THE DECALOGUE TABLETS

Decalogue Honors

Israel Supreme Court Justice

Salim Joubran

(pages 4 & 11)

Inside:

Hot Topics: Sexual Violence on College Campuses, Opioid Prescription & Prosecution, Religious Accommodation, BDS - Two Perspectives

Features: From the Judge's Side of the Bench, Best Practices, Tech Tips, Chai-Lites

and more!

FALL 2016

The Decalogue Society of Lawyers

TABLETS
Fall 2016

President's Column

Excerpts from President Curtis B. Ross' June 29th Installation Dinner Speech

Thank you for attending the 2016 Decalogue Society of Lawyers installation dinner. This year promises to be both exciting and challenging for Decalogue, the Jewish people, and for people around the world during times of great change and uncertainty. There is a huge need for people of good will to step forward and help in Decalogue and throughout the world. We at Decalogue look forward to being a small but important part of efforts to be an agent for good.

I look forward to leading Decalogue and working with our members, leaders from other bar associations, and other Jewish and non-Jewish organizations to work toward mutual goals of social justice generally and on issues relating specifically to Jews and fighting anti-Semitism. Although individual issues and events change, the challenge of combatting all forms of prejudice is a core mission of Decalogue.

Decalogue must continue to prove that it has special value to members and future members. Although other bar associations provide some of the same membership benefits, Decalogue is particularly attuned to fighting anti-Semitism and addressing the needs of Jews. We provide special collegiality for our members. However, this focus does not limit our approach. We look forward to working with other individuals and groups to also help protect their important rights.

As the practice of law and the business of law have become increasingly challenging, Decalogue also looks to improve our service to Decalogue members. We are engaged in an ongoing process of evaluating how we can provide value to our individual members, future members, law students, and other students. Thus, Decalogue's improvement of its technological capabilities is a priority. With such improvement, we can enhance our communications and social media presence in order to better coordinate and promote not only the services available through Decalogue, but also for many other organizations with whom we share common interests. We recognize that better networking opportunities for our members and students will help them promote their businesses and careers.

We are working with other groups to help Jewish students on campuses who face rising levels of anti-Semitism and anti-Israel activities. The world is undergoing a noticeable rise in anti-Semitism that has prompted the creation of BDS, a movement on college campuses calling for the boycott, divestment, and sanctions relating to Israel. Although not all people involved in this movement are anti-Semitic, the BDS coalition itself is used and funded by people in this country and beyond to foster harassment of and hatred against Jews. *(continued on page 7)*

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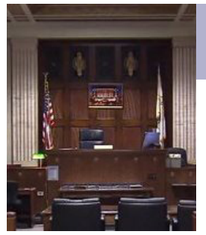

From the Judge's Side of the Bench

Guardians of the Law - A Noble Purpose

By Judge Ilana Diamond Rovner

Am I alone in wondering how it would be if somehow my long ago Philadelphia neighbors could be exhumed? Why such a thought? It would be so that I could thank them.

I would say thank you for calling me Portia before there were any Portias in that part of town and before I had ever heard the name Shakespeare. I would most of all say thank you for not laughing at a seven-year-old who said quite forcefully and quite often that someday she would be a lawyer.

Lawyers. We are members of a profession that has gone through a myriad of difficult changes in the last, let us say, 32 years. I use that number as a benchmark, for this year marks my 32nd year on the bench. But there are constants. One is that we are part of an honorable profession, notwithstanding the fact that we are perennially held in disrepute. Read the newspapers. Listen to the radio. Read Shakespeare.

The law and our freedoms are inextricably bound. Indeed, tyrants dispose of the law as their first act ("The first thing we do, let's kill all the lawyers."—Henry the Sixth, Part 2, Act 4, Scene 2, 71-78). I became a lawyer because instead of bedtime stories, my father of blessed memory would explain to me that if the laws had been upheld in Europe, we would not have had to flee, and our family and friends would not have met the tragic, dreadful end that was theirs. I was taught always that lawyers were the guardians of the law, and thus that lawyers were noble. And when we act as guardians of the law, we perform noble tasks. It sounds lofty, but it is a very basic truth.

The law evolves. It lives. And we are all intelligent enough to know that the law is not a creature of even near perfection. Neither are lawyers. Nor are judges. There is an ongoing parade and process.

We lawyers and judges are so fortunate to have enshrined in our governing documents the understanding that it is in our own best interest to live ethical and moral lives, to practice our craft ethically and morally, and to trust in the power of decency.

Life after all is a series of days in which we try to do our best. We are people who must, if we are to live successful lives, learn the arts of compromise and empathy and compassion. Each one of us has seen injustice in both its smallest and its largest incarnations.

As lawyers, as judges, we have a duty never to remain silent in the face of what we perceive as unjust. Since its inception, the members of the Decalogue Society as a group have tried to live up to that duty. Above all, let us never forget that proud tradition.

Judge Ilana Diamond Rovner serves on the U.S. Court of Appeals for the Seventh Circuit.

Case Law Update

A New Illinois Act and a Recent Illinois Appellate Court Opinion May Help Curb Sexual Violence on College Campuses

By Sharon L. Eiseman

THE NEW ACT:* First, some background: In September of 2014, President Barack Obama initiated a campaign to increase awareness of sexual violence on college campus called **"It's On Us".** The goal of the campaign was to reveal to the public the shocking percentage of sexual assaults that occur on campuses and to demand that such acts be investigated and addressed. This first-of-its-kind White House campaign was no doubt inspired, in part, by the momentum following the U.S. Department of Education's Office of Civil Rights 2011 publication of the first *Dear Colleague Letter*** concerning sexual violence on campuses; a press conference held in early 2013 by students from several colleges regarding their jointly filed federal complaints alleging campus sexual assault is a national problem; and an on-line posting of federal complaints filed against universities by the U. S. DOE showing the number of assaults had doubled. These public communications helped propel the subject into the public conscience and public discourse.

Moreover, *The First Report of the White House Task Force to Protect Students From Sexual Assault,* released in April of 2014 (before the 'It's On Us' campaign was launched) and meaningfully entitled "NOT ALONE", definitively identified the crisis on college campuses and ways to combat it, including how to effectively respond when a student is sexually assaulted. (Find the Report at **www.notalone.gov/assets/report.pdf** along with helpful data and resources for students and schools. On that website, you will also notice the number of the **National Sexual Assault Hotline: 800-656-4673.**) One critical outcome from the Obama Administration's focus on this problem was a 'discovery' that assaults of this nature have been taking place for a long time. Further, they have continued for many reasons, including victims' fear of repercussions for reporting the crime, or a belief, reinforced by examples, that the reports will not be taken seriously or fully investigated—or both.

Thankfully, recent public awareness of the extent of campus sexual assault and of the trauma experienced by the victims has prompted state legislatures to pass laws concerning such conduct. These laws have their roots in our nation's recognition of individual civil rights and the civic responsibilities of government and other covered entities to provide equal opportunity in education to their students. Thus, they focus on encouraging the reporting and proper investigation of allegations of rape; addressing the impact on victims and the protections they need; providing victim services; and requiring specific actions by the schools and law enforcement to foster changes in existing campus culture that so often enables, even rewards, sexual aggression against (mostly) women. Illinois is one state—in addition to California and New York—that has recently passed a bill, P.A. 99-426 entitled 'Preventing Sexual Violence in Higher Education Act' (110 ILCS 155/1 et seq.), which took effect on August 1, 2016.

This important new Act was drafted and promoted by Illinois Attorney General Lisa Madigan with assistance from her Chief of the Office's Civil Rights Bureau, Karen Bass Ehler. Current federal laws and recommendations on this issue – outlined in statutes, regulations and federal guidance – are diffuse, making it confusing for some higher education institutions to translate them into effective policies and programs on their campuses. Illinois colleges, and college students, may find the Illinois legislation especially helpful because it provides a roadmap to federally-mandated responsibilities and adds new requirements, described below, which have been identified as best and recommended practices.

In its mandate that all covered institutions of higher education develop, publish and implement a "comprehensive policy" covering sexual violence, domestic violence, dating violence and stalking that includes reporting procedures and university response guidelines, the Act makes it clear that schools must have defined and consistent responses to student complaints. (*See* Section 155/10 of the Act.) Furthermore, the schools must notify survivors of their rights, and offer a "fair and balanced" procedure to resolve complaints—unlike the 'hearings' in some schools where the athletic director adjudicates complaints against student athletes in the sports programs that the director or his/her coaching staff oversee. Additionally, the schools must provide training for students and school employees to increase awareness of and responsiveness to complaints of assault, and also offer protections to 'bystanders' so they are discouraged from reinforcing the perpetrator's actions and instead are motivated to aid the victim and support her/his reporting of the attack.

Significantly, these institutions are required to include, in their policies, a definition of 'consent' which must meet identified minimum requirements but may establish stricter standards. In this context, it is reassuring that Section 10(1) of the Act recognizes "knowing consent" is not possible when the person is incapacitated due to drugs or alcohol, or if she or he is asleep or unconscious. Such a provision takes into account the reality that the incapacitated state in which many rape victims are attacked is rarely of their own doing and instead is a condition into which they are forced or lured by the aggressor(s).

The new Act includes two provisions not found in federal law: (1) a requirement to provide a "confidential advisor" for the survivor; and (2) a mandate for the schools to create a campus-wide task force or participate in a regional task force that must meet twice a year to review the schools' policies and procedures as well as their education and outreach efforts. Additionally, under Section 205/9.21(b), the schools must submit annual reports to the Office of the Attorney General as to incidents, trainings, and complaint resolution outcomes among other mandated information.

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Sexual Violence on College Campuses *(cont'd)*

As a result of these reporting requirements and other responsibilities defined in the new Act, Illinois institutions of higher learning will be held accountable for creating safe environments for their students, for providing means for students to report assaults, and for following appropriate processes for investigating complaints and disciplining the attackers.

When educational institutions comply with state laws and with the federal Violence Against Women Reauthorization Act by responding effectively and promptly to complaints, all students, including victims and the accused alike, as well as the general student body, are the beneficiaries. These laws recognize the need to balance a school's ability to respond appropriately to reports of violence without impinging on the rights of the accused student. Moreover, the new Illinois law requires schools to incorporate several elements into the complaint resolution procedure to promote consistency and accountability.

THE NEW CASE: To further the protections afforded to those students who report their attackers to school personnel, we now have a First District Illinois Appellate Court Opinion issued June 1, 2016 that addresses a component of the process for reporting an attack. The case, *Omid Shariat Razavi v. Eva Walkuski and Ariel Zekelman and School of the Art Institute of Chicago*, 2016 IL App (1st) 151435, clarifies that the privilege attaching to statements made to law enforcement regarding the commission of a crime extends to college student reports of sexual assault to campus security.

All three named individuals in the appeal attended the School of the Art Institute of Chicago (SAIC) and lived in the same school dorm. The basis of the trial court action that resulted in this interlocutory appeal was a defamation claim Razavi filed against two female classmates, Walkuski and Zekelman, both of whom had reported Razavi to the campus security director in late 2013 for sexually assaulting them. Ariel Zekelman ultimately withdrew her complaint but Eva Walkuski proceeded with hers (for both sexual assault and stalking) which led to a disciplinary hearing for Razavi before the SAIC student conduct board.

Based upon the board's finding that Walkuski's allegations were credible, Razavi was subsequently expelled from the SAIC. In July of 2014, Razavi sued both Walkuski and Zekelman for defamation *per se* and *per quod* for what he characterized as false reporting of sexual assault to the SAIC campus security officers. When the trial court denied defendants' Motion to Dismiss plaintiff's complaint, defendants requested and the court granted certification, under Illinois Supreme Court Rule 308, of the following question for appeal:

"Under Illinois law, does the absolute privilege for reporting crimes to law enforcement apply to a college student's report of on-campus sexual violence to campus security, particularly when federal law encourages college students to report sexual violence to campus security?"

In its analysis of the certified question, the Appellate Court first noted that its role was to answer the question and not to "address the application of the law to the facts of the case." Due to that circumscribed role, the Court did not delve into a detailed factual analysis of the SAIC student policies for the administrative handling of victim reports or consider plaintiff's arguments that defendants' statements to non-police school personnel during the investigation of the reports were of a lesser status because those personnel were not connected in any way to law enforcement.

