statute that criminalized depicting "the depravity, criminality, unchastity, or lack of virtue of a class of citizens, of any race, color, creed or religion," and thus exposed that class "to contempt, derision, or obloquy" and by doing so could cause a "breach of the peace." 343 U.S. 250, 251 (1952). The Court upheld Illinois' statute, citing the fighting words doctrine, *Id*. at 256-57, and noted that similar leaflets to those the defendant had distributed in *Beauharnais* had caused race riots and recalling Illinois' then-most recent three decades of racial violence. *Id*. at 258-61.

Could *Charlie Hebdo*'s negative depictions of the Prophet Mohammad, which some say painted all Muslims as terrorists, be struck down in the United States under similar grounds to the depictions in *Beauharnais*? After all, there is certainly a history of cartoons depicting Mohammad causing violence and rioting, for instance after the Danish paper *Jyllands-Posten* published a cartoon of Mohammad with a bomb in his turban and after subsequent republications.[10] *Charlie Hebdo* itself was fire bombed after republishing the controversial Danish cartoons.[11] A German tabloid that reprinted Charlie Hebdo's cartoons was also bombed.[12] Would offensive cartoons of Mohammad constitute fighting words in America?

Unlikely. The foundations of *Beauharnais* have since been questioned, mostly for the case's seeming endorsement of so-called group defamation legal actions. *See, e.g., Collin v. Smith*, 578 F.2d 1197, 1204 (7th Cir. 1978) ("It may be questioned, after cases such as *Cohen v. California, Gooding v. Wilson*, and B*randenburg v. Ohio*, whether the tendency to induce violence approach sanctioned implicitly in *Beauharnais* would pass constitutional muster today.") (internal citations omitted). In fact, the Court in *Cohen v. California* seems to have limited the fighting-words doctrine to "direct personal insult[s]." *Id*. at 20.[13]

In his widely shared article, *I Am Not Charlie Hebdo*, David Brooks posits, "If [the Charlie Hebdo satirists] had tried to publish their satirical newspaper on any American university campus over the last two decades it wouldn't have lasted 30 seconds. Student and faculty groups would have accused them of hate speech. The administration would have cut financing and shut them down."[14]

The University of Minnesota did just that in *Stanley v. Magrath*, reducing fee-based revenues available to its school newspaper after the paper published a "Humor Issue" that included cartoons satirizing Jesus, the Roman Catholic Church and evangelism among other topics. 719 F.2d 279, 280 (8th Cir. 1983). The Eighth Circuit held that the University violated the First Amendment's requirement that, should it delegate editorial authority to a newspaper, it may not punish that newspaper based on its content. *Id*. at 283-83. As the Supreme Court said in another case involving an offensive cartoon, "dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of 'conventions of decency.'" *Papish v. Bd. of Curators of Univ. of Missouri*, 410 U.S. 667, 670, 93 S. Ct. 1197, 1199, 35 L. Ed. 2d 618 (1973) (political cartoon depicting a police officer raping the Statue of Liberty not constitutionally obscene such that it violated the First Amendment and gave cause to expel artist).

Nieto v. Flatau, 715 F. Supp. 2d 650, 652 (E.D. N. C. 2010) also provides insight into how the *Charlie Hebdo* cartoons would have fared under American law. In that case, officials cited a civilian base employee for violating a base regulation prohibiting the display of "extremist, indecent, sexist or racist messages" on motor vehicles while on the base. One of the offending decals on the employee's vehicle depicts Calvin, from the Calvin and Hobbes cartoon, urinating on *Jyllands-Posten*'s controversial cartoon of the Prophet Muhammad with a bomb in his turban. *Id.* at 651. The *Nieto* court held that the base's regulation, although facially neutral, was applied in an unconstitutional, unreasonable and content-based manner to restrict only anti-Islamic messages. *Id*. at 655-56. In doing so, the court rejected the base's argument that the regulation was constitutional because it is "aimed at preventing speech the sole intention of which is to inflame the passions of those in the Base command." *Id*. at 656. The court reasoned that, while anti-Islam images may be offensive to many, pro-Islamic images would have been offensive to the employee. *Id.* Thus, the incendiary nature of the particular images was not a sufficient reason to regulate one viewpoint on Islam but not another. *Id.*

Concepts of content neutrality are not shared universally. After *Charlie Hebdo* reprinted the Muhammad cartoons originally published in *Jyllands-Posten*, a French court ruled against Islamic groups who said that the publication incited hatred against Muslims. "Courts in France . . . have repeatedly defended free speech rights against religious objections."[15] On the other hand, more than 50 people, including stand-up "comedian" Dieudonné M'Bala M'Bala, were arrested for condoning terrorism, one of various forms of hate speech that is criminalized in France.[16] Although France---like many European countries[17] --- prohibits blasphemy, French Prime Minister Manuel Valls said that the crime is not blashphey and would not ever be prosecuted.[18]

Although religiously offensive cartoons like those published in *Charlie Hebdo* and *Jyllands-Posten* would likely have been protected under the First Amendment, the publication of such cartoons in other jurisdictions would have been met with criminal penalties. Although Saudi Arabia's minister of state for foreign affairs participated in the French unity marches after the *Charlie Hebdo* attacks, the cartoonists would likely have met a fate similar to that of Raif Badawi, the blogger who has been given 50 of his 1000-lash sentence for "insulting Islam" or his attorney who was recently sentenced to 15 years' imprisonment for "undermining regime officials," "inciting public opinion," and "insulting the judiciary."[19] In fact, Saudi Arabia's top clerical council, charged with issuing Islamic legal opinions, has "denounced the publication of 'disrespectful drawings' of the Prophet Mohammad."[20]

Of course simply because a particular form of speech - like cartoons of the Mohammad - will not lead to lashes does not mean that making such statements in pictures or in words is wise. It is hard to start a respectful public discourse when one begins with offending the benign religious dictate of another by depicting the Prophet Muhammad in a negative light.[21] Moreover, as a Jew I recall the harmful impact that cartoons painting one group of people in a harsh manner can have. "[R]eligious stereotyping of Muslims is a form of racialization that has some new elements as well as a long pedigree in European Christian Islamophobia."[22] Doubtless, less inflammatory speech is more likely to be heard around the world.

