THE DECALOGUE TABLETS

FALL 2022

THE DECALOGUE SOCIETY OF LAWYERS
JUSTICE, JUSTICE SHALL YOU PURSUE

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Fall Tablets 2022 Contents

President's Column

by Hon. Myron F. Mackoff

Please enjoy this speech, delivered at the annual installation dinner.

Good evening. Welcome to the Decalogue Society of Lawyers 88th annual installation dinner. When I look over all we have been through in the last year, I am amazed at the resilience of our board, our executive director, and our membership. We've experienced an actual plague. We have a war in Eastern Europe and famine in other parts of the world because of that war. We have seen our long held civil rights eroded and we have seen assaults on our democracy like never before. We have seen a rise in antisemitism. Yet, we never faltered in our mission.

Despite these challenges, our members have never stopped pursuing justice. We zealously advocate for clients. We equitably decide cases. We serve in government positions to make sure those guilty of crimes are held accountable and those wrongly accused are not. Or we protect consumers and the environment. Our pursuit of justice has not been stopped or even slowed down.

Logistically, we transitioned almost seamlessly to online events and meetings thanks to a lot of hard work behind the scenes. Over the last year, we attended CLEs remotely, had a remote Chanukah party and judicial reception, and matched up 15 law students and young lawyers with mentors.

Now we have the opportunity to meet again in person. I want you to think of all that had to happen to get us here today and in person. I want to thank all of you who got vaccinated, who socially distanced, and who quarantined if they were unsure of their COVID status. We are all here because of our sacrifice.

So enjoy your evening. You've earned it. Thanks to our sponsors who made it financially possible to meet in person and congratulations to all of our honorees. As the new president, I look forward to a year of in person CLEs, events, and meetings.

Dobbs v. Jackson Women's Health Org. – Analysis of Competing Constitutional Standards

By Hon. Michael A. Strom (Ret.)

The recent U.S. Supreme Court decision overruling *Roe v. Wade*'s restrictions on States' power to regulate or ban abortions resolves some issues while creating others. *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. *2228 (2022). *Dobbs* concerns a constitutional challenge to the Mississippi Gestational Age Act, Miss. Code Ann. § 41-41-191 (2018). The central provision at issue states: "Except in a medical emergency or in the case of a severe fetal abnormality, a person shall not intentionally or knowingly perform . . . or induce an abortion of an unborn human being if the probable gestational age of the unborn human being has been determined to be greater than fifteen weeks." § 4(b).14. *Roe* held that state bans and impermissible restrictions on first trimester abortions were unconstitutional invasions of rights of personal privacy.

Dobbs held that there is no explicit or implicit constitutional right to an abortion. Accordingly, States may regulate abortion for legitimate reasons. Such laws are entitled to a strong presumption of validity and cannot be held unconstitutional if there is a rational basis on which the legislature could have found legitimate state interests were served. *Id.* at *2242. Legitimate interests include "respect for and preservation of prenatal life at all stages of development; the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; the preservation of the integrity of the medical profession; the mitigation of fetal pain; and the prevention of discrimination on the basis of race, sex, or disability." [internal citations omitted] *Id.* at *2283-84.

The Supreme Court's opinions, including concurrences and dissents, comprise over 200 pages. Thorough analyses of all contested issues and bases could far exceed the voluminous case materials. This article aspires to provide a concise overview of some major disputes among the Justices.

Constitutional Rights Alleged

The two main sources claimed for abortion rights are the Fourteenth Amendment and the Ninth Amendment. The Fourteenth Amendment, ratified in 1868, states: "All persons born or naturalized in the United States … are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The Ninth Amendment states: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Pursuant to *Roe* and *Casey,* a woman's decision to terminate her pregnancy is part of the right of personal privacy that the substantive component of the Fourteenth Amendment's Due Process Clause protects against State interference. *Roe, supra*, *Planned Parenthood v. Casey*, 505 U. S. 833. (1992). Neither the Bill of Rights nor the States' specific practices at the time of the Fourteenth Amendment's adoption marks the outer limits of the substantive sphere of such "liberty." Supreme Court adjudication of such claims may require exercise of reasoned judgment in determining the boundaries between an individual's liberty and the demands of organized society. The Court's decisions have afforded constitutional protection from unwarranted state governmental intrusion to personal decisions relating to interracial marriage, *see, e. g., Loving v. Virginia*, 388 U.S. 1 (1967), procreation, *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942), child rearing and education, *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), contraception, *Griswold v. Connecticut*, 381 U.S. 47 (1967), and whether to bear a child, *Eisenstadt v. Baird*, 405 U.S. 438 (1972).

Griswold articulated a right of privacy created by the aggregate ("penumbra") effect of zones of privacy from several constitutional guarantees related to the First Amendment (freedom of association and speech), Third Amendment (prohibition of quartering soldiers in private homes), Fourth Amendment (protection of persons, homes, papers, and effects against unreasonable searches and seizures), Fifth Amendment (right against self-incrimination), and Ninth Amendment (constitutional enumeration of certain rights does not deny other rights retained by the people).