Reviewing as a matter of law, and *de novo*, whether a defamatory statement is privileged, the Court observed—and plaintiff acknowledged—that the SAIC handbook does offer victims the option of reporting sexual assault to local police or to campus security. Plaintiff Razavi asserted, however, that statements to campus security are not protected from liability for defamation as are statements to local law enforcement. The Court disagreed and, consistent with the long policy history of Illinois common law "affording absolute privilege to individuals who report crime to further public service and administer justice", it held that absolute privilege extends to a crime victim's statements to campus security, whether at a public or private university, and can therefore be raised as an affirmative defense to a defamation action.

The remainder of the Opinion reinforces that a campus security department exists to protect and assist students and uphold the law; that an absolute privilege attaching to reports to campus security helps safeguard students and "further public policy of limiting sexual violence on college campuses"; that failure to deem such reports as privileged would deter reporting and penalize victims who do report incidents of sexual violence; and that once a privileged statement is made, restatements "in furtherance of an investigation" are covered by that same privilege. The Court buttressed its conclusion with a citation to *Hartman v. Keri*, 883 N.E.2d 774 (Ind. 2008), wherein the Indiana Supreme Court held that student reports of sexual assault and harassment are protected by absolute privilege even though existing Indiana law extended only a qualified privilege for statements made to law enforcement. *Hartman* determined, as did the *Razavi* Court, that a lack of absolute privilege would have a chilling effect. Finally, the Court made short shrift of the second requirement for a defamation action: that the statements were made for the purpose of initiating legal proceedings, by concluding that courts should not be mandated to examine the subjective intent of the person reporting the sexual assault. Instead, the absolute privilege must apply to protect the victim. Accordingly, the cause was remanded to the trial court for its consideration in ruling on any dispositive motion.

It is encouraging, as well as a reflection that the Court recognizes the gravity of campus sexual violence, that the *Razavi* Opinion references in footnotes both the "It's On Us" campaign and the new Illinois Act. *Razavi* likely will be considered as an important, positive step toward improving the climate for students on college and university campuses throughout Illinois.

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* The section covering the new "Preventing Sexual Violence in Higher Education Act" is reprinted from an article by the same author published in the June 2016 issue of the ISBA Committee on Racial and Ethnic Minorities newsletter, The Challenge.

** Dear Colleague Letters: Letters issued periodically by the DOE's Office of Civil Rights to provide policy guidance to covered entities as to their obligations, and to members of the public as to their rights, under the civil rights laws. This particular DCL was deemed a "significant guidance document" under the OMB's Agency Good Guidance Practices.

Tech Tips

These Are a Few of Our Favorite Apps

Tip from Peter Tessler, official Decalogue "techie":

Passwords. They are important and part of our everyday life. Nearly everything we do requires a password, and if we are listening to security experts, every password we use is a different random sequence of numbers, letters, and characters. It's difficult to remember each and every one of them to begin with; add in random characters, and the challenge becomes that much greater. This is where an application such as AgileBits 1Password comes in.

1Password is a secure online vault. It uses AES-256 encryption (this is as good as it gets) for both storing and transmitting data, keeping your information safe and sound. Any time you go to a website, you simply open up 1Password on whatever device you are using, and it logs you in. Even better, when you create a new password or update an older one, the new password becomes immediately available on all of your devices.

You can also use 1Password to store nearly any other form of personal data you want to keep secure but also easily available such as credit card numbers, bank accounts, and identifications. 1Password is available for Mac, iOS, Android and Windows. I use this app every day and recommend it to anyone looking to make their lives easier.

www.1password.com

Tip from James A. Shapiro

One of my very favorite apps is called Evernote. Some of you may have heard of it as a document storage app, but what I really use it for is business cards. Unlike Camcard or many of the other free business card apps, Evernote is connected to LinkedIn. This means that when you hover your phone over a business card, Evernote will capture the card's image, read the email address, and pull up the LinkedIn photo and profile associated with that email address.

But the kicker is that when you save the business card and LinkedIn profile, Evernote will not only email your contact info to the person on the business card, but ask them to connect with you on LinkedIn as well. The only downside is that the business card feature is not part of the free Evernote app. It's a premium feature that costs either $50/year, or some monthly plan that adds up to more than $50/year.

Now, I don't like paying for apps. In fact, I think this may be the only app I've ever paid for (after a free two-year trial period that came when CardMunch went out of business and merged into Evernote). But I've found this premium upgrade so indispensable that I forked over the $50 immediately after my two-year trial period ended.

After I show them how the app works, many people ask me whether it syncs with Outlook. For me the answer is no, although I did recently meet someone who said it did for him. But the folks at Evernote told me there are some other apps that can do the synching. Those are above my pay grade, so I just simply keep my Evernote contacts separate from my Outlook ones. I do have to look in both places for a contact, but it's worth it to have a digital Rolodex right in the palm of my hand.

Another app I suspect more of you are familiar with is called Waze. If you are one of the two people in the world who drive and are not familiar with it, download it immediately (unlike Evernote Premium, it's free). It was invented by the Israelis and bought by Google. It not only gives you directions to avoid traffic, but tells you where the cops, red light cameras, and speed cameras are (among other things). That is not meant to give you carte blanche to run red lights and speed, but it does warn you better than those little signs on the side of the road.

Waze works like social media. It depends on other "Wazers" to report the presence of the above, together with various road hazards. Thus, while there are many Wazers in and around densely populated cities like Chicago, you have to be more careful in rural areas where there are fewer Wazers on the road. Please drive safely and at or under the speed limit. Be aware that it is now a misdemeanor in Illinois to speed 26 MPH or more over the limit.

President's Column *(cont'd)*

I request that Decalogue members and non-members contact me or other Decalogue leaders with suggestions for how we can work together for the good of our profession, to educate lawyers, and to promote positive social goals.

Decalogue takes pride in the diverse bar associations and other organizations we work with to provide quality continuing legal education in numerous areas of law, including legal ethics. This past spring I participated in an outstanding joint panel program with the Muslim Bar Association covering family law issues, including marriage, divorce, and custody disputes, from both Jewish and Muslim perspectives. The interactive program had great relevance for me as a practitioner in divorce and family law.

Please join us at future events and take part in activities and programs that this great organization offers. If you are not a member, please join Decalogue, a bar association that welcomes every lawyer of whatever faith or denomination. If you have or your group has ideas for how we can work together in the future, we look forward to hearing about them and to working with you and your group.

Best Practices

Post Judgment Remedies and Defenses: Citations and Liens and Garnishments - Oh My!

By David W. Lipschutz

Quite often for *pro se* litigants (and for many attorneys), courtroom efforts do not end when judgment is entered. An entire world of litigation and courtroom procedure awaits thereafter. This is known as post-judgment proceedings. The entry of a monetary judgment does not mean a defendant must immediately tender the plaintiff the amount due. In fact, this rarely happens. Instead, if no lump sum payment or payment plan is created between the parties, the plaintiff will likely proceed with post-judgment action against the defendant.

The plaintiff, or judgment creditor, has several options on how to proceed. The plaintiff can file a Citation to Discover Assets against the defendant, or judgment debtor, directly. A judgment creditor uses a Citation to Discover Assets to ascertain what sources of income, property, and/or assets a judgment debtor may have in his, her, or its possession and should require the judgment debtor, also known as the respondent, to provide any and all relevant documents, such as bank statements, tax returns, and employment pay stubs. The judgment creditor can file this Citation to Discover Assets, or a Non-Wage Garnishment, on a third party respondent such as a business or bank as well.

The judgment creditor can also file a Wage Garnishment against an employer who may be paying wages to the judgment debtor. If a judgment debtor's pay is above a certain threshold, the employer must deduct some wages upon receiving the post-judgment pleading. Then, once a wage deduction order is entered, the employer must turn over to the judgment creditor the previously held funds as well as any future funds as they become available.

Finally, if the judgment debtor owns property, the plaintiff can place a lien on that property after judgment has been entered. There are several other actions a judgment creditor can take in the post-judgment phase to collect a judgment.

For defendants, it is important to note that, in Illinois, interest accrues at a rate of 9% per annum. And a judgment can be good for up to twenty-one (21) years. However, all is not lost for a defendant facing post-judgment actions. Here are some suggestions on how to defend yourself post-judgment:

1. Speak with and obtain legal counsel – this first point is obvious as post-judgment matters are just as important and are to be taken just as seriously as any pre-judgment action.

2. If a litigant is unable to afford legal counsel, utilize Chicago's many free legal services. For example, The Daley Center has legal assistance attorneys in the post-judgment courtroom (Courtroom 1401) every morning as well as in Room CL-16, which is dedicated solely to providing guidance to *pro se* litigants. Chicago has many additional resources available as well The resources include the following: the Chicago Legal Clinic (clclaw.org or 312/726-2938), Chicago Volunteer Legal Services (cvls.org or 312/332-1624), Legal Assistance Foundation of Metropolitan Chicago (lafchicago.org or 312/341-1070), Coordinated Advice and Referral Program for Legal Services a/k/a CARPLS (carpls.org or 312/738-9200), Illinois Legal Aid (illinoislegalaid.org), and Ayuda Legal Illinois (ayudalegalil.org).

3. Read each post-judgment pleading fully and completely. Unlike an Apple iPhone's terms and conditions or an IKEA dresser's manual instructions, the judgment debtor should thoroughly read citations and wage garnishments. Not only do they provide in plain language potential actions to take, but they also provide any potential rights and defenses.

4. Pay attention to court dates. If a judgment debtor is properly served with notice of an upcoming court date, appear on the date provided in the pleading, known as the "return date." Often a plaintiff is able to obtain a turnover of funds or a wage deduction order simply because the judgment debtor and/or respondent failed to appear in court on the return date

5. There are several exemptions that the law offers to protect a judgment debtor from a judgment creditor's actions. Exemptions include: (a) social security; (b) unemployment compensation; (c) public assistance benefits; (d) veteran's benefits; (e) child support or maintenance needed to support you or your family; (f) pension and most retirement benefits; (g) Circuit Breaker Property Tax Relief benefits; (h) disability, illness, or unemployment benefits; (i) award under a crime victim's compensation law; (j) wrongful death award needed for your support; (k) life insurance payment needed for your support; (l) $2,400 equity in motor vehicles; (m) $15,000 equity in a home ($30,000 for married couples); and (n) $15,000 or less of a personal injury award. There is an additional general exemption, known as "The Wild Card Exemption," whereby a respondent can protect up to $4,000 worth of any property of a respondent's choosing, be it bank account funds, wages, etc. For wage garnishments, wages are exempt and will not be garnished if a defendant's take home pay (after taxes) is less than the following: $371.25 weekly, $742.50 bi-weekly, $804.38 semi-monthly (twice a month), or $1,608.75 monthly.

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The Shochet's Dilemma: *Hobby Lobby* and Judaism

By Hon. James A. Shapiro (ret.)

The year is 2020. Shochets Helping Lonely Elderly People, or SHLEP, Inc., is a for-profit kosher butcher that caters to elderly Jews too infirm to shop for themselves. SHLEP delivers either cooked or uncooked kosher meat to their door.

PETA (People Eating Tasty Animals, not People for the Ethical Treatment of Animals) has eclipsed the NRA (that still stands for what you think it does) as the lobbying juggernaut of the Trump Administration. Even though President Trump has not taken any contributions from it, PETA has prevailed on him through Trump Steaks to ram through Congress and sign the Too Rancid Act for Food, or TRAF, a bill forcing butchers to slaughter animals with a stun gun because the meat supposedly tastes better that way. TRAF would put SHLEP and all other commercial shochets out of business.

SHLEP sues Trump's Attorney General, Chris Christie, under the Religious Freedom and Restoration Act (RFRA--this one is real) to invalidate TRAF. But what can SHLEP rely on? TRAF is clearly religion-neutral. It doesn't target ritual slaughter per se because it merely requires all animals to be killed in a uniform way, via a stun gun, for taste purposes only.

Well, fortunately for SHLEP (but perhaps unfortunately for women), the Supreme Court came to its rescue in *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014). In *Hobby Lobby,* the Court upheld a private, for-profit corporation's "free exercise" right to practice its religion (in reality, that of its owners) by allowing it to opt out of otherwise mandatory contraception insurance coverage under the Affordable Care Act ("ACA"). *Id.* at 2759-60. The Court held for-profit companies like Hobby Lobby indeed had a right to the free exercise of its religious beliefs under RFRA.[1] Never mind that Hobby Lobby's female employees might not have shared in those beliefs.

But what was bad for women in *Hobby Lobby* is good for SHLEP in its case against the government. Because even though TRAF didn't target ritual slaughter like SHLEP's, TRAF's incidental burden on SHLEP's right to practice Judaism through kosher slaughter is probably a RFRA violation. RFRA is a "permissive accommodation" of the free exercise of religion. It statutorily carves out free exercise rights by reinstating the "compelling governmental interest" standard that the Supreme Court had abandoned in a case called Employment *Div. Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872 (1990).