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[1] *See generally Charlie Hebdo attack: Three days of terror, BBC NEWS, Jan. 14, 2015, http://www.bbc.com/news/world-europe-30708237; Al-Qaeda in Yemen claims Charlie Hebdo attack, ALJAZEERA, Jan. 14, 2015, http://www.aljazeera.com/news/middleeast/2015/01/al-qaeda-yemen-charlie-hebdo-paris-attacks-201511410323361511.html.*

[2] *Dan Bilefsky & Maïa de la Baume, Terrorists Strike Charlie Hebdo Newspaper in Paris, Leaving 12 Dead, N.Y. Times, Jan. 8, 2015, at A1, available at http://www.nytimes.com/2015/01/08/world/europe/charlie-hebdo-paris-shooting.html?_r=1.*

[3] *Republican Marches, WIKIPEDIA, (Feb. 2, 2015, 9:21 PM), http://en.wikipedia.org/wiki/Republican_marches.*

[4] *Id.*

[5] *Tom Whitehead, Paris Charlie Hebdo Attack: Je Suis Charlie Hashtag One of Most Popular in Twitter History, THE TELEGRAPH, Jan. 9, 2015, http://www.telegraph.co.uk/news/worldnews/europe/france/11336879/Paris-Charlie-Hebdo-attack-Je-Suis-Charlie-hashtag-one-of-most-popular-in-Twitter-history.html.*

[6] *Katrina Jørgensen, Not Everyone is Charlie: Rally in Afghanistan Supports French Terrorists, Jan. 2015, INDEPENDENT J. R. (http://www.ijreview.com/2015/01/230854-everyone-charlie-rally-afghanistan-supports-french-terrorists/; Andrew Carswell & Ian Walker, Sydney's Muslim Community Rallies in Lakemba in Response to Terror Attacks that Rocked Paris, THE DAILY TELEGRAPH, Jan. 25, 2015, http://www.dailytelegraph.com.au/news/nsw/sydneys-muslim-community-rallies-in-lakemba-in-response-to-terror-attacks-that-rocked-paris/story-fni0cx12-1227195312315?nk=49bc52aa3194005786218ce70f7b2a06.*

[7] *PEW RESEARCH CENTER, AFTER CHARLIE HEBDO, BALANCING PRESS FREEDOM AND RESPECT FOR RELIGION (Jan. 28, 2015), http://www.journalism.org/2015/01/28/after-charlie-hebdo-balancing-press-freedom-and-respect-for-religion/*

[8] *Id.*

[9] *Pope on Charlie Hebdo: There are limits to free expression, CHICAGO TRIBUNE, Jan. 15, 2015, http://www.chicagotribune.com/news/nationworld/chi-pope-charlie-hebdo-global-warming-20150115-story.html.*

[10] *See generally Lasse Lindekilde, Per Mouritsen, Ricard Zapata-Barrero, The Muhammad Cartoons Controversy in Comparative Perspective, 9 Ethnicities 291 (2009).*

[11] *French Satirical Paper Charlie Hebdo Attacked in Paris, BBC NEWS, Nov. 2, 2011, http://www.bbc.com/news/world-europe-15550350.*

[12] *Deborah Cole, Firebombing at German Paper that Ran Charlie Hebdo Cartoons, YAHOO NEWS, Jan. 11, 2015, http://news.yahoo.com/arson-attack-german-paper-ran-charlie-hebdo-cartoons-065348454.html.*

[13] *Moeen Cheema & Adeel Kamran, The Fundamentalism of Liberal Rights: Decoding the Freedom of Expression under the European Convention for the Protection of Human Rights and Fundamental Freedoms, Loy. U. Chi. Int'l L. Rev. 79, 86 (Spring/Summer 2014).*

[14] *David Brooks, I Am Not Charlie Hebdo, N.Y. TIMES, Jan. 9, 2015, at A23, available at http://www.nytimes.com/2015/01/09/opinion/david-brooks-i-am-not-charlie-hebdo.html?_r=1.*

[15] *Thierry Leveque, French Court Clears Weekly in Mohammad Cartoon Row, REUTERS, Mar. 22, 2007, http://www.reuters.com/article/2007/03/22/industry-france-cartoons-trial-dc-idUSL2212067120070322.*

[16] *Inti Landauro, French Comedian Faces Trial Over Online Comments, WALL ST. J., Jan. 14, 2015, http://www.wsj.com/articles/charlie-hebdo-french-comedian-detained-over-online-comments-1421229693.*

[17] *Lindekilde, supra note 10, at 302 (noting that some such laws, like Britain's, specifically reference Christianity); see generally WORLD PRESS FREEDOM COMMITTEE, IT'S A CRIME: HOW INSULT LAWS STIFLE PRESS FREEDOM, (2006), http://www.wpfc.org/site/docs/pdf/It%27s_A_Crime.pdf.*

[18] *Id.*

[19] *Lashes, Beheading Refocus World on Saudi Human Rights Stance, CHICAGO TRIBUNE, Jan. 22, 2015, http://www.chicagotribune.com/news/nationworld/chi-raif-badawi-flogging-20150122-story-html.*

[20] *Saudi Arabia's Top Clerical Body Condemns Prophet Mohammad Cartoons in 'Charlie Hebdo,' JERUSALEM POST, Jan. 28, 2015, www.jpost.com/Breaking-News/Saudi-Arabias-top-clerical-body-condemns-Prophet-Mohammad-cartoons-in-Charlie-Hebdo-387989.*

[21] *"The permissibility of depictions of Muhammad in Islam has been a contentious issue. Oral and written descriptions are readily accepted by all traditions of Islam, but there is disagreement about visual depictions. The Quran does not explicitly forbid images of Muhammad, but there are a few hadith (supplemental teachings) which have explicitly prohibited Muslims from creating visual depictions of figures." Depictions of Muhammad, Wikipedia (Feb. 3, 2015), http://en.wikipedia.org/wiki/Depictions_of_Muhammad.*

[22] *Lindekilde, supra note 10, at 303.*

Political Protest and First Amendment Challenges

By James A. Shapiro

The recent murders at the *Charlie Hebdo* newspaper in Paris have raised freedom of speech issues not only in France, but in this country as well. Many media outlets refused to publish the Charlie Hebdo cartoons that motivated the murders, either because they were too offensive or because they were worried about their own security. This resulted in terrorists succeeding in accomplishing their objective of deterring portrayals of Muhammed that they deemed offensive.