Before *Dobbs*, the right of personal privacy recognized in *Roe* (including "the abortion decision") was deemed fundamental, subject to consideration against important State interests in regulation. *Roe v. Wade*, 410 U.S. 113 (1973).

Majority Opinion Bases

Justice Alito's majority opinion cited the following bases for overruling *Roe* and *Casey*. I will defer commentary to a separate section of this article.

The Constitution makes no reference to abortion, and no constitutional provision implicitly protects the right to abortion, including the Due Process Clause of the Fourteenth Amendment. That provision has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty." *Washington v. Glucksberg*, 521 U.S. 702 (1997). Dobbs, *supra* at *2242.

When the country adopted the Fourteenth Amendment, three quarters of the states made abortion a crime at all stages of pregnancy. The abortion right is critically different from any other right this Court has held to fall within the Fourteenth Amendment's protection of "liberty." *Roe*'s defenders characterize the abortion right as similar to the rights recognized in past decisions involving matters such as intimate sexual relations, contraception, and marriage, but abortion is fundamentally different, as both *Roe* and *Casey* acknowledged, because it destroys what those decisions called "fetal life" and what the law now before us describes as an "unborn human being." *Id.*at *2243.

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Dobbs v. Jackson Women's Health Org. *(cont'd)*

Roe was remarkably loose in its treatment of the constitutional text. It held that the right to privacy includes the right to an abortion, neither right mentioned in the Constitution. And that privacy right, *Roe* observed, had been found to spring from no fewer than five different constitutional provisions—the First, Fourth, Fifth, Ninth, and Fourteenth Amendments. The Constitution makes no express reference to a right to obtain an abortion, and therefore those who claim that it protects such a right must show that the right is somehow implicit in the constitutional text. *Id.* at *2245.

Ordered liberty sets limits and defines the boundary between competing interests. *Roe* and *Casey* each struck a particular balance between the interests of a woman who wants an abortion and the interests of what they termed "potential life." But the people of the various states may evaluate those interests differently. Voters in other states may wish to impose tight restrictions based on their belief that abortion destroys an "unborn human being." Miss. Code Ann. § 41-41-191(4)(b).

There is ample evidence that a sincere belief that abortion kills a human being spurred passage of the law at issue. One may disagree with this belief (and our decision is not based on any view about when a State should regard prenatal life as having rights or legally cognizable interests). *Dobbs*, 142 S. Ct. at *2256.

The right to an abortion has no sound basis in precedent. *Casey* relied on cases involving the right to marry a person of a different race, *Loving, supra*; right to marry while in prison, *Turner v. Safley*, 107 S. Ct. 2254 (1987); right to obtain contraceptives, *Griswold, supra*; right to reside with relatives, *Moore v. East Cleveland*, 97 S. Ct. 1932 (1997); right to make decisions about the education of one's children, *Pierce, supra; Meyer, supra*; right to refuse involuntary sterilization, *Skinner, supra*; the right in certain circumstances to refuse involuntary surgery, forced administration of drugs, or other substantially similar procedures, *Winston v. Lee*, 105 S. Ct. 1611 (1985); *Washington v. Harper*, 110 S. Ct. 1028 (1990), *Rochin v. California*, 72 S. Ct. 205 (1952). Respondents and the Solicitor General also rely on post-*Casey* decisions like *Lawrence v. Texas*, 539 U. S. 558 (2003) (right to engage in private, consensual sexual acts), and *Obergefell v. Hodges*, 576 U. S. 644 (2015) (right to marry a person of the same sex). *Dobbs*, 142 S. Ct. at *2257-58.

These attempts to justify abortion through appeals to a broader right to autonomy and to define one's "concept of existence" prove too much. *Casey,* 142 S. Ct. at 851. Those criteria, at a high level of generality, could license fundamental rights to illicit drug use, prostitution, and the like. *See, e.g., Compassion in Dying v. Washington*, 85 F.3d 1440, 1444 (9th Cir. 1996) (O'Scannlain, J., dissenting from denial of rehearing *en banc*). None of these rights has any claim to being deeply rooted in history. *Id.* at 1440, 1445. Dobbs, 142 S. Ct. at *2258.

> [T]he dissent suggests that the majority decision calls into question *Griswold, Eisenstadt, Lawrence*, and *Obergefell*. But we have stated unequivocally that nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion. … [R]ights regarding contraception and same-sex relationships are inherently different from the right to abortion because the latter … uniquely involves what *Roe* and *Casey* termed potential life. *Roe, Casey, supra.* Therefore, a right to abortion cannot be justified by a purported analogy to the rights recognized in those other cases or by appeals to a broader right to autonomy. It is hard to see how we could be clearer."