A person who claims a violation of RFRA has to show a "substantial burden" on his/her free exercise of religion. The burden then shifts to the government to demonstrate that the law or regulation "(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." 42 U. S. C. §§2000bb—1(a), (b). Congress did not intend in RFRA to create any new rights for any religious practice or for any potential litigant.

In SHLEP's case, TRAF is pretty clearly a substantial burden on SHLEP's free exercise of Judaism, because SHLEP slaughters animals under the laws of kashrut to help (for profit, of course) observant, elderly Jews. Once SHLEP demonstrates this, the burden would then shift to the government to show it had a compelling interest. It would articulate that interest as making meat taste uniformly better according to PETA.

OK, OK, I admit that making meat taste better does not really sound so compelling. But what if PETA were People for the Ethical Treatment of Animals instead of People Eating Tasty Animals and the compelling government interest were animal cruelty instead of making meat taste better? A little more compelling? At least for you vegetarians?

In any event, let's assume the government has a compelling interest. Is TRAF's requiring animal slaughter by stun gun the least restrictive means to further that interest? In other words, would a stun gun be the only way to humanely kill an animal (or to make it taste better, under the less compelling scenario)? How does the government know that? Has it felt the pain of the animal being slaughtered? Did it do a survey of veterinarians? Did it conduct taste tests amongst diners who might have different taste in meat?

In *Hobby Lobby,* the Court decided there were less restrictive means to further the government interest in supplying women with affordable contraception. The government could have paid for the contraception coverage itself, for example. 134 S. Ct. at 2779-80. While those putatively less restrictive means were questionable, the Court concluded they were enough to sustain a private corporation's right to practice "its" religion by refusing to pay for contraception coverage. That holding would almost certainly be enough to strike down TRAF under RFRA, and let SHLEP, Inc. continue slaughtering animals according to the law of kashrut and, by extension, continue purveying kosher meat to lonely, elderly people.

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[1]Last term, the Court had the opportunity to expand its holding in Hobby Lobby in a challenge by non-profit religious institutions to the Affordable Care Act's requirement that they seek an accommodation to exempt them from the contraceptive insurance requirement. Zubik v. Burwell, 135 S. Ct. 2924 (2016). However, presumably in light of the prospect of a 4-4 tie after the death of Justice Scalia, the Court essentially "punted" by sending the case back to the lower courts for further consideration.

Study in the Loop with Rabbi Vernon Kurtz

Thursday, November 17
Thursday, January 19
Thursday, February 9
Thursday, March 16

12:00-1:30pm at the Decalogue Office

Call the Rabbi's assistant, Lennie Kaye 847-432-8900x221 to make a reservation.

Building a Bridge with our Ladies of Justice

By Marvet M. Sweis Drnovsek, Esq.

On the evening of April 9, 2016, the Decalogue Society of Lawyers and the Arab American Bar Association of Illinois (AABAR) came together to recognize six women who deserved recognition not only for their accomplishments as attorneys, but also for their deep appreciation of diversity within our communities.

The event proved to be exceptional. What was anticipated to be an intimate gathering became much more. With well over 100 guests in attendance, Chicago Lawyers Magazine covered the evening's success. The ultimate message was simple: Bridge the gap.

In the spirit of Lady Justice, our blindfolded goddess of the moral force within our judicial system, the political tension our media often magnifies simmered momentarily, reminding all that each of us is an important member of one unified family. Above all of the beautiful differences that shape us, we are brothers and sisters first. We dream similar dreams and we carry similar fears. We feel joy and we feel pain. We are, in the end, human beings embarking upon the journey of life together. It therefore behooves us all to combat every injustice we witness along the way in order to protect and support our great big family.

Decalogue and AABAR recognized the following women as our own Ladies of Justice for their valiant efforts in promoting justice. Dean Nina S. Appel, Honorable Nancy J. Katz, and Diane L. Redleaf of Decalogue, along with Sandra Frantzen, Donna Haddad, and Sana'a Hussien of AABAR. These honorees shared what it meant for them to be attorneys and how their individual paths and familial influences were in so many ways very similar despite their ancestries and the unfortunate conflicts between the two cultures of which we so often hear.

In accepting her award, Redleaf thanked Decalogue for "being at the forefront of drawing the connection between Jewish values and justice in the Chicago legal community." For Redleaf, "It is a rare privilege to share this same awareness with women members of the Arab-American Bar Association, with whom we join to fight racism, intolerance, and the denial of due process of law" as well as "fighting for the rights of women as women and women as mothers, together." Redleaf, Founder and Executive Director of the Family Defense Center, has brought more than three dozen major systemic reform cases on behalf of families in Illinois.

Fellow honoree Donna Haddad discussed her appreciation of "a[n Arab] bar organization with both Muslims and Christians working together and joining our Jewish legal colleagues to break bread and to honor women." In reflecting on the evening, Haddad underlined that "our journeys are all very similar: Immigrants who came to America for a better life for their families, who despite having to overcome challenges, have been able to give back to our American community." Haddad, current President of AABAR, is Senior Counsel for IBM Watson. She spent three years in Dubai and led a team of attorneys supporting forty countries, including

Diane Redleaf, Nina Appel, Donna Haddad, Nancy Katz, Sana'a Hussien, Sandra Frantzen

the Persian Gulf, Middle East, Pakistan, Egypt, and Northwest Africa Francophone countries. She also served on the Board of Directors of International Orthodox Christian Charities, a U.S. international humanitarian aid agency.

In acknowledging her award, Judge Katz, an Associate Judge in the Circuit Court of Cook County's Domestic Relations Division, seized the moment to warn that "we are living in an era with increasing intolerance and divisiveness when politicians demonize minorities and immigrants, so it is very important that organizations like Decalogue and AABAR come together to celebrate what brings us together and not what tears us apart." Judge Katz previously served as Assistant General Counsel for the Illinois Department of Children and Family Services and dedicated over 10 years to the Legal Assistance Foundation of Chicago.

Award recipient Sana'a Hussien added to Judge Katz's sentiments that the event "was an opportunity to show that we have so much in common and that our collective and collaborative efforts strengthen our respective communities and enhance the legal community." For Hussien, "this is also how enforcement of liberties, stability, and equality is achieved—when we all advocate for each other and not only for ourselves." Hussien is the founder of the Law Offices of Sana'a Hussien & Associates. She served as a U.S. delegate to the Middle East North Africa Economic Summits held in Amman, Jordan; Cairo, Egypt; and Doha, Qatar. She also served as a member of Mayor Richard M. Daley's delegation to Amman, Jordan and led committees in the Arab American Business & Professional Association, St. Jude Children's Research Hospital, and the United Nations Association's Greater Chicago Chapter.

Joining Hussien was Dean Appel who touched on how both the Decalogue and AABAR communities have so much in common as immigrants and minorities, with similar goals and aspirations. Dean Appel served as a member of the ABA Council on Legal Education and Admission to the Bar. She is the former Dean of Loyola University Chicago School of Law and assumed the title of Dean Emerita, the first time such title has been awarded in the long history of the University, where she remains a full-time member of the faculty and administration.

(continued on page 11)

Decalogue to Honor Israeli Supreme Court Justice Salim Joubran

By Barry S. Goldberg

Justice Joubran was born in Haifa in 1947, a year before the establishment of the State of Israel in 1948. He graduated from high school in Acre in 1963 and went on to receive a degree in law from Hebrew University, and an honorary doctorate from Haifa University. From 1970 until 1982, Justice Joubran was in private practice, and in 1982 at the age of thirty-five, he was appointed as a Judge in the Haifa Magistrate's Court. In 1993, he was promoted to the City's district court where he served for 10 years. In 2003, Justice Joubran became the second Arab to be given a temporary (one-year) seat on the Israeli Supreme Court, the first having been Justice Abdul Rahman Zouabi, who served in 1999 but who was not made a permanent member. In May of 2004, Justice Joubran was selected as the first Israeli Arab to hold a permanent appointment as a member of the Israeli Supreme Court. He is also the first Arab to chair the Central Elections Committee in Israel.

In addition to his role in the judiciary, Justice Joubran is frequently recognized for his role in social action, education, promoting useful community service, and cooperating in worthy movements for the public welfare. He has publicly called on both Jewish and Arab leaders in Israel to put aside their differences and work together to reduce the "gaps in education, employment, allotment of land for building and expanding towns, gaps in industry[,] and gaps in infrastructure' so that the statement in Israel's Declaration of Independence proclaiming "equality for all" might become a reality.

Justice Joubran also serves as a member of the Board of Trustees of Haifa University where he has served as a lecturer on the law faculty, teaching and helping mold the future lawyers of his country. He was a founding member of Bait Kedem Jewish-Arab Centre in Akko and is the recipient of the Lord Marks Sieff Prize for distinguished initiatives to improve the relationship between Jews and Arabs in Israel.

Fellow award recipient and current Vice President of AABAR, Sandra Frantzen, inspired listeners as she asserted that "now more than ever, it is important that the Arab Bar join together with our brothers and sisters at the Decalogue Society to recognize and share our common experiences." Frantzen emigrated to the United States from Lebanon as a child at the onset of the Lebanese civil war. She is now a partner at McAndrews, Held & Malloy and was named to the Law Bulletin's list of "40 Illinois Attorneys Under 40," an achievement she emphasized would not have been possible had she been denied the opportunity to come to the United States.

As these accomplished women have demonstrated, we are obligated to educate against intolerance, for there is an insurmountable strength that comes in doing so. This is a lesson that transfers in a very real way to the practice of law and what it means to be an advocate: A relentless, conscientious representative for those who need our help. We must engage in action that represents the highest standards and virtues of humanity. Lady Justice reminds us to be fair and equal in the administration of the law, without corruption or prejudice, and knowing no differences. In honoring our own Ladies of Justice, Decalogue and AABAR helped forge a bridge that we hope will last for generations to come.

Next Joint Decalogue/AABAR Event
Thursday, April 27, 2017
Watch your email for details

Post Judgment *(cont'd)*

6. If a judgment debtor has a bank account, and the judgment creditor files a third party citation or a non-wage garnishment on the bank, then the bank will likely freeze the account. If a judgment debtor's bank account is frozen, s/he should first inform the bank and judgment creditor of any exempted money in the account. The judgment debtor should then appear in court on the return date and again claim any and all exemptions. If the judgment debtor intends to claim any exemption other than the "Wild Card Exemption," it is best to bring all proof in support of any exemption claims to provide to the judge and plaintiff's counsel. Bring an additional copy for plaintiff's counsel.

7. If a judgment debtor is employed, and there is a wage garnishment proceeding pending, the judgment debtor should ensure the employer is deducting the correct amount. If the judgment debtor believes the wrong amount is being deducted, s/he should appear in court on the return date and inform the judge and plaintiff's counsel. Once again, it is best to bring all proof to support any exemption claims (as well as a copy for plaintiff's counsel).

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* The information in this article is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your unique needs.*

Student Action

The Rise of Islamophobia and Its Connection to Anti-Semitism

By Michelle Milstein

In the fall semester, the John Marshall Law School Decalogue Society will be pairing up with the Muslim Law Student Association to plan an event that addresses both Islamophobia and anti-Semitism. While Islamophobia has always been around, it has become the latest trend in today's social media. Members of the Decalogue Society know and understand what Muslims are going through because we 've lived through it and we still see anti-Semitism every day. Together we want to discuss the rise of Islamophobia and its relation to anti-Semitism and what we can do together to combat it.

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Young Lawyers' Corner

How Technology is Driving Much Needed Police Reforms

By Martin D. Gould

On November 24, 2015, Mayor Rahm Emanuel's Office released to the public a dash cam video of the Laquan McDonald shooting incident. There were stark differences between the officers' accounts of what had occurred – which would have justified the use of deadly force – and what was shown on video. Notably, the officer who shot Laquan sixteen times stated that Laquan charged him with a knife, getting within 10-15 feet of the officer, and that he continued his aggression after being shot. The officers on scene confirmed the story. The dash cam video, however, which was released over a year after the incident following a contentious legal battle, painted a much different picture. The resulting public outcry led to Superintendent Gary McCarthy's forced departure, a Department of Justice investigation in the Chicago Police Department (CPD), and the Mayor's promises of serious reforms.