Although France does not have the First Amendment as we do, its citizens carry on a long tradition of freedom of expression that roughly parallels our own. *See* Declaration of the Rights of Man and of the Citizen ("The free communication of thoughts and of opinions is one of the most precious rights of man: any citizen thus may speak, write, print freely, save [if it is necessary] to respond to the abuse of this liberty, in the cases determined by the law."). They do have a lot more exceptions to freedom of expression than we do, such as hate speech and Holocaust denial. *See* Pleven Act of 1972 (prohibiting incitement to hatred, discrimination, slander and racial insults); Gayssot Act of 1990 (prohibiting any racist, anti-Semitic or xenophobic activities, including Holocaust denial), and Law of 30 December 2004 (prohibiting hatred against people because of their gender, sexual orientation, or disability). Our First Amendment protects offensive speech like that. *See, e.g., National Socialist White People's Party v. Ringers,* 473 F.2d 1010, 1015 (4th Cir. 1973) (First Amendment protects racist and anti-Semitic speech in public places).

"The free communication of thoughts and of opinions is one of the most precious rights of man: any citizen thus may speak, write, print freely, save [if it is necessary] to respond to the abuse of this liberty, in the cases determined by the law"

But even our robust First Amendment has an exception for reasonable time, place, or manner restrictions, as long as they are "content neutral" and narrowly tailored to further substantial government interests. The question that arises in the application of the exception is whether time, place, or manner restrictions are being used to quell the exercise of free speech.

Very recently, in *City of Chicago v. Alexander,* 2014 IL App (1st) 122858 (Dec. 23, 2014), the First District of Illinois upheld the City's ordinance closing Grant Park between 11:00 PM and 6:00 AM, resulting in the arrest and exclusion of Occupy Chicago protestors who wanted to "occupy" Grant Park overnight. According to the First District and the City, closing Grant Park between 11:00 PM and 6:00 AM enables the City to "keep parks safe, clean, attractive and in good condition" by allowing "park employees to collect trash, make repairs to park facilities, and maintain the landscaping." Both parties agreed that the park closure ordinance was content-neutral, but disagreed on whether it was narrowly tailored enough to further a substantial governmental interest. The appellate court held that it was.

In *Marcavage v. City of Chicago*, 635 F. Supp. 2d 829 (N.D. Ill. 2009), Judge Shadur upheld the segregating of anti-gay protestors of the Gay Games to a gravel area east of the sidewalk at Soldier Field. He also upheld their exclusion from Navy Pier because they did not have a permit, as well as forcing them to keep moving on the sidewalk outside of Wrigley Field. *Id.* at 838-41.

In *Watters v. Otter,* 955 F. Supp. 2d 1176 (D. Idaho 2013), a federal court in Boise upheld a "no-camping" law as a reasonable time, place, or manner restriction on the Occupy Boise movement. *Id.* at 1187. On the other hand, Occupy Columbia (South Carolina) survived summary judgment when the Fourth Circuit held that South Carolina Governor Nicki Haley and other state officials did not have qualified immunity from a civil rights suit when they had no time, place, or manner restrictions at all in place before they evicted Occupy Columbia from the State House grounds. *Occupy Columbia v. Haley,* 738 F.3d 107, 125 (4th Cir. 2013). Of note, South Carolina *could* have enacted a valid time, place, or manner restriction closing the State House grounds at a designated time, but they failed to do so. *Id.*

A recent example of a time, place, or manner restriction that was not narrowly tailored enough came when the U.S. Supreme Court struck down Massachusetts' 35-foot buffer zone for protests at abortion clinics. *McCullen v. Coakley,* 134 S.Ct. 2518 (2014). The Court had no problem with the restriction's content-neutrality, but the width of the 35 foot buffer zone was not narrowly-tailored enough to accomplish the goals of the restriction.

The 'takeaway' from these and other cases is that it is pretty easy for federal, state, and local governments to enact time, place, or manner restrictions that courts will deem reasonable. Protesters are invariably unhappy with these restrictions because the restrictions usually dilute the impact of their message. But as long as government does not discriminate against the type, or 'content,' of speech (*e.g.*, "only abortion protestors, pro or con, have to stay at least 35 feet away from abortion clinics—other types of protesters can come as close as they want"), or worse, engage in viewpoint discrimination (*e.g.*, "only anti-choice protestors have to stay at least 35 feet away from abortion clinics—pro-choice supporters can come as close as they want"), and as long as the restrictions are narrowly enough tailored to further a substantial government interest, then the time, place, or manner restriction will probably be reasonable.

James A. Shapiro is a former Circuit Court Judge and past president of Decalogue.

Executive Action on Immigration

NOTE: As this Tablets issue was going to press, news was broadcast of a Federal Court Judge's ruling in Brownsville, Texas, that placed a temporary hold on the Obama Administration's enforcement of the Executive Order authorizing action under DACA and DAPA, the subject of this article."