[internal quotation marks omitted] *Dobbs, supra* at *2280-81.

In this case, five factors weigh strongly in favor of overruling *Roe* and *Casey*: the nature of their error, the quality of their reasoning, the "workability" of the rules they imposed on the country, their disruptive effect on other areas of the law, and the absence of concrete reliance. *Id.* at *2265. *Roe*'s failure even to note the overwhelming consensus of state laws in effect in 1868 is striking, and what it said about the common law was simply wrong. *Id.* at *2267.

Analysis

The *Dobbs* majority opinion is based in large part upon originalism/textualism Constitutional interpretation methods:

- Historical analysis of how the voters understood the meaning and scope of the wording when the Constitution or amendment was ratified.
- Claimed rights that are not mentioned in the Constitution must be "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty."
- Reluctance to recognize rights that are not specifically mentioned in the Constitution.

Applying these methods is more complicated when there are multiple ratification dates spanning 132 years, with very different compositions of eligible voters.

- 1788-1791: The Constitution and Bill of Rights (including the Ninth Amendment) were ratified. At that time, women were not eligible to vote, slavery was legal in half the country, and only white male citizens meeting property requirements were eligible to vote.
- 1868: The Fourteenth Amendment was ratified. Women were still not eligible to vote, and U.S. Supreme Court cases in the 1870s declined to interpret the Fourteenth Amendment as applicable to women's rights to vote or practice law. S*ee Minor v. Happersett*, 88 U.S. 162 (1874); and *Bradwell v. Illinois*, 83 U.S. 130, 141 (1873). As of 1910, only five states allowed women to vote.
- 1920: The 19th Amendment was ratified, granting women the right to vote. No other rights or subjects were included. Until ratification, twenty-one states did not allow women to vote.

(Continued on page 6)

Dobbs v. Jackson Women's Health Org. *(cont'd)*

The *Dobbs* dissent addressed interpretation of the Ninth Amendment and Fourteenth Amendment in this context:

> We referred [above] to the 'people' who ratified the Fourteenth Amendment: What rights did those 'people' have in their heads at the time? But, of course, 'people' did not ratify the Fourteenth Amendment. Men did. So it is perhaps not so surprising that the ratifiers were not perfectly attuned to the importance of reproductive rights for women's liberty, or for their capacity to participate as equal members of our Nation. Indeed, the ratifiers—both in 1868 and when the original Constitution was approved in 1788—did not understand women as full members of the community embraced by the phrase 'We the People.' In 1868 . . . Those responsible for the original Constitution, including the Fourteenth Amendment, did not perceive women as equals, and did not recognize women's rights. When the majority says that we must read our foundational charter as viewed at the time of ratification … it consigns women to second-class citizenship." *Dobbs* at *2324-25.

Historical analysis would indicate that voters did not understand Constitutional rights applied equally to women citizens as of 1788 or 1868. Notwithstanding state legislatures' failure to ratify the Equal Rights Amendment (passed by Congress in 1972) to date, it is fair to say that the Supreme Court now generally applies applicable Constitutional rights equally to men and women. The *Dobbs* majority does not claim women's rights must be strictly construed to the status of "1868 + voting rights" since nothing further would be "deeply rooted in this Nation's history and tradition." Changes in society, not the Constitution, led to Supreme Court recognition of women's rights.

Questions remain on the extent to which the Court will overrule or revise several precedents based on the "right of privacy" protected against State interference via the Fourteenth Amendment "liberty" guaranteed by the substantive component of the Due Process Clause. The majority opinion insists the effect of its ruling only relates to abortion cases. However, comments in *Dobbs* about the effect on future cases are just *obiter dicta*, as conceded in the *Dobbs* opinion: "Moreover, even putting aside that these cases are distinguishable, there is a further point that the dissent ignores: Each precedent is subject to its own *stare decisis* analysis, and the factors that our doctrine instructs us to consider like reliance and workability are different for these cases than for our abortion jurisprudence." *Id.* at *2281.

The dissent criticized the majority opinion's reliance upon privacy and abortion rights not being mentioned in the Constitution, deeply rooted in this Nation's history and tradition or implicit in the concept of ordered liberty while repeatedly denying any effect on other privacy rights, noting: "The right *Roe* and *Casey* recognized does not stand alone. To the contrary, the Court has linked it for decades to other settled freedoms involving bodily integrity, familial relationships, and procreation. … The same could be said … of most of the rights the majority claims it is not tampering with. The majority could write just as long an opinion showing, for example, that until the mid-20th century, there was no support in American law for a constitutional right to obtain [contraceptives]. So, one of two things must be true. Either the majority does not really believe in its own reasoning. Or if it does, all rights that have no history stretching back to the mid-19th century are insecure. Either the mass of the majority's opinion is hypocrisy, or additional constitutional rights are under threat. It is one or the other. [internal quotation marks omitted]" *Id.* at *