On December 9, 2015, Mayor Emanuel did what no Chicago mayor has done before. He admitted in a speech to the City Council that a code of silence exists and has existed within the CPD. As a result, the Mayor created and implemented a Police Accountability Task Force to review the system of accountability, oversight and training that is currently in place for Chicago's police officers. In April of 2016, the Task Force concluded, among other things, that "Chicago's police accountability system is broken . . . [and] riddled with legal and practical barriers to accountability." See Police Accountability Task Force Recommendations for Reform Report ("Report"), available at https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf

The Report highlighted problems regarding racism, an entrenched code of silence, systemic failures in investigating and disciplining officers, and complicated obstacles created by the police union. Among numerous recommendations, the Report sought the expansion of the CPD's body cam pilot program as one method of creating greater transparency and restoring trust by the Chicago community.

The use of body cameras will not only help break the code of silence and hold officers that abuse their powers accountable, but it will also vindicate officers that are wrongfully accused. Police have a necessary and vital role in society and most officers want to do the right thing. Rather than fight for less transparency, police departments across the country should embrace technology and use it to learn from their mistakes, update training where necessary, and discipline or terminate the bad actors.

In order to adequately preserve audio and video evidence, it is imperative that attorneys litigating civil rights cases promptly send letters of preservation of evidence to the appropriate government agencies.

Prosecuting Physicians For Opioid Prescriptions

By Adam J. Sheppard

The misuse, abuse, and addiction to prescription opioids are a serious problem in America. "Of the 21.5 million Americans 12 or older who had a substance abuse disorder in 2014, 1.9 million had a disorder involving prescription pain relievers." *http://www.asam.org/docs/default-source/advocacy/opioid-addiction-disease-facts-figures.pdf.* "Since 1999, the amount of prescription opioids sold in the United States has nearly quadrupled." *https://www.cdc.gov/drugoverdose/epidemic/*

One response by the federal government has been to more aggressively prosecute physicians who unreasonably prescribe opioids. See http://www.deadiversion.usdoj.gov/crim_admin_actions/doctors_criminal_cases.pdf ("Cases Against Doctors," last updated March 31, 2016). However, the issue of whether a physician was legally justified in prescribing pain medication is fraught with ambiguity. Indeed, "[o]pioids have been regarded for millennia as among the most effective drugs for the treatment of pain." *http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2711509/.* And there is currently "no nationally accepted consensus" for how to best treat chronic pain (not including pain due to cancer). *See* http://www.painmed.org/files/use-of-opioids-for-the-treatment-of-chronic-pain.pdf (the American Academy of Pain Medicine). Thus, it is unclear at what point a physician who prescribes opioids runs afoul of the federal drug laws.

The government generally charges physicians under the Controlled Substance Act. The Act states, in part, that, "except as provided by this subchapter, it shall be unlawful for any person knowingly or intentionally . . . to distribute[] or dispense a controlled substance." 21 U.S.C. 841(a)(1). The government uses the same law to prosecute dealers of street-drugs. Congress did provide an exemption for physicians and certain others (*e.g.*, manufacturers, nurses, and pharmacists) to lawfully distribute or dispense drugs within the course of their professional practice. See 21 U.S.C. 822(b); 21 C.F.R. § 1306.04.

For a prescription to be considered effective, it "must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 C.F.R. § 1306.04. To avoid criminal liability, physicians may point to their "good faith" beliefs that a prescription was issued for a "legitimate medical purpose" and within "the usual course of professional practice." See *United States v. Moore*, 423 U.S. 122, 96 S. Ct. 335, (1975); *United States v. Hogan*, 2009 WL 4043084, *1 (W.D. Mich. 2009);

Whether a physician's conduct was for a "legitimate medical purposes" and within the "usual course of a professional practice" is an objective standard, *i.e.,* whether the physician acted in accordance within the tenets of medical professionalism. See *United States v. Smith*, 573 F.3d 639, 648 (8th Cir. 2009). The issue is case-specific; it involves a totality of the circumstances analysis. *See id; United States v. ALN Corp.*, 1993 WL 402803, *2 (D. Conn. 1993).

Factors that indicate the lack of a "legitimate medical purpose" and/or acting outside of "the course of a professional practice" include: the lack of a physical examination of the patient or only a cursory examination before issuing the prescription; the patient advises the doctor of some improper motive for wanting the medication such as staying awake or partying; the physician tells patients where to get their prescriptions filled; prescriptions for large quantities over a short period of time; a large number of uniform dosages of prescriptions (this belies the proposition that the prescription was tailored to the individual patient); the physician has reason to believe the patient is giving the medication to others; the relationship between the drug prescribed and the treatment of the condition alleged; issuing the prescription after learning of a patient's addiction; or asking patients about the type or quantity of drugs they want. See *United States v. Dileo*, 625 F. App'x 464, 476 (11th Cir. 2015); *United States v. Augst*, 984 F.2d 705, 713 (6th Cir. 1992) (citing, *United States v. Kirk*, 584 F.2d 773, 783 (6th Cir. 1978)).

Neither the government nor the defendant is required to present expert testimony on the issue of "a legitimate medical purpose" or whether the defendant's actions were in the "usual course of professional practice." *United States v. Polito,* 111 F.3d 132 (6th Cir. 1997); *United States v. Word*, 806 F.2d 658, 663-64 (6th Cir. 1986), 111 F.3d 132 (6th Cir. 1997). However, expert testimony – e.g., from a pain specialist – is often helpful. See e.g., *United States v. Joseph*, 709 F.3d 1082, 1097 (11th Cir. 2013).

The prosecution of physicians under the Controlled Substances Act remains a controversial issue. On the one hand, such prosecutions help combat the epidemic of opioid abuse and the diversion of drugs to illegitimate channels. On the other hand, such prosecutions can have a chilling effect on a physician's decision to prescribe pain medication to patients in need. Practitioners who are called upon to represent physicians must carefully study the patient files and pharmacology at issue. Consultation with an expert witness is generally advisable.

About the author: Adam Sheppard sits on the Board of Managers and editorial board of the Decalogue Society. He also serves on the editorial board of the Chicago Bar Association. Mr. Sheppard is a partner at Sheppard Law Firm, P.C. which concentrates in defense of criminal cases. He also serves as a federal defender "panel" attorney in U.S. District Court, Northern District of Illinois, pursuant to the Criminal Justice Act. He is also a member of the Federal Bar Association.

Decalogue Inaugural
Progressive Networking Event

Thursday, November 17, 2017
12:00-1:30pm
Watch your email for more information

Can You Be Human Among Humans in a Law Firm?

By Alice Virgil

Few would argue that the legal profession is not exactly the poster child for succeeding through positive connection with others. Let's be honest: It might make us uneasy about our chances of winning if we hired a lawyer with a reputation for kindness and compassion, rather than an aggressive, overly confident, argumentative type who is comfortable manipulating facts and situations. But what if we discovered that lawyers who value kindness rather than incivility are more effective? What if "softies" who are content, happy, and compassionate lawyers at their law firms could dominate their soul-crushing opposing counsel? Researchers are finding evidence that practices of kindness, compassion, support, and encouragement in the workplace have a potent impact on our physical and emotional well-being, as well as how well we function at work.

There is a growing movement in organizational psychology—the positive organizational scholarship (POS) movement—based on the idea that positivity, with a little kindness, care, and compassion, can transform a stressed out, pressure-filled organization into a happy, productive, engaged workplace. Research on compassion is beginning to gain attention for implications in the workplace and organizational culture. The collective work of researchers in the POS movement at the Center for Compassion and Altruism Research and Education (CCARE) at Stanford University, the Greater Good Science Center at the University of California Berkeley and the Ross School of Business at the University of Michigan explain that when organizations encourage and facilitate compassionate workplace practices, organizational effectiveness does, indeed, dramatically improve—including in areas of financial performance, productivity, client service, employee satisfaction, health, social connection, and commitment to the organization. Cultivating compassion in the workplace can lessen suffering and enable resilience after setbacks. Researchers involved in putting positivity and compassion into organizational life explain that the practices most likely to improve organizational effectiveness are:

- Noticing, having feeling for, and responding to suffering
- Caring for and supporting one another
- Offering kindness and compassion when others are struggling at work
- Avoiding blame and forgiving mistakes
- Treating one another with respect and showing gratitude, trust, and integrity
- Inspiring one another at work

What would happen if law firms embedded these practices into their everyday workplaces? Could they still win our cases? Or would these practices make lawyers too "soft" and unable to effectively navigate the landscape of the profession with opponents who push every ethical and professional standard to the edge in the name of winning?

Ethics and professionalism are, in great part, about the ability to stay connected to virtues. When caring for one another as human beings takes a backseat, we are at greater risk for being disrespectful, cruel, and dishonest. In the workplace, staying connected to virtues is mostly about how our workplace supports us in doing so, and how emotionally intelligent and resilient we are in the face of challenges. Burnout is largely about being overwhelmed by suffering. Burnout is rampant in the legal profession, where habitual offenders of incivility are not only tolerated, but encouraged, in the mistaken belief that winning irrespective of these "soul-destroying" experiences has no impact on the bottom line. When a lawyer is burned out, ethics and professionalism are very likely to suffer. The hallmark symptom of burnout is simply not caring anymore, which means that the 'burned out' individual has become disengaged. The combination of burnout, incivility, and disrespect in the legal profession translates into a high probability that many law firm cultures will cultivate unhappy, unethical and unprofessional lawyers, or ethical and professional lawyers who become disengaged from their work and simply want out of the profession altogether.

According to a Harvard Business Review article by civility experts Christine Porath and Christine Pearson, a lack of respect hurts the bottom line and causes 48 percent of those on the receiving end of incivility to intentionally decrease their work effort, 80 percent to lose work time worrying about the incident and 25 percent to take their frustrations out on clients. Lawyers are, after all, human like the rest of us. There is overwhelming scientific evidence from compassion researchers like Paul Gilbert, who has written several books on how mindful compassion can transform our lives for the better, that tells us humans function best (*e.g.*, as shown in their immune systems, emotional and mental health, stress systems, cardiovascular systems) when they are able to be loving and caring rather than hating, and when they feel loved and valued rather than unloved and devalued.

"Survival of the fittest" is accepted as the norm for many law firms. The "surviving" members of the legal community often wear their lifestyle like a badge of honor—the lack of sleep, the 300-page, four-pound brief written in a matter of days in response to the most confounding of legal problems, the mental gymnastics of an eight-hour deposition—all are feathers in the caps of attorneys who suffer the illusion that their obsession with "winning" comes at an inconsequential cost to self. Lawyers who stay in the legal profession often pride themselves on their stamina and will to succeed, and might begin to think of those who eject themselves out of the soul-crushing work world as wimps and losers who leave lawyering because they couldn't "man-up" and take the long hours and unrelenting pressure. Or perhaps they might just be envious of their colleagues who seized the opportunity to escape the career they feel trapped in and no longer want. The notion that being a lawyer is a career sentence to misery, overwork, incivility in the workplace, chronic stress, and unhappiness seems to be more accepted than rejected by those who choose to remain in the profession.

Researchers have known for years that "toughing it out" at a law firm can be predictive of serious health concerns. In the 1990s, researchers looked at depression among lawyers and found that nearly 40 percent of lawyers showed symptoms of it. A new study conducted by the Hazelden Betty Ford Foundation and the American Bar Association all but confirms the dangers of the harsh conditions of the legal profession in its reporting of "substantial rates of behavioral health problems" in the legal profession, including:

- 1 in 3 practicing attorneys in the U.S. are problem drinkers
- 28 percent of lawyers suffer from depression
- 19 percent show symptoms of anxiety

Compare this data with the numbers for the general population: the National Institute on Alcohol Abuse and Alcoholism found that nearly 7 percent of Americans ages 18 and over have an Alcohol Use Disorder; and according to the National Institute of Mental Health, 6.7 percent of all U.S. adults are depressed and 18 percent are anxious. The recent study on the legal profession titled "The Prevalence of Substance Abuse and Other Mental Health Concerns among American Attorneys" appears in the February 2016 edition of the Journal of Addiction Medicine. The authors of the study explain that while both the legal and mental health communities have known of these disturbing facts for a quarter of a century, the response of the legal community has been sparse and inadequate.

Not only are law firms burdened with lawyers' mental health problems, they are now also burdened with responding to changing market conditions. Most law firms have had to transform their practices to meet the demands of an unprecedented market economy in the legal community, one where clients are no longer interested in paying high priced attorneys for the "billable hour" but are demanding alternative, outcome-based fee structures that threaten an end to the "billable hour" way of life that has dominated the industry for decades. The economy and legal job market have been constricted, lawyers are leaving law school with crushing student loans, and once in the legal labor market, lawyers face relentless pressure to push past human limits and impressively perform to keep their jobs. Enduring the tsunami of psychological suffering at law firms goes virtually unquestioned as "part of the deal."