By Nancy M. Vizer

President Obama's November 20th Executive Action on immigration ("EA") has generated a multitude of comments – both positive and negative – from the informed and uninformed. This article will help Decalogue members join the 'informed' group with respect to two aspects of the EA as it relates to undocumented individuals living in the United States. First, the article will advise readers what the EA does and does not do. Second, the article will discuss the President's authority to take such action. There are several aspects of the EA (mostly sections providing procedural "tweaks" to employment-sponsored immigration) that will not be addressed here.[1]

Scope of the Executive Action

The most important thing to understand about the EA is that it does not provide a path to permanent residence or citizenship to the people it affects. Rather, it provides a subset of undocumented individuals with a means to obtain the documents that will allow them to live and work legally in the United States for three years, which may be renewable thereafter. In doing so, it addresses a gap in United States immigration laws that Congress has failed to address since it last took such action in 2001. The employment authorization document will not be available to hardened criminals, but it will be available to those who "have not been convicted of a felony, significant misdemeanor [including DUI], or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety."

The November 20th EA builds on President Obama's first immigration EA, announced on June 15, 2012. There are now two broad groups of people eligible for benefits:

1) People who were brought to the United States as children under sixteen (16), and were undocumented as of certain specified dates – Deferred Action for Childhood Arrivals ("DACAs"). Quite often, these "immigration violators" have little or no memory of their country of citizenship and are literate only in English.

2) People who came to the United States as adults, under circumstances similar to the DACAs, who have United States citizen or lawful permanent resident children – Deferred Action for Parental Accountability ("DAPAs"). These individuals, if removed from the United States, are often forced leave behind children with no means of support, rather than bring the children to countries rife with violence.

There are approximately 5 million potential beneficiaries of DACA or DAPA.

As things stood before the EA, members of these two groups were not eligible for social security numbers or employment authorization. Those who entered the United States with a visa have been, and remain eligible for permanent residence and possible citizenship only if they have a US citizen "immediate relative" sponsor, a term of art referring to a parent (if the child is still under 21), spouse, or US citizen child over 21. Those who entered without a visa were not eligible for any of these benefits before the 2012 and 2014 EAs.

It is understandable how most Americans find this policy difficult or impossible to absorb. Our laws do not allow people who came to the United States illegally as infants, with no memory of their home country, to remain here legally. Their employers, spouses and children have no means under current laws to sponsor them except for very limited exceptions.

Presidential Authority to take Executive Action

Immigration has been a divisive issue throughout US history, and Congress has consistently failed to address it adequately. In fact, Congress has failed to make any significant changes to immigration law since 2001, when it provided a brief, three month window for those who were in the United States without documents to apply for lawful permanent residence if they could find either a family member or employer to sponsor them, and were willing to pay a $1,000 fine.[2] Once that window closed on April 30, 2001, these individuals were left without any legal means to get status in the United States without first departing for ten years. While certain exceptions exist, as a rule, the laws specify that law-abiding hardworking parents of US citizens, among others, have no recourse against removal if they lack documentation.

In the past, faced with such inaction by Congress, presidents have often taken matters into their own hands. The best tool that they have is "prosecutorial discretion," wherein they instruct the immigration enforcement branch (currently, the Department of Homeland Security) to simply not target low priority individuals for removal.

For example, in 2005, President George W. Bush established a "deferred action" program for foreign students affected by Hurricane Katrina.[3] Normally, when a foreign student stops attending school, the student immediately falls out of status, becoming subject to removal. This immigration violation often makes it impossible for them to get visas and return again. President Bush's action gave these students a break, allowing them time to make suitable arrangements. Without the executive action by President Bush, the students would have been forced to leave the country as soon as their schools closed.

During a time of trouble in Poland, President Reagan provided "Extended Voluntary Departure" to thousands of Polish nationals, allowing them to overstay their authorized periods of stay to avoid the upheaval in their homeland country.[4] Under President Gerald Ford, the Immigration and Naturalization Service's General Counsel, Sam Bernsen, stated in 1976, "The reasons for the exercise of prosecutorial discretion are both practical and humanitarian. There simply are not enough resources to enforce all of the rules and regulations presently on the books."[5]

Today, Immigration and Customs Enforcement follows the "Morton memo",[6] a brief which spells out the agency's priorities for removal of foreign nationals, putting criminals at the top of the list and DACAs and DAPAs at the bottom.

With 11 million undocumented foreign nationals in the United States, and the ability to remove only about 400,000 annually, there is good reason to believe the DACAs and DAPAs will be here for quite some time. The November 14th EA ensures that they will be able to be productive members of society while they are here.[7]

[1]http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca
[2] Immigration and Nationality Act § 245(i)
[3]https://pennstatelaw.psu.edu/sites/default/files/documents/pdfs/Immigrants/executive- action-law-prof-letter.pdf
[4]Ibid.
[5] http://www.ice.gov/doclib/foia/prosecutorial-discretion/service-exercise-pd.pdf
[6]http://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_ discretion.pdf
[7]http://www.americanimmigrationcouncil.org/perspectives/president%E2%80%99s- discretion-immigration-enforcement-and-rule-law

70 students and young lawyers attended Decalogue's 2nd Annual Shabbat Dinner at Milt's BBQ on January 30

Young Lawyers' Corner

Decalogue Young Lawyers Division (YLD) Updates
(Since the Fall 2014 Tablets edition)

Questions?
Email Decalogue Young Lawyers Division Chair, Melissa Gold (mgold812@gmail.com).

GET INVOLVED

- **Join Decalogue on Facebook**
  Main Decalogue FB Page:
  https://www.facebook.com/DecalogueSociety
  Decalogue Young Lawyers & Law Students FB Page:
  https://www.facebook.com/pages/Decalogue-Society-of-Lawyers-Students-and-Young-Lawyers/213607028707709
- **Join Decalogue on LinkedIN**
  https://www.linkedin.com/groups/Decalogue-Society-Lawyers-4477040/about

RESOURCES

- **Check out the Decalogue Internship/Volunteer Page** link below. If you have additional information, please let us know and we will include it on our list of opportunities.
  http://www.decaloguesociety.org/Pages/Internships.aspx
- **Check out the Decalogue Membership Directory** for case referrals and more!
  http://www.decaloguesociety.org/Pages/MemberDirectory.aspx
- **Check out Decalogue's FREE and informative CLE classes**
  http://www.decaloguesociety.org/Pages/LegalEducation.aspx

UPCOMING YLD EVENTS

- Early March 2015: YLD Happy Hour – Details TBA

PAST YLD EVENTS

- **1/30/2015** – 2nd Annual Milt's BBQ Shabbat Dinner
- **11/6/2014** – Decalogue Society Happy Hour @ Moe's Cantina was a hit once again! We have on average 40+ people attend each of our happy hours. Come to learn about Decalogue and network!
- **8/7/2014** – Decalogue Society Happy Hour @ Moe's Cantina. Our first time at this venue was a huge hit. The large private space by the front windows offered a perfect view of the vaulted ceilings and city streets! New members, Networking, and more!

Decalogue Student Leaders Participate in National Law Student Leadership Conference

Decalogue Society students at the LDB National Law Student Leadership Conference, Washington, D.C., December 2014(from left to right: Aaron Goldman, Ilana Schwartz, Paul Geske, Maria Zyskind, Max Looper, Michelle Milstein, LDB attorney Aviva Vogelstein, LDB President Kenneth L. Marcus, Matt Gold, Brian Brothman, Corey Celt, Alec Schulman)

By Michael A. Strom

At Decalogue, we are ever vigilant to fight anti-Semitism. We also look for opportunities to help our attorney and law student members develop their skills and careers. The recent National Law Student Leadership Conference hosted by The Louis D Brandeis Center for Human Rights under Law (LDB) gave us the chance to do both. LDB picked up the tab to fly, house, and feed ten of our best and brightest from seven Decalogue student chapters (University of Illinois, University of Chicago, Chicago-Kent, Loyola, DePaul, SIU, and John Marshall) to Washington, DC for a two day conference on human rights advocacy, fighting campus anti-Semitism, and the legal tools available to defend their rights on campus.

For those unfamiliar with LDB, the organization was founded by Kenneth L. Marcus, previously Staff Director at the US Commission on Civil Rights, and Assistant Secretary of Education for Civil Rights. LDB's Vision Statement states in part: "[LDB] … secures the rights of the Jewish people as a means for advocating justice for all. In the 21st century, the leading civil and human rights challenge facing North American Jewry is the resurgent problem of anti-Semitism and anti-Israelism on university campuses."

Many organizations are devoted to fighting anti-Semitism and discrimination of all kinds. LDB is unique in its singular devotion to providing legal resources in the form of attorneys, experts, legal advice, intervention with school administrators, and if necessary, filing suits based on state and federal law to combat an increasingly hostile environment at many US schools. Decalogue leadership has heard more over the last few years from Jewish students feeling intimidated to speak out or fight back. LDB's website invites students, faculty, and administrators concerned about anti-Semitism on campus to contact them for help. A "HELP!" link on virtually every page of the website allows anyone to provide information to LDB as the first step to seeking assistance in eliminating such problems.

The LDB Conference brought student leaders together nationally to learn from a distinguished faculty and from each other about the issues facing them through lectures, panels, roundtable discussions, and a breakout session splitting students into groups to decide how to best address examples based on real-life incidents of on-campus discrimination.

LDB leaders were very impressed with the Decalogue student representatives. What did our students think of the event? Here are remarks (edited for space) from two Decalogue attendees:

"Attending the [LDB] National Law Student Leadership Conference was an extremely valuable experience for me. I met student leaders from Chicago and around the country. As a result of the opportunities to work with other Decalogue student leaders at the LDB Conference, I am working with other student leaders to plan joint events with other Decalogue chapters. Additionally, I found the LDB Conference extremely valuable because it provided us with a wide-ranging toolkit for addressing the anti-Semitism that many Jewish students face. We learned about everything from potential legal remedies to the best ways to approach school administrators." - Max Looper (University of Chicago)

"The LDB Conference offered informative lectures and passionate speakers discussing the spread of anti-Semitism and anti-Israelism and the legal means to combat these issues. In two days, we discussed topics like the BDS movement, legal careers aimed at fighting Jewish civil and human rights violations, and using Title VI of the Civil Rights Act of 1964 to combat campus anti-Semitism. It was fascinating and inspiring listening to these professionals discuss their career paths, their experiences combating civil and human rights violations against the Jewish people, and the legal arguments and tools available..."
-- Maria Zyskind (Chicago-Kent)

Personally, after hearing Ken Marcus speak on the subject, speaking with him at length, and reading copious material available through LDB's website, I urged Decalogue's leadership and our law student chapters to work with LDB to address campus problems early, before they turn as ugly as what we unfortunately see nationally and internationally. We are currently looking at ways to incorporate LDB chapters or committees within our Decalogue law school chapters. Depending on many differences from school to school on student funding, administration authorization needed to allow independent LDB chapters on campus, etc., we will work with our student chapters to find the best fit for a healthy alliance with LDB. Providing our students with career development and networking resources of Decalogue and the expertise of LDB, fighting campus anti-Semitism will benefit both organizations.

Student Action

DECALOGUE LAW SCHOOL CHAPTER UPDATES

(Alphabetical Order)

Do you have questions about the Law School Chapters?

Email the Chapter President listed below,
the Decalogue Law Student Board Rep. Shira Oyserman
(s-oyserman2015@nlaw.northwestern.edu)
or the Decalogue Young Lawyers Division Chair Melissa Gold
(mgold812@gmail.com)

DePaul University College of Law
Chapter's President: **Alex Giller,** at ahgiller@gmail.com

IIT Chicago-Kent College of Law
Chapter's President: **Paul Geske**, at decalogue@kentlaw.iit.edu

This past semester, Chicago-Kent's Decalogue Chapter held an initial meeting and happy hour to get acquainted with new members. Chicago-Kent's Chapter also participated in "Chicago-Kent's Holiday Fest" where they had a table with both menorah and sufganiyot for those celebrating Hanukkah. The Chicago-Kent Chapter's upcoming events include a career panel with young Jewish attorneys and a pizza party.