Now more than ever, there is a compelling case for law firm leaders and the legal community to take actions that embed routines and practices into the legal professional culture that cultivate compassion, kindness, support for one another and respect for the limits of the mind and body in lawyering. My research is dedicated to understanding what it means to bring compassionate practices to the workplace in the legal profession. I aim to help lawyers and their law firms flourish by bringing kindness, compassion, care, and concern for one another to the workplace. Problems associated with the absence of compassion, kindness, civility, and respect in a workplace cost law firms millions in turnover, and for those who stay, in disengaged employees and mental health problems. These problems are largely preventable with one simple notion: kindness matters.

Restorative Justice Community Court Is Coming to Cook County

By Michael A. Strom

In 2017, the Circuit Court of Cook County will create its first Restorative Justice Community Court ("RJCC"), in the North Lawndale community. RJCCs will utilize a dramatically different legal process that empowers victims and residents to play an active role in the rehabilitation of certain nonviolent adult offenders. Cook County attorneys should become familiar with such courts. By all indications, this is a model likely to be used in more communities in the near future, and some methods may be adopted for different legal issues.

What Is the RJCC?
The Restorative Justice Community Court will hear cases involving nonviolent felonies and misdemeanors allegedly committed by adults ages 18 through 26 who reside in Chicago's North Lawndale neighborhood. The court will operate from a North Lawndale community location to be determined. It is expected to serve about 100 defendants per year. Defendants will enter the program voluntarily. Judge Colleen Sheehan will preside over the court and decide on community-based sentences and programs for the defendants. Those who successfully complete their program may have their charges dropped and arrest expunged. A U.S. Department of Justice grant, administered by the Center for Court Innovation, provides the funding to create the court.

The co-leaders of the Restorative Justice Community Court Steering Committee are Judge Colleen F. Sheehan and Cliff Nellis, Executive Director/Lead Attorney and founder of Lawndale Christian Legal Center (LCLC). They will convene a steering committee of criminal justice stakeholders, including the offices of the Cook County State's Attorney, Public Defender, court administrators, the Juvenile Justice Department Resource Section, community agencies including the Lawndale Christian Legal Center, and representatives of the Mansfield Institute for Social Justice and Transformation. The North Lawndale RJCC will have a Restorative Justice Hub, comprising of 26 community social service agencies and community leaders. The Restorative Justice Community Court project is community-driven, an essential component of its ultimate success.

What Is Restorative Justice?
In the context of a community court, restorative justice addresses the ways that crime harms the community. The restorative justice approach helps reintegrate offenders back into the community by connecting them with services including mental health counseling, substance abuse treatment, education, job training, and parenting classes. In short, RJCCs address both rehabilitation of offenders and healing of communities. During my research, I often heard: "Restorative justice is not a program, it is a philosophy."

Unlike traditional criminal courts, RJCCs are not limited to determining guilt, innocence or sentencing of defendants. Conflicts are addressed through restorative conferences and peace circles involving defendants, victims, family members, friends, others affected by the crime and members of the community. These discussions are facilitated by trained staff. All affected parties can participate in determining how to remedy the immediate harm caused by the offense and address underlying root causes affecting the community. Offenders can accept accountability for their actions and work to repair the harm through measures including restitution, community service, letters of apology and participation in future peace circles.

Is This Approach New?
Juvenile Courts have commonly used various aspects of restorative justice and community courts. To an extent, RJCCs extend the practices to young adults dealing with similar problems. In 2012, the Cook County Juvenile Justice Task Force essentially recommended the same type of changes anticipated from RJCCs: "We propose the creation of 'Restorative Justice Hubs' across Cook County, community centers that can holistically address the needs of young people who perpetrate crimes, while also supporting community residents and victims of crime. Crucially, these hubs will serve as catalysts for community healing and education around the intergenerational cycles of trauma and systemic racism that all too often shape family and community life."

The Circuit Court of Cook County has used "specialty" courts, also known as problem solving courts, "to help low-level criminal defendants suffering from an underlying mental health, social or substance abuse problem from becoming repeat offenders. Specialty courts achieve this goal by providing treatment and intensive supervision." *See* http://www.cookcountycourt.org/ABOUTTHECOURT/CountyDepartment/CriminalDivision/SpecialtyTreatmentCourts.aspx (last visited 7/18/16). The specialty courts are similar to aspects of RJCCs in providing services that face barriers to success in a prison setting. RJCCs might recommend similar services, but the determinations would benefit from greater familiarity of the community with the specific person involved, the local resources best suited to address the problem and to reintegrate that person within their community.

Problem solving courts have been widely used for years in other Illinois counties, and in many other states. In 2013, the Illinois Supreme Court directed the Administrative Office of the Illinois Courts (AOIC) and the Special Supreme Court Advisory Committee for Justice and Mental Health Planning to initiate development of uniform standards and a framework for an application and certification process for all Illinois problem solving courts. The standards were issued by AOIC in November 2015. Beyond problem solving courts, Community Courts have been established to varying extents in other jurisdictions, most famously in the Redhook community of Brooklyn, New York.

Would RJCCs Improve Administration of Justice?
Restorative justice can provide (in suitable cases) better alternatives for a community afflicted by high recidivism rates after a defendant is detained in county jail or incarcerated in state prison. Research indicates that jail detention of low- and moderate-risk defendants, even just for a few days, strongly correlates with higher rates of new criminal activity both during the pretrial period and years after case disposition. *See* Lowenkamp, C.T., VanNostrand, M., & Holsinger, A.M. (2013). The hidden costs of pretrial detention, page 3. Retrieved from http://www.arnoldfoundation.org. (last visited 7/18/16) When held 8-14 days, low-risk defendants are 51 percent more likely to commit another crime within two years after completion of their cases than equivalent defendants held no more than 24 hours. Id. As pretrial detention increases up to 30 days, recidivism rates for low-and moderate-risk defendants significantly increases. Id.

Approximately 50% of the 30,000+ inmates released from Illinois prisons each year return to prison within three years of release due to new offenses or violating conditions of their release. Illinois State Commission on Criminal Justice & Sentencing Reform Final Report: Part I, (December 2015), p. 7 Community resources available through the RJCC reduce recidivism by connecting offenders with the services referenced above. Id.

As noted by Judge Colleen Sheehan, "[M]ost people do not stay in prison forever. Most people are getting [released from] prison, and when they're getting out, where are they going? They're going back to these neighborhoods… So it would behoove the neighborhood to be a part of this person's life as they come back into the neighborhood." Community Court Offers Hope for Healing, Chicago Daily Law Bulletin (May 31, 2016).Community Courts use a range of problem-solving justice methods, which "focus on identifying and addressing patterns of crime, ameliorating the underlying conditions that fuel crime, and engaging the community as an active partner." Robert Wolf, Principles of Problem-Solving Justice, Center for Court Innovation, New York, NY (2007), pg. 1; cited in Community Courts in Cook County Part I: The Case for Community-Based Justice, Chicago Appleseed Fund for Justice Policy Brief (2013), pages 1-2.

The content and opinions expressed in this article are solely attributable to the author, not to the Decalogue Society of Lawyers or the author's employer. Special thanks to Judge Sophia Hall and Michelle Day who generously shared their time, insight, wisdom and kindness in discussions on this topic with the author.

Jewish Holidays 2016-2017

Holidays begin at sunset the previous day

October 3-4 Rosh Hashanah	October 24 Shmini Atzeret	March 12 Purim
Ocotber 12 Yom Kippur	October 25 Simchat Torah	April 11-18 Passover
October 17-18 Sukkot	December 25-Jan 1 Chanukah	May 31-June 1 Shavuot

Visit our website for fast days and festivals and details about activities and customs practiced on the various holidays.
www.decaloguesociety.org

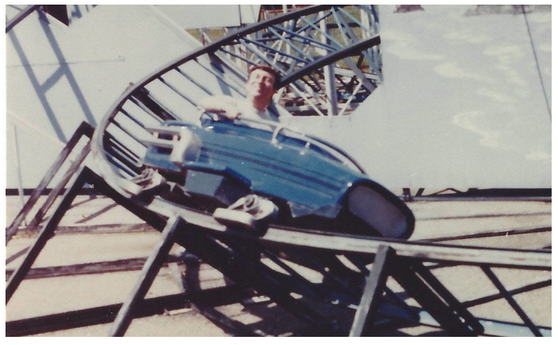
SAVE THE DATE!
Monday, April 3, 2017 - 12:00pm
Decalogue Model Seder

I've Got a Ticket to Ride….
Decalogue and Roller Coasters: Can There Be Any Logical Connection?

By Judge Martin Moltz

Surprisingly, the answer is YES. In 2005, Justice Michael Hyman asked me to rewrite the Decalogue Constitution and By-Laws. For that task, I used the framework from the constitution I wrote for the American Coaster Enthusiasts (ACE) many years earlier. Recently I was asked to write about 'How I Spend My Summer Vacations'. Below is my response.

ACE is an international organization of approximately 6700 roller coaster fanatics who travel the world seeking the perfect roller coaster (sort of like the surfing enthusiasts in the movie 'The Endless Summer' who went searching for the perfect wave). We publish magazines and newsletters and have events at various amusement parks all over the world, with exclusive ride time before the parks open and after they close. We gather for business meetings every summer, as well as conventions and conferences. Additionally, our major goal is preservation of both amusement parks and roller coasters.



As for me, I grew up at Riverview Park at Belmont and Western, where I now occasionally preside in both the felony and misdemeanor courts-but on the bench instead of on the roller coaster. The Riverview Bobs was one of the greatest and most intense roller coasters ever built. It was constructed in an era before insurance companies dictated safety measures for these rides, and before lawyers sued amusement parks on a regular basis for safety violations that led to minor or major injuries.

With respect to writing this article, my main concern was how to make it appealing to sensible and learned Decalogue members who will wonder how my fellow "meshuganas" and I can pursue this hobby all summer long and still make intelligent contributions to society as a whole. Therefore, I decided not to present a dry history of roller coasters (as most amusement park historians do), and instead present, in no particular order, a listing of my favorite wooden and steel roller coasters, with a brief explanation of some unusual fact surrounding the ride.

I believe this format will be much more fun for all of you "normal" readers. Please realize that the wooden coasters are generally much rougher and more rickety than the steel coasters. As an amusement park expert once explained, "Riding a steel coaster is like riding the Concorde while riding a wooden coaster is like riding a World War I biplane."

Wooden Roller Coasters

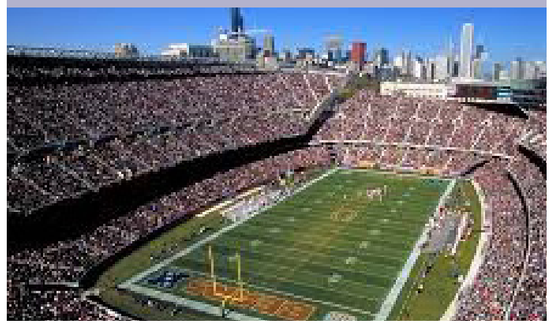
• Coney Island Cyclone: This king of the wooden coasters dates from 1927 and is still absolutely awesome. If you're still able to stand and walk, it is mandatory that your ride on the cyclone be followed by a Nathan's hot dog for lunch, and dinner at either the Carnegie Deli (world's best chopped liver) or Katz's Deli (world's best hot dog and site of "When Harry Met Sally").
• The Beast-King's Island - Cincinnati, Ohio: The longest wooden roller coaster in the world (7600 feet of track) and incredibly fast and scenic.
• Ravine Flyer - Waldameer Park - Erie, PA: This ride is so fast that you have the illusion you're on a rocket-ship rather than a roller coaster.
• Goliath-Six Flags Great America - Gurnee, Illinois: A super-fast roller coaster with inversions that only a true 'meshugana' would ride. (I've already done so seven times this year so you decide what to call me.)
• Boulder Dash – Lake Compounce - Bristol, Connecticut: Do not break a bone here because it will be a "Compounce" fracture! (Sorry about that!) This phenomenal wooden coaster, built on the side of a mountain, offers a very intense experience.
• Megaphobia – Oakwood Park – Cardiff, Wales: I consider this my favorite UK wooden coaster. This ride is set in a forest and some of the drops come as quite a surprise.
• The Voyage – Holiday World – Santa Claus, Indiana: The most intense roller coaster on the planet Earth (although Neptune also has an equally intense ride). I dare any takers to try to catch their breath on this ride which is for serious enthusiasts only – no amateurs allowed!
• Thunderbird – Dollywood – Pigeon Forge, Tennessee: Located in the foothills of Great Smoky Mountain National Park, this is the most scenic wooden coaster anywhere.
• Giant Dipper – Santa Cruz, California: This ride, the last of the great seaside coasters, dates from 1923 and is still magnificent.