John Marshall Law School
Chapter's President: **Mitchell Robbins**, at mrobbins1016@gmail.com

Loyola University Chicago School of Law
Chapter's President: **Ilana Schwartz**, at schwartz.ilana@gmail.com

Students from Loyola's Decalogue Chapter will be volunteering at Uptown Cafe during the month of November. This semester, Loyola's Decalogue Chapter is planning to host Ken Marcus, President and General Counsel of the Brandeis Center (Date TBD), as well as hold an interfaith Shabbat in partnership with other religious groups on campus (Date TBD).

Northwestern University Law School
Chapter's President: **Yan Zukin,** at y-zukin2016@nlaw.northwestner.edu

The NU JLSA Chapter supported the Decalogue Young Lawyers & Law Students "Milt's BBQ Shabbat" on Friday, January 30th.

Southern Illinois University School of Law
Chapter's President: **Andrew Solis** (asolis@siu.edu) & **Aaron Goldman** (agoldman@siu.edu)

University of Chicago Law School
Chapter's President: **Max Looper** (mlooper@uchicago.edu) & **Casey Prushe** (cprusher@uchciago.edu)

This fall, the University of Chicago Chapter had a Shabbat Dinner for its members that attracted over forty students. Additionally, the U of C Chapter partnered with Hillel to host a mixer for Jewish Graduate students. Finally, the U of C Chapter made regular trips to Milt's Food Truck (Kosher BBQ) on Tuesdays.

During the winter months, another one of the U of C board members will host a Shabbat dinner. Additionally, in February the U of C Chapter will be hosting Professor Roberta Kwall, the Raymond P. Niro Professor of Intellectual Property Law and Founding Co-Director of the Center for Jewish Law and Judaic Studies at DePaul University. The U of C Chapter also hopes to bring in one more speaker this quarter.

University of Illinois College of Law
Chapter's President: **Matt Gold**, at Gold2@illinois.edu

The University of Illinois College of Law's Decalogue Chapter hosted Adjunct Professor Rabbi Dovid Tiechtel, Executive Director of the Illini Chabad, in October of 2014 for a "Lunch 'n Learn" comparative law discussion comparing Talmudic Law and American Law regarding "Privacy Rights and Property."

The Illinois Chapter then hosted Mark Goldhaber ('77) during Homecoming Weekend (October of 2014). Mr. Goldhaber was Vice President of Affordable Housing & Government Business Development at Genworth Financial (Formerly GE Mortgage Insurance), Vice President of Public Affairs at Freddie Mac, and Senior Legislative and Regulatory Specialist at the Dept. of Housing and Urban Development.

Also in October of 2014, the Illinois Chapter hosted Champaign County State's Attorney Julia Rietz, and Champaign Public Defender Randy Rosenbaum for a presentation and discussion about their criminal law practice and how it is influenced by their Jewish identity.

In November of 2014, the Illinois Chapter hosted Rabbi Mordy Kurtz, Director of Education at the Illini Chabad, along with Adjunct Professor Rabbi Dovid Tiechtel, Executive Director of the Illini Chabad, for a "Lunch 'n Learn" discussion comparing the American family law system to Family Law in Talmudic law.

The Name Is "Chupack"

By Decalogue President Joel Chupack

Since my term began, I have noticed much confusion as to my name. At every event I attend on behalf of Decalogue, my name is either mispronounced or misspelled. Even within our organization, I hear people murmur, "what type of name is 'Chupack'". Granted, it is not a typical Jewish name, like most of our past presidents, to wit: Goldberg, Shapiro, Schleifer.

This confusion did not begin with me. It goes back at least as far as to my grandfather, Rubin. In Riga, Latvia where he grew up, the name caused confusion—not Jewish enough to live within the Jewish ghetto, yet not so un-Jewish so as to live in the city proper. It may have been Anglicized during his years in London, where he appeared on the British stage. What he was doing there, we still don't know. He claimed to have introduced "Nu?" to the British stage. I think I heard Lord Grantham utter it under his breath once in an episode of Downton Abbey.

The name did my dad no favors either. In the Back of the Yards neighborhood where he grew up, Bohemians were the major ethnic group. Chupack could be Bohemian, so he was accepted until it was found out that he was Jewish. Then they were upset because he did not tell them. So, he had to fight them to become accepted again. A lot of tumult just to end up where he began, all because his name was Chupack.

To avoid any further confusion, let me be clear as to what Chupack is not. I am no relation to Tupac Shakur, though I am one nasty rap-challenged hombre. I am not the named partner in Chuhak & Tecson, though it's always a delight for the judges when we are on opposite sides in court. Lucas never asked my permission to name Hans Solo's cute and furry co-pilot Chewbacca. Nor do I think I resemble at all the mysterious and elusive Mexican Chupacabra.

There are other Chupacks, but I have never met one. As far as I know, I am not related to Cindy Chupack (the creator and writer of Sex in the City, among other shows), but if we are, it likely goes back to Latvia where Chupacks provided much needed comic relief. I have heard of Chupack clans in Detroit, Omaha and L.A., but have never met them and I doubt that they ever met each other. Chupacks do not really want to associate with other Chupacks. It would just be too disturbing. All that we would talk about is how people misspell or mispronounce the name.

I am grateful to Decalogue for taking a chance on having a Chupack as its president. It's a bold move. Maybe, just maybe, it will signify a new beginning for Chupacks everywhere. Nu?

Chai-Lites

Decalogue member **Jay B. Ross** was honored December 13, 2014, with a street named after him. Grand Avenue at Green Street is now known as the Honorary Jay B. Ross Way.

Mazel Tov to Decalogue member **Ed Steinlauf** and his wife Nechama of Jerusalem on the engagement of their son Aharon to "his heart's choice", Negba Mantzur. Negba recently passed the Israel Bar examinations.

Mazel Tov to Decalogue Board member **Matt Rudolph** on his recent marriage in Israel to Sivan Yaari.

Mazel Tov to Decalogue President **Joel Chupack** on the recent Bar Mitzvah of his son, Matthew

Decalogue Board member **David Lipschutz** is coaching The John Marshall Law School trial advocacy team competing in The Animal Law Closing Argument Competition at Harvard Law School.

Decalogue Past President **Steve Rizzi** was promoted to Partner at Meyers & Flowers, LLC.

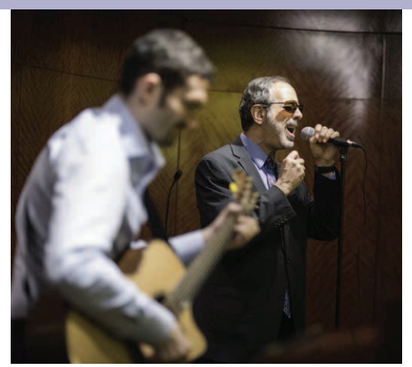
Spot-Lite in the Chai-Lites

The Decalogue Society extends its heartfelt congratulations to Board member **Barry R. Horwitz** – not just for his musical talents as heard by those who attended Decalogue's Hanukkah Party in December – but also because he was deservedly recognized by the Legal Assistance Foundation ("LAF") for his advocacy of LAF's mission within Chicago's business community. This recognition was in the form of the LAF's Young Professionals Board ("YPB") Corporate Ambassador Award. Barry shared that honor with fellow Associate Michael R. Cedillos, both from Greenberg, Traurig LLP, who also received the Award. Although Barry is quite occupied with his intellectual property and technology practice at the firm, he has managed to find time and energy to hold a leadership role in LAF and to organize a YPB-sponsored panel at Northwestern University School of Law focusing on housing law perspectives. For this accomplishment, Barry became the first-ever recipient of the New Leader Initiative Award. And he isn't finished. Barry will be working this year as chair of the YPB's outreach committee. We hope he has room on his office wall for all of his awards!

Welcome New Members!

Charles Adler
Monique Marie Altman
Helen Arnold
Yosef David Arviv
Jaron Birkan
Brian P. Brothman
Matthew Chodosh
Harrison A. Cohen
Lauren Ashley Cohen
Adam Noah Eisenstot
Sammy D. Engelson
Allyson Joy Evans
Jamie R. Fisher
Mark Flagel
Chelsea Dawn Geiger
Dani Goldstein
Gianna Gross
Joshua Benjamin Hammer
Elana Harris
Talya Janoff
Ronald Kalish
Richard M. Kaplan
Adam J. Kase
Michael Kazimierz Ladak
Eric Langston
Matthew Ross Lasky
Bart Lazar
Alysa Levine
Joshua Lowenthal
Damon Mathias
Thomas Matyas
Lolitha K. McKinney
Rachel Chana Meerkov
Lee Oliff
Israel Pollack
Shelby Prusak
Amanda Halya Ptito
Taylor Riskin
Andrew Rodheim
Jordan David Rosenberg
David L. Sanders
Noah Jay Schmidt
Jared Matthew Schneider
Thomas Seymour
Igor Shleypak
Kent D. Sinson
Bruce Slivnick
Robert J. Smoler
Jonathan Drake Steele
Mark Swartz
Daniel Swartzman
Drew Alexander Wallenstein

Chanukah Party



Hound Dog Horwitz (Board member Barry Horwitz) and Howlin' Wasserstrom (Past President Michael Strom) entertain at Decalogue's Annual Chanukah Party December 17.

Jews In Sports

By Justice Robert E. Gordon

Will We See a Jewish Player with the Chicago Cubs in 2015?
Charlie Cutler is a first baseman the Cubs picked up in 2014 when they traded 40% of their starting pitchers. Charlie, age 27, is a good-fielding, good-hitting first baseman whom the Cubs are trying to convert to a catcher. Cutler did some catching in high school and college. In 2014, he played for the Tennessee Smokies (AA) where he batted .310 on 88/284 with five home runs, 42 RBIs, and a .997 fielding average. With Rizzo a fixture at first base, the Cubs have no need for another first baseman. However, their catching needs improvement. Charlie's stats do not merit a promotion unless he has a good spring. This year he batted .282 when catching and nabbed 10 of 48 base stealers (17%). That area is where he needs to improve to make it to the big leagues. If the Cubs fail to trade for or sign a catcher in the off-season, we surely may see Charlie Cutler in the big leagues.

How One's Temper Can Ruin Your Chances in the Big Leagues
Kevin Pillar, a 25-year-old Jewish outfielder with the Toronto Blue Jays, has a promising major league career. In 2013 in AAA, he batted .323 with 10 home runs and 59 RBIs. In 2014, he made the big league club; however, he lost his temper and tossed his bat down the tunnel after his manager lifted him for a pinch hitter in a game against the Yankees. He was immediately sent down to the minors for the rest of the season where he was voted the Buffalo team MVP and an International League All-Star. Next year, if he is given the opportunity, he needs to control his emotions.

Whatever Happened to Kevin Youkilis?
Hoping to overcome his back problems at age 35 and earn a last trip to the big leagues, Kevin Youkilis signed with the Rakuten Golden Eagles of the Japan Pacific League. After 21 games into the season, he suffered an attack of plantar fasciitis, which is extreme heel pain. He then opted out of his contract in order to seek medical treatment in the U.S. Although his batting average was only .215, he had a .342 on-base percentage. He rarely saw a strike over the plate and was walked close to 40% of the time.

37th World Zionist Congress

The World Zionist Congress (WZC) meets every five years to discuss issues of vital importance to the global Jewish community, i.e. Jewish identity, peace and security, anti-semitism, civil society in Israel, and the future of the State of Israel. Voting in the upcoming 37th WZC offers a unique opportunity for you to cast your vote to send delegates to the WZC to represent your voice.

Voters must declare that they are Jewish; will be at least 18 years of age by June 30, 2015; permanently reside in the United States, accept the Jerusalem program (text on election website), and did not vote in the last Israeli Knesset election.

Read about the parties running in the election, register ($10) and vote by April 30.
www.myvoteourisrael.com

Member-to-Member Referrals

Decalogue publishes a Member Directory, including contact information and areas of practice, available on our website:

www.decaloguesociety.org

This is an opt-in directory. When you join or renew, be sure to indicate if you want your information shared on-line.