Steel Roller Coasters

• Fury 325 – Carowinds – Charlotte, NC: The ride on this ultimate steel roller coaster begins with a near vertical drop of 325 feet (the height of the Prudential building) at 95 mph and then becomes truly insane. No 'normal' person would get near this machine but I rode it several times.
• The Intimidator – Carowinds – Charlotte, NC: Named after race car driver Dale Earnhardt, the front car of the train is a replica of the late superstar's ride. Not as intense as Fury 325, but the coaster is great fun.

(continued on page 19)

Jews in Sports



Jews in Football

By Justice Robert E. Gordon

Five Jewish players suited up during the 2015-16 season, one less than last year and three fewer than during the 2013-14 season. The players, in alphabetical order by last name, are as follows:

(1) Nate Ebner, age 26, a 6'0", 220 lb. free safety from Columbus, Ohio, is in his 4th year with the New England Patriots;
(2) Ali Marpet, age 22, a 6'4", 307 lb. rookie offensive guard from Hastings on Hudson, New York, played for the Tampa Bay Buccaneers;
(3) Taylor Mays, age 27, a 6'3", 225 lb. free safety played with the Oakland Raiders;
(4) Geoffrey Schwartz, age 29, a 6'6", 340 lb. offensive tackle from Pacific Palisades, California, played with the New York Giants and fractured his leg during the season; and
(5) Mitchell Schwartz, age 26, a 6'5", 320 lb. offensive tackle and younger brother of Geoffrey, started 64 consecutive games in his 4-year NFL career for the Cleveland Browns.

During the 2015-16 season, fullback Erik Lorig was released by the New Orleans Saints on September 1st and did not return, and center Ben Gottschalk, an undrafted SMU graduate, was placed on Tampa Bay's practice squad. He has been signed for the 2016-17 season.

Three college football players had an outstanding season and are of interest to watch:

(1) Josh Rosen, a 6'4", 212 lb. Freshman quarterback from UCLA, had a 60% completion rate (292/487), good for 3,668 yards and 23 touchdowns (both school records);
(2) Michael Bercovici, a 6'1", 204 lb. Senior quarterback from Arizona State, also had a 60% completion rate, good for 3,437 yards and 26 touchdowns. In addition, Michael ran for 337 yards and 6 touchdowns; and
(3) Gabe Marks, a 6'0", 180 lb. Junior wide receiver from Washington State, caught 104 passes (4th in the nation) with 15 touchdowns (1st in the Pac-12 and a school record) and was named to the All-Pac-12, First Team.

Other top Jewish college offensive football players include: fullback Adam Hochman from Case Western Reserve; wide receiver Dan Braverman from Western Michigan; tight end Tony Firkser from Harvard; offensive linemen Mitch Kirsch from James Madison, Adam Bisnowaty from Pittsburgh, Jake Bernstein from Vanderbilt and Brandon Kublanow from Georgia; and center Jake Boren from Ohio State.

New Bears Draft Pick

We have a new Jew on the Chicago Bears, Daniel Braverman, who was selected in the seventh round as the 230th pick in the draft. Dan is from Western Michigan, stands 5'10" and weighs 177 lbs. On the field as a wide receiver, he had 108 receptions–second-most in the nation–and 1,377 yards, which was eighth in the nation. That included ten catches for 123 yards and a touchdown against Ohio State. Dan will back up Marc Mariani and is the same type of player: fast, quick, and showing command of the underneath routes with competitiveness. Also like Mariani, he returns punts and kickoffs, but is far from being another Devin Hester. We wish him the best.

Roller Coasters *(cont'd)*

• Millennium Force – Cedar point – Sandusky, Ohio: The first drop appears to go right into Lake Erie. I always get an "Erie" feeling from this 310 foot steep drop.
• Nemesis – Alton Towers – Manchester, England: A four-inversion roller coaster is not unusual in today's amusement park world, BUT this ride is entirely below ground level. Although some of the drops are nearly 100 feet tall, they are nonetheless not visible from anywhere in the park. There is no other ride in the world like Nemesis.
• Wild Eagle - Dollywood – Pigeon Forge, Tennessee: The Wild Eagle has the distinction of being the first "wing" coaster in America. What that means is that the seats are way out to the side. This is the only wing coaster that has both straight drops and inversions; the others are strictly inversion rides.
• Phantom's Revenge - Kerrywood Park – Pittsburgh, PA: This ride is loaded with "airtime", that wonderful feeling of being lifted out of your seat, called nirvana for a coaster enthusiast.
• Superman – Six Flags New England – Agawam, MA: Of course 'Superman' would be a series of fabulous drops and fog-filled tunnels in a beautiful ride that travels along the side of a river. This is a world-class steel roller coaster and many enthusiasts rate it as the number one roller coaster in the world.

I hope you all enjoyed this 'ride' through the world of roller coasters. If you ever visit any of these areas, consider going to the park and, if you haven't the 'stomach' to hop aboard, at least view the fabulous rides in motion so you might begin to understand why some people build their vacations around a journey to a roller coaster site. BUT, if you're crazy like I am, you might say to your fellow travelers, "Let's go for a ride!" And if you do climb aboard, please—but not while you're in motion—post a 'selfie' so friends and family can applaud your grit.

BDS and Its Harms

By Prof. Steven H. Resnicoff

"BDS" refers to a large, well-funded, international, anti-Israel and antisemitic movement whose proponents promote their agenda by employing tactics such as pervasive, defamatory, abusive propaganda, disruptions of pro-Israel campus programming, and, in too many cases, illegal violence against persons and property.

The Goals of the BDS Movement

The acronym "BDS" stands for "boycott, divestment and sanction." BDS calls for boycotts of all types (e.g., academic, cultural and economic) against Israel, Israeli institutions, Israeli companies, Israelis individually, and, quite possibly, of anyone (whether Jewish or not) who supports these entities. BDS seeks to persuade individuals and institutions to divest from Israeli companies and from companies doing business with, or otherwise positively involved with, Israel. Finally, it seeks the imposition of sanctions on Israel.

Astonishingly, the demand to boycott, divest and sanction is not contingent on Israel's adoption or implementation of any particular policy or even its agreement to readjust its territorial boundaries. BDS identifies no steps Israel could take that would satisfy it. This fact definitively distinguishes BDS from all, or virtually all, other boycott movements.

What does BDS want? BDS leaders have made it clear that their goal is to destroy the State of Israel. Omar Barghouti, both the co-founder and current leader of the BDS, has repeatedly announced that he will not accept a Jewish state in any part of what he refers to as Palestine: "Definitely, most definitely we oppose a Jewish state in any part of Palestine. No Palestinian, rational Palestinian, not a sell-out Palestinian, will ever accept a Jewish state in Palestine." (See BDS Cookbook, http://www.stopbds.com/?page_id=48.) He declares as a goal a one-state solution in which Arabs are a majority and Jews a minority.

Many leading pro-BDS activists echo Barghouti. Ahmed Moor writes, "Ending the occupation doesn't mean anything it if doesn't mean upending the Jewish state itself . . . . BDS does mean the end of the Jewish state." (*Id.*) As'ad AbuKhalil writes, "The real aim of BDS is to bring down the state of Israel . . . . That should be stated an unambiguous goal. There should not be any equivocation on the subject. Justice and freedom for the Palestinians are incompatible with the existence of the state of Israel." (*Id.*) Similarly, Michael Warschawski writes, "Peace – or better yet, justice – cannot be achieved without a total decolonization (one can say de-Zionization) of the Israeli state." (*Id.*)

BDS seeks to accomplish this goal by inciting hatred of Israel through three overlapping strategies: delegitimizing the existence of Israel, demonizing Israel; and continuously applying double standards against Israel, i.e., by applying unique and unrealistically demanding standards whenever evaluating Israel's actions. These strategies are primarily pursued in two ways. It does so, first, through relentless, pernicious propaganda drawing both on classical canards (e.g., that Jews/Israelis kill Gentile children to use their blood to make Matzah or that Jews/Israelis poison Arab water supplies) and more modern calumnies (e.g., that Israel is an "Apartheid State").

Second, BDS prevents its chimerical claims from being debunked. BDS proponents follow a "non-normalization policy" by which they refuse to participate in panels, debates, and other programs with anyone who does not in advance agree with their anti-Israel positions. In addition, they disrupt pro-Israel programming by threats, intimidation and violence. Earlier this year, a leading Palestinian Human Rights Advocate, Bassem Eid, came to speak at the University of Chicago, DePaul and Northwestern about anti-Arab human rights violations by Hamas and the need for the Palestinian people to recognize and negotiate with the State of Israel. Eid was rudely interrupted and threatened in Arabic by BDS supporters at the University of Chicago, he was interrupted at DePaul, and, when he saw some of the same agitators at Northwestern, Eid simply refused to speak. See the description of this and other BDS activities on campus in the February 2016 edition of the DePaul University College of Law's Center for Jewish Law & Judaic Studies (JLJS) newsletter, available on the DePaul College of Law website. (JLJS focuses on combatting antisemitism on campus and its newsletter regularly reports on related developments.)

BDS' Invidious Consequences

Destruction of the State of Israel would involve untold carnage among its Jewish and non-Jewish citizenry. In addition, it would eliminate Israel as a safe haven for Jews who are persecuted elsewhere in the world. It would also remove an important protector of Jews everywhere in the world and deprive Jews throughout the diaspora of the sense of national pride that enables them to face down those who attempt to persecute them.

Aside from the threat of BDS' ultimate success in destroying Israel, BDS presents many other seriously adverse consequences. To make the discussion more manageable, this article focuses on BDS on college campuses, the principal battlefield on which BDS promotes hatred of Israel and of Jews.

BDS campaigns on college campuses are largely a struggle for the hearts and souls of the students who will become future American decision-makers (e.g., politicians) and opinion-shapers (e.g., media leaders, academics, etc.); a large percentage of these students have open minds about the Arab-Israeli conflict. Loud, vigorous, pervasive, and persistent anti-Israel and anti-Semitic BDS can dramatically influence their views and future conduct.

Sometime BDS resolutions are defeated on technical grounds (e.g., not a high enough percentage of students voted, the resolutions were not within the "authority" of the student government, etc.). But if the propaganda has biased students' views, the major damage has been done: the fact that a particular resolution was not officially enacted is of limited importance since even a relatively moderate propaganda victory may enable BDS to inflict considerable harm on Israel. Why? BDS does not need to convince America to assume an anti-Israel position. All it needs to do is to nudge America to be a little less favorably disposed to Israel. The amount of American material and military support of Israel is extremely significant - and essential. If this support were only fractionally reduced, the effect in terms of actual numbers would be substantial.

In addition, by using classical anti-Semitic tropes and defacing Jewish religious images rather than focusing on Israel as a secular state, BDS campaigns also encourage simple, old-fashioned anti-Semitism. BDS campaigns serve as "fig leaves" behind which other anti-Semites, even those with no sincere interest whatsoever in Middle Eastern politics, are able to hide. BDS campaigns have repeatedly involved shouts and signs with messages such as "Kill the Jews", "Death to the Jews", "Hitler was right", and "the only problem with Hitler is that he didn't have enough ovens", etc. In fact, a study of anti-Semitic activity in 2015 on the campuses of over 100 colleges and universities with the largest numbers of Jewish students established that BDS was the strongest predictor of anti-Semitic conduct. (See http://www.amchainitiative.org/antisemitic-activity-schools-large-Jewish-report-2015). Thus, BDS tends to normalize anti-Semitic invectives and conduct throughout the culture.

Particular Harms Against Jewish Students

BDS campaigns harm Jewish students in a variety of ways. They are often the direct victims of verbal and physical intimidation and abuse. Some are afraid to wear jewelry that is identifiable as Jewish. In addition, their educational experience is diminished. They may be afraid to take certain courses or, within a course, to express their opinions, lest they be pilloried or ostracized by their classmates – or by their professors. (In fact, to the extent that these opinions are not expressed, the educational experience of all students is impaired). The eligibility of some students to serve on student government has been questioned because they are Jewish and, therefore, "biased." Similar accusations have been made about students who have traveled to Israel on a "Birthright program."

In addition to diminishing Jewish students' welfare in these ways, BDS campaigns can cause a deeper, spiritual harm. Some Jewish students who do not know better – or who are affected by "Festinger's cognitive dissonance" – may actually decide to alter their pro-Israel views and adopt anti-Israel and anti-Semitic views. Why? Festinger theorized that if a person is forced to do something that the person does not want to do, e.g., because it is immoral, this will cause the person considerable mental distress and he or she will seek relief from this distress. If the person cannot control his or her conduct, then the person's only option is to change the opinion. Thus, to experience mental relief, the person will alter his or her opinion that the conduct is immoral.

Impact on Education of Future Generations

Many Jewish students are involved in many different "progressive" campaigns on campus. But Arab BDS supporters, who are often far more numerous than Jewish students on campus, often infiltrate other movements, such as "Black Lives Matter" (See the March-April 2016 of Moment magazine, which contains an important article written by Anna Isaacs, entitled "How The Black Lives Matter and Palestinian Movements Converged.") These BDS supporters and others promote the concept of "intersectionality" which largely views the world as being divided between white oppressors and oppressed people of color. Jews are characterized as members of the oppressors and, therefore, are not even to be allowed to participate in progressive campaigns on behalf of the oppressed. Consequently, not only do these Jewish students suffer from being called "baby-killers" and "racist supporters of an Apartheid State," they are told that they are the enemies of the many progressive campaigns on campus. To alleviate the mental pressure this can create, they may choose to change their minds about the Arab-Israeli conflict. In this way, they can gain the good will of other progressive students and faculty. But changing their minds about the Arab-Israeli conflict can also mean alienation from the main corpus of the Jewish people.

Other aspects of BDS raise still additional problems. For instance, academic boycotts can fundamentally imbalance what generations of children and young adults are taught. Excluding pro-Israel voices from college classrooms will not only affect what the students in those classrooms learn. Often college centers or institutes prepare textbooks and supplementary materials that are used in K-12 education. In Newton, Massachusetts, a public high school's materials contained untrue and highly inflammatory anti-Israel assertions. Those materials had been created by a college center led by someone with an anti-Israel bias. Preventing pro-Israel scholars from being named to the boards of academic journals or from serving as peer reviewers of submitted papers will bias the treasury of published academic literature.

Ways to Combat the BDS Movement

There are important ways in which legal skills and the legal process may be used to combat BDS. (See my article, "Using Legal Skills to Combat Anti-Semitism and Terrorism," in the December 2015 edition of the JLJS newsletter.) These steps include, for example, the proactive use of litigative skills under various federal and state statutes and university administrative policies and processes, the defensive use of litigative skills, and the drafting and promotion of additional federal and state laws as well as improved campus regulations, particularly those dealing with persons responsible for disruptions of programming and anti-Semitic conduct. Perhaps a close evaluation of these mechanisms would be a good topic for a follow-up article.

Steven H. Resnicoff is Professor of Law and Director, DePaul University College of Law Center for Jewish Law & Judaic Studies (JLJS)

ISBA Mutual's "Office Away From Office" - Support for Lawyers' Needs

By Kay Sofer

It wasn't your typical venue for a Seder, the capacious new community space at the ISBA Mutual's Loop offices, nor was the time of day: lunch instead of dinner. And the 40 guests the Decalogue Society hosted were an eclectic mix of celebrants, some more familiar with Easter bonnets than yarmulkes.

But the idea was to celebrate the very sense of community, and the event proved to be an inclusive way of sharing the meaning of the Passover holiday, bringing together members of the Cook County Bar Association, the Illinois Judicial Council, and the Jewish Judges Association of Illinois.

The April Seder was one of the first events held in the new "public" space designed for ISBA Mutual's new offices on the eighth floor at 20 S. Clark St., one floor below its partner organization, the ISBA. This large areais as easily adaptable to a social event like the Seder as it is an educational seminar. It features expandable conference rooms that adjoin small private offices, together with a sleekly modern café-style setup for casual working or visiting with colleagues.

It's all in keeping with ISBA Mutual's shared commitment to the community of Illinois lawyers and with its goal of ensuring there's a safe, comfortable, and convenient haven downtown for socializing, working, and learning.

Oh, and did I mention that the Café offers up all the coffee and tea you'd like and there's plenty of WiFi bandwidth, along with charging stations and a big screen TV? And yes, better yet, all these amenities are free—unless the space is requested for an event scheduled outside of normal business hours, in which case you will be asked to pony up a nominal charge for HVAC costs.

More than half of the ISBA Mutual's new 12,717square-foot space is set up for working lawyers. Not only is the office conveniently located for events, but its proximity to the city, county, state, and federal courts and other offices, not to mention public transportation makes it a great spot for layovers between client meetings or court dates.

That open-door policy is particularly attractive to lawyers with small or solo practices who need a change of scenery from their home offices or more privacy than the local Starbucks. And lawyers in Chicago on business from the collar counties or Downstate will also find it an ideal place to 'park' themselves when they are in town.

ISBA Mutual Board Chair John Thies should know. Based in Urbana, the past president of the ISBA is well-acquainted with the challenges of finding a place to manage downtime while on the road. "It can be hard to find practical places to work when you're in the city for court business or client meetings," he says. "Shared space can be expensive and it may take more of a commitment than you need for periodic trips to Chicago. And you could stay in Starbucks all day, but aside from the problem of confidentiality issues if you're carrying out business while you're there, how much coffee can you realistically drink?"

The office-away-from-an-office concept is very much in ISBA Mutual's tradition of filling a void in the marketplace. The Mutual was formed in 1988 after ISBA conducted feasibility studies to identify alternatives to commercial insurance coverage for legal malpractice insurance. The market was in a state of upheaval and premiums were skyrocketing. ISBA Mutual was established with rates a third of the competitors whose premiums soon came down with the competition. Today, the more reasonable premiums are a critical member benefit of the ISBA.

If you're in the area and need a place to get some work done with a minimum of distractions, you are welcome to stop by and experience the range of benefits for yourself. Some of the early visitors to the space, in fact, got their first exposure at the Decalogue Society's Model Seder in April, and they liked it enough to keep coming back!

When Do Governmental Sanctions Against Companies That "Boycott Israel" Stifle Our First Amendment Freedoms?

By Jonathan D. Lubin

The very modest bill that was signed into law on July 23, 2015 as PA99-0128, modifying the Illinois Pension Code to require Illinois pensions to divest from foreign companies that "boycott Israel," did not have such humble beginnings. It started as a repeat performance of Sen. Ira Silverstein's attempt, in 2014, to defund any universities that participate in anti-Israel boycotts like the one the American Studies Association endorsed. The first draft of the 2015 version, introduced as SB1761 (HB4011 on the House side), prohibited the State of Illinois (not merely pension boards) from entering into any contracts with businesses or organizations that "boycott Israel." Boycotting Israel, under the proposed statute, meant "engaging in actions that are politically motivated and are intended to penalize, inflict economic harm on, or otherwise limit commercial relations with the State of Israel, or businesses based in the State of Israel, or in territories controlled by the State of Israel."

The grassroots response to the proposed bill was fast and furious. Critics of the proposal pointed to several problems. One of the more glaring issues with it was the fact that it required divestment from any company or organization that boycotted firms based in the "territories controlled by the State of Israel." This put the State of Illinois at odds with the policy of the federal government. President Obama has been emphatic that the "United States does not accept the legitimacy of continued Israeli settlements."

But the greater problem with the proposal was how unabashedly unconstitutional it was. Proponents of the original proposal claimed it was aimed at fighting anti-Semitism. But the movement to boycott and divest from Israeli companies – particularly companies that benefit from what many scholars have called the illegal occupation of the West Bank – has always been aimed at ending the military occupation of Palestinian land, promoting the equal treatment of Arab citizens of the State of Israel, and promoting the right of Palestinians to return to their homes and properties, or the homes and properties of their parents and grandparents.

These claims, that a principled boycott of Israel is by definition anti-Semitic, are specious. Many international observers have called the occupation of the West Bank, the military blockade of Gaza, and related activities on the part of the Israeli government and military, to be violations of human rights. Many boycott Israel out of a commitment to human rights.

Even assuming that those who boycott Israel do so out of anti-Semitic animus, there is no anti-Semitism exception to the First Amendment. Included within the freedom of speech is the freedom to associate with others in the furtherance of one's personal or political beliefs. Further included within the freedom of speech is the freedom to boycott. *NAACP v. Clairborne Hardware,* 458 U.S. 886 (1982). . . In other words, there is a fundamental right to gather as groups and to boycott Israel, Israeli companies, or companies based out of the illegal settlements.

The "Constitution's protection is not limited to direct interference with fundamental rights." Rather, "freedoms such as these are protected not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental interference." Healy v. James, 408 U.S. 169 (1972). To that end, government may not impose penalties, or "withhold benefits" on the basis of protected speech or association." *Rumsfield v. Forum for Academic and Institutional Rights, Inc.,* 547 U.S. 47 (2006). The Supreme Court has "repeatedly rejected the argument that if the government need not confer a benefit at all, it can withhold the benefit because someone refuses to give up constitutional rights." *Koontz v. St. Johns River Water Management District,* 133 S. Ct. 2586 (2013).

Case law is, therefore, clear:that canceling or withholding public contracts on the basis of a person's or company's protected speech – in this case boycotting Israel – is unconstitutional. Dima Khalidi, the Director of Palestine Legal, along with many others, tirelessly advocated against SB1761, arguing that boycotting Israel was speech that was protected by the First Amendment, akin to the movement to boycott apartheid South Africa. Partially in response to the fierce outcry against SB1761, the Illinois legislature drastically altered the scope of the proposal before it was passed. In its present iteration – the one that Gov. Rauner signed into law – the State is still free to do business with individuals and organizations that boycott Israel. The bill's only requirement, as far as Israel boycotts are concerned, is that *foreign* firms be placed on a list. Illinois pension boards are prohibited from investing in firms appearing on the list, leading many to ask how the passage of SB1761 could remotely be called a victory for anyone.

As Sen. Ira Silverstein, the bill's sponsor, told WBEZ during a May 2015 interview about the proposal, he did not know whether a single company would actually be affected by the law. In the final analysis, the law had all of the functionality of a hood ornament. Still, advocates like Khalidi warn that the existence of Illinois's law sets a bad precedent. Already, other states have introduced proposals modeled after the original, patently unconstitutional, draft of SB1761 – as opposed to the defanged version that was finally signed into law.

It remains to be seen whether those attempts will be successful, or whether they will be successfully challenged in court on constitutional grounds. But defenders of liberty, and particularly the First Amendment, should be extremely wary of attempts to silence political speech for any reason. Jews know, too well, that laws limiting the rights of any minority – political, ethnic, or otherwise – can quickly be turned on us. It therefore behooves us, as attorneys dedicated to Jewish values, to always stand on the side of liberty, and against tyranny and censorship.

82nd Annual Dinner and Installation Remarks
By Justice Michael B. Hyman

Next week marks the 40th anniversary of Operation Entebbe. On July 4, 1976, 200 elite Israeli commandos freed 100 hostages from an Air France jetliner. The hostages were held by pro-Palestinian hijackers at the airport in Entebbe, Uganda.

The rescue forces surprised the hostage takers and the Ugandan military. A battle erupted. It lasted 35-minute. A commando yelled to the hostages in Hebrew, "Come home!" and the hostages raced to safety. Twenty Ugandan soldiers and all seven hijackers died. So did three Jewish hostages.

And one Israeli solider. The assault force's commander, Lieutenant Colonel Jonathan Netanyahu. Shot dead by a Ugandan sentry. His younger brother is prime minister of Israel.

We Jews remember Entebbe. Remember the unbelievable bravery and strength and tenacity of that day.

Many years ago I read Self-portrait of a Hero: The Letters of Jonathan Netanyahu, collected correspondence to family and friends between 1963 and June 29th, 1976, his last letter, 40 years ago this very day.

Over the weekend, I returned to those haunting letters, and I came across this gem, "What a mad world we live in. We watch as a whole people is being starved to death, and no one in this ugly world is moved by it sufficiently to do something. Everyone is preoccupied by his own wars…No one wants to get involved."

This reminds me of the story of the man standing before God, his heart breaking from the injustices in the world. The man pleads, "Dear God, look at all the suffering, the anguish, and distress in your world. Why don't you send help?" God responds, "I did send help. I sent you."