If you are not currently listed and would like to be, or if the published information is not correct, please email the office: decaloguesociety@gmail.com.

Please Join Us As Decalogue Honors Presiding Judges

Thursday, March 19, 2015
5:30-7:00pm

Jenner & Block
353 North Clark Street
Chicago

RSVP by March 16
$70 Members
$80 Non-Members
$250 Sponsor Listing (includes 2 tickets)

Dietary Laws Observed

Pay online at www.decaloguesociety.org

or send a check to The Decalogue Society,
134 N LaSalle Ste 1430, Chicago IL 60602

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

Hon. Grace Dickler

Hon. Moshe Jacobius

Hon. Shelley Sutker-Dermer

Calendar

Thursday, March 5, 12:00-1:30pm
Lawyers' Purim Luncheon
Co-sponsored by Decalogue, Jewish Learning Institute & Jewish Judges Association
Kirkland & Ellis, 300 N LaSalle, Chicago
$18 RSVP: 312-445-0770 or info@jlichicago.com

Thursday, March 5, 12:00-1:30pm
Study in the Loop with Rabbi Vernon Kurtz
Decalogue office, 134 N LaSalle Room 1430

Tuesday, March 10, 6:00pm reception, 7:00pm dinner
North Suburban Bar Association Gary Wild Dinner
Honoring YWCA Evanston/North Shore
Gusto Italiano, 1834 Glenview Av, Glenview
Tickets: $75, RSVP: president@ilnsba.org

Wednesday, March 11 11:30am-1:30pm
CLE: Ethics Update
Speaker: Wendy Muchman
2 hours Professional Responsibility Credits pending
John Marshall Law School, 315 S Plymouth, Chicago
Registration is required www.decalogueuesociety.org

Thursday, March 12, 3:30-5:00pm
Unconscious Bias II: Evaluating Bias in Female Mentoring Relationships (reception following seminar)
Co-sponsored by Decalogue, Indian-American Bar Association's Women's Committee, the Women's Bar Association of Illinois, and the CBA Alliance for Women
Jenner & Block, 353 N Clark, Chicago
RSVP: baumannesq@gmail.com

Thursday, March 12, 5:30pm reception, 6:30pm dinner
Illinois Holocaust Museum & Education Center
Humanitarian Awards Dinner Honoring Renee & Lester Crown
Hyatt Regency, 151 E Wacker, Chicago
Tickets: $400, RSVP: www.humanitarianawardsdinner.org

Monday, March 16, 12:00-1:00pm
Decalogue Board Meeting
134 N LaSalle, Room 775, Chicago

Thursday, March 19, 5:30-7:00pm
Decalogue Reception Honoring Presiding Judges Grace Dickler, Moshe Jacobius, and Shelley Sutker-Dermer
Jenner & Block, 353 N Clark, Chicago
$70 Members, $80 Non-Members, $250 Sponsor
RSVP: www.decalogueuesociety.org

Tuesday, March 24, 12:00-1:30pm
Jewish Learning Institute's Pre-Passover Lecture & Lunch
Nixon Peapody LLP, 70 W Madison Ste 3500, Chicago
No cost to attend but reservations are required
RSVP: 312-445-0770 or infor@jlichicago.com

Wednesday, March 25 12:15-1:15pm
CLE: Marriage Equality
Speakers: Ray Koenig & Richard Wilson
Co-sponsored by LAGBAC
1 hour General MCLE credit
134 N LaSalle, Room 775, Chicago
Registration is required www.decalogueuesociety.org

Wednesday, April 1 12:15-1:15pm
CLE: Perceptions of Justice in Black and White
Speaker: Justice Michael B. Hyman
1 hour General MCLE credit
Scharf Banks Marmour LLC, 333 W Wacker, Chicago
Registration is required www.decalogueuesociety.org

PASSOVER, April 3 sunset-April 11 sunset

Wednesday, April 15, 5:30-7:30pm
Special Yom Hashoah Event
CLE: Anti-Semitism Here and Around the World
Speakers: Eric Fusfield and Kenneth L. Marcus
1.5 hours General MCLE credit
Co-sponsored by B'nai Brith and the Brandeis Center for Human Rights
Seyfarth & Shaw, 131 S Dearborn, Chicago
Registration is required www.decalogueuesociety.org

Monday, April 20, 12:00-1:00pm
Decalogue Board Meeting
134 N LaSalle, Room 775, Chicago

Wednesday, April 22, 12:15-1:15pm
CLE: Appellate Procedure
Speaker: Justice Stuart E. Palmer
1 hour General MCLE credit
134 N LaSalle, Room 775, Chicago
Registration is required www.decalogueuesociety.org

Wednesday, April 29, 12:15-1:15pm
CLE: Providing Pro Bono Services
Speaker: Patricia Nelson
1 hour General MCLE credit
134 N LaSalle, Room 775, Chicago
Registration is required www.decalogueuesociety.org

Thursday, April 30
Deadline to vote in the World Zionist Congress elections
https://www.myvoteourisrael.com/

Sunday, May 3, 12:00-4:00pm
Israel Solidarity Day & Walk With Israel
http://www.juf.org/isd/

Wednesday, May 6, 12:15-1:15pm
CLE: Condo Law Update
Speaker: Hon. Ellis Levin
1 hour General MCLE credit
134 N LaSalle, Room 775, Chicago
Registration is required www.decalogueuesociety.org

Monday, May 18, 12:00-1:00pm
Decalogue Board Meeting
134 N LaSalle, Room 775, Chicago

Wednesday, May 20, 12:15-1:15pm
CLE: Marijuana Laws
Speaker: Stephen Komie
1 hour General MCLE credit
134 N LaSalle, Room 775, Chicago
Registration is required www.decalogueuesociety.org

SHAVUOT, May 23 sunset-May 25 sunset

Monday, June 29, 5:15-8:30pm
Decalogue Annual Meeting & Installation
Union League Club

Visit our website www.decalogueuesociety.org for more events!

The Decalogue Society of Lawyers
134 North LaSalle Ste 1430
Chicago IL 60602

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