We do live in a mad world, an ugly world, a world in which everyone is wrapped up in their own lives, their own problems.

Sadly, this allows for innocent people to suffer and innocent people to die from great injustices –the injustice of hunger and poverty and inequality; of unjust laws and government misdeeds; the injustices of war and displacement and terrorism; and of human sinfulness and hate.

Since its founding in 1934, The Decalogue Society itself and its members have sought to ensure justice in a world full of injustices. The fact is that many of us were drawn to the practice of law and to the Decalogue Society because we recoil at injustice in all of its manifestations.

So we must get involved. We mlust put aside our personal wars. We must try to make this mad planet a little saner, a little kinder, and a little brighter. In other words, we must engage in tikkun olam, repairing or perfecting the world.

As Anne Frank reminded us, "How wonderful it is that no one need wait a single moment to start to improve the world."

Justice Laura Liu

The Decalogue Society of Lawyers presents the Hon. Charles E. Freeman Judicial Merit Award to Justice Laura C. Liu in recognition of her service to the bench and bar, bringing dignity to the legal profession, and trail-blazing leadership in promoting tolerance and diversity in the justice system.

The program tells you about Justice Liu's magnificent legal career.

Let me tell you about Laura.

When she passed away in April, we lost a dynamic young soul, an inspiring personality, and a truly gifted judge. Throughout her life she was continually striving to make life better for others, continually giving back to her community, her profession, and continually helping those who are unable to help themselves.

And it was not just through performing mitzvot that Justice Liu showed her heart. She had a way of touching everyone with whom she came in contact; everyone who met Laura was touched by her humanity, her kindness, and the depth of her generosity. She brought grace to life's situations; perspective to life's mysteries. And Laura embodied a sense of purpose that can only be described as destiny.

As a colleague of hers first in the circuit court and then in the appellate court, what most impressed me about Laura was her optimism, grit, and determination—she was always thinking, pushing, driving forward.

Another thing about Laura was that she deeply and passionately loved her husband, Michael Kasper and daughter Sophia, both of whom are here to accept the award on her behalf.

82nd Annual Dinner and Installation Photos

(Photo credit: Frederic Eckhouse) See our Facebook page for more photos

Chai-Lites

News About Busy Members Coming, Going, Celebrating, Being Recognized, Continuing To Volunteer, Acquiring More Titles And Running And Running To The Office And Sometimes Even For Office! You Should Be In Our Next Tablets!

On June 29, 2016, **Justice Jesse G. Reyes,** Illinois Appellate Court, First District, and current President of the Diversity Scholarship Foundation (DSF), was presented with the Inaugural Patron Award for his continued commitment, service, and support of the Circuit Court of Cook County Elder Justice Center.

Mazel Tov to **Judge Michael Panter (ret.)** and his wife Holly who are excited about their daughter's upcoming wedding to Joshua Altman, a lawyer at Kirkland & Ellis. The eagerly awaited festivities will take place in August—just around the corner!

President **Curtis Ross** was appointed to the Personnel Committee and as Chair of the Finance Committee for the ISBA Assembly. How many balls can he juggle at once? We shall see.

Past President **Deidre Baumann** has been elected to the LAGBAC Board. Apparently she couldn't relax for a moment after stepping down on June 29 as Decalogue's President.

Board member **Sharon Eiseman,** herself a runner, will be participating again this year in CVLS' 5K Race Judicata on September 15. You should join her and thousands of other lawyers and legal professionals to help support CVLS in its representation of low-income people facing difficult legal challenges. And this bar year, Sharon is chairing the ISBA's Standing Committee on Racial and Ethnic Minorities and the Law and will also, with Joel Chupak, continue serving on the ISBA's Real Estate Law Section Council.

Board member **Joelle Shabat** and husband Victor Shiller recently purchased a home in East Rogers Park, Chicago. Joelle also recently began working as an associate at Swanson, Martin and Bell LLP. Many new changes—and we know she can handle them well.

Professor emeritus **Ralph Ruebner** of course needed another impressive title. On July 9, he received his simcha and was ordained as a rabbi. And the question is: When did Rabbi Ruebner have time to study for the Rabbinate?

Board member **Michael Rothmann** was recently installed as the Second Vice President of the Northwest Suburban Bar Association and reappointed as Chair of the NWSBA Civil Litigation Committee. He is yet another active Decalogue member who won't let any 'dust settle' under his feet.

David Sosin was elected in June as the ISBA Third Vice President so he is firmly in place to become President in three years. We're sure he is thrilled to be done with campaigning!

Past President **Steve Baime** is now on the board of directors of both major Chicago area musical theaters: Porchlight Music Theater and Light Opera Works. We'd love to have him sing and dance for us at one of our Board meetings. Or maybe direct the Board in a new musical!

In June, Past President **Joel Chupack** received a Certificate of Appreciation from The Jewish United Fund for pro bono legal representation with JUF Community Legal Services. On a more personal note, Joel and wife Sarah celebrated the B'Not Mitzvah of daughters Shira and Alana Chupack in May. Mazel Tov to those young ladies for their achievements!

Board member **Judge Moshe Jacobius** recently celebrated his granddaughter's Bat Mitzvah in Israel. What a thrill to witness the next generation assume such a responsibility—and to do so in Israel!

Board member **Jessica Berger** and husband Josh Rotman welcomed daughter Sasha Ryan Rotman on June 25. They'll have their hands 'full' but we all agree that it's worth the loss of sleep.

Decalogue's Social Action Co-Chair **Nicole Annes** participated at a social service agency with other Decalogue members as part of a team of volunteers during the June 17 Women Everywhere Agency Service Day. They were assigned to Erie Neighborhood House to read to the 2-5-year-olds in the Early Childhood program. We are proud that the Decalogue Society of Lawyers is a Women Everywhere Bar Partner. We also thank these dedicated women for their commitment to helping others and look forward to learning about their experience at Erie House in our next issue of the Tablets.

A year ago **Charles Krugel** obtained a favorable outcome for his client, AMS Earth Movers, in a grievance arbitration against Local 150 of the International Union of Operating Engineers (IUOE) before the National Labor Relations Board (NLRB). Fast forward to the present: same client and same Charles Krugel achieved victories in two different matters, also against Local 150. One case was another grievance arbitration, and the second was before the Illinois Department of Employment Security's Board of Review (IDES BOR). For his impressive wins, Charles received media coverage in the Chicago Tribune which, in an April 4, 2015 article, described the International Union of Operating Engineers as "powerful." The three matters concerned the same case—the same union, employees, witnesses, and circumstances. As Charles advised us, these are 'big labor' challenges and it is rare to defeat a union three times and before three different tribunals, especially when those tribunals exist to protect employee rights. Call Charles if you want to know more about the decisions. We who have trouble remembering all the acronyms are duly impressed.

Decalogue Board Member and co-Editor of The Decalogue Tablets, **David Lipschutz**, has retained employment as an Associate Staff Attorney at Arnold Scott Harris, P.C. He begins August 1, 2016.

Spot-Lite in the Chai-Lites

"Chuck Aron is in the midst of running 73 races at age 70 to support Alzheimer awareness. His brother-in-law, Paul Bracken, died of early-onset Alzheimer's at age 58, and this year Paul would have turned 73, the number of races Chuck intends to run, had Paul lived. Chuck's 73rd race will be the Chicago Marathon on October 9.

Chuck has been running the Chicago Marathon for twelve years now. The Regional News recently reviewed his exploits as a harrier. http://www.theregionalnews.com/index.php/sportsx/34936-this-70-year-old-runner-in-on-a-73-race-journey. He has also been featured repeatedly on the local news. See, e.g., http://www.theregionalnews.com/index.php/sportsx/34936-this-70-year-old-runner-in-on-a-73-race-journey. In order to maximize his contribution to Alzheimer research, Chuck has gotten all but one of his 73 race organizers to waive his entry fees. To support Chuckand Alzheimer's research, please go to his website http://www.73for70.com./"

Welcome New Members!

Monique Altman
Nicholas Alvarez
Joseph Becker
Courtney Cohen
Joseph Lawrence Cohen
Michael Ezgur
Amanda Fraerman
James Fuchs
Lauren Beth Gash
Greer Goldberg
Allyson Harris
Jeffrey Harris
Emily Hartman
Ross Hollberg
Samantha Israel
Reshma Kamath
Ariel Olstein
Joseph Michael Preiser
Abraham Salander
Loren Seidner
Diann Doppelt Sheridan
Lillian Walanka

2016-2017 Decalogue Society Of Lawyers and Decalogue Foundation Legal Education Series

Sponsored by Attorneys' Title Guaranty Fund, Inc.

On-line registration will be available for all classes at http://www.decalogue society.org/Pages/LegalEducation.aspx

All classes are at 134 N. LaSalle, Room 775 and earn 1 hour of general MCLE credit unless otherwise indicated.

All classes are offered at no cost to members of Decalogue and co-sponsoring organizations. Brown Bag Lunch.

Dates, locations and speakers are subject to change.

The Decalogue Society of Lawyers is an accredited MCLE provider

Wednesday, September 28, 11:30am-1:30pm
Video CLE - The Good Wife: Another Ham Sandwich
Speaker: Prof. Cliff Scott-Rudnick
Location: John Marshall Law School
2 hours Professional Responsibility credits pending

Wednesday, November 2, 12:15pm-1:15pm
Navigating the Workers Compensation Commission
Speaker: Arbitrator Milton Black

Wednesday, November 9, 12:15pm-1:15pm
The 2nd Amendment and Gun Rights in Illinois
Speaker: Lester Finkle

Wednesday, November 16, 12:15pm-1:15pm
Maximizing Social Security Retirement Benefits For You and For Your Clients: Inside the Black Box!
Speaker: Avram Saks

Wednesday, November 30, 12:15pm-1:15pm
Topics in Real Estate Law
Speaker: TBA

Wednesday, December 7, 12:15pm-1:15pm
Elder Law and Ethics
Speaker: Michael Erde
1 hour Professional Responsibility credit pending

Wednesday, December 14, 12:15pm-1:15pm
Police/Civilian Interaction
Speaker: Jonathan Lubin

Wednesday, January 11, 12:15pm-1:15pm
Current Trends in ADR
Speakers: Elizabeth Lyons and Cecilia Horan

Wednesday, January 18, 11:30am-1:30pm
MLK Day Video CLE
Video & Speakers TBA
Location: John Marshall Law School
2 hours Professional Responsibility credits pending

Wednesday, February 1, 12:15pm-1:15pm
To H-1B Or Not To H-1B and Other Immigration Questions
Speaker: Nancy Vizer

Wednesday, February 8, 12:00pm-1:30pm
2017 Income Tax Update
Speaker: Lawrence Krupp, *Director, Kessler Orlean Silver*
1.5 hours General MCLE credit

Wednesday, February 15, 12:15pm-1:15pm
Entrapment – Are You Predisposed?
Speaker: Hon. James A. Shapiro (ret'd)

Wednesday, March 15, 12:15pm-1:15pm
Family Law IMD
Speaker: Judge Grace Dickler

Wednesday, April 26, 11:30am-1:30pm
2017 Ethics Update
Speaker: Wendy Muchman, *ARDC Director of Litigation*
Location: TBA
2 hours Professional Responsibility credits pending

Wednesday, May 10, 12:15pm-1:15pm
Burnout in Lawyering II
Speaker: Alice Virgil, *M.A., L.C.S.W.*
1 hour Professional Responsibility credits pending

Wednesday, May 24, 12:15pm-1:15pm
Service & Process
Speaker: Joel Chupack

Special CLEs

Monday, August 29, 7:00pm-8:30pm
Iran – Update on Sanctions After the Nuclear Deal
Speaker: Inna Tsimerman, *International Trade Counsel of Marsh & McLennan Companies, Inc.*
Location: Anshe Emet Synagogue, 3751 N Broadway, Chicago
1.5 hours MCLE Credit

Monday, March 20, 7:00pm-8:30pm
Social Media: Do The Laws Adequately Protect Our Kids?
Speakers: Marsha Nagorsky, *Associate Dean for Communications, University of Chicago Law School;* Deborah Pergament, *Managing Attorney, Children's Law Group, LLC;* State Sen. Ira Silverstein *(invited)*
Co-Sponsored with Akiba Schechter Jewish Day School
Location: TBA

Hon. Gerald C. Bender Memorial Lecture – Date & Topic TBA
Lincolnwood Jewish Congregation AG Beth Israel, 7117 Crawford, Lincolnwood

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

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Deadline: Monday, February 27, 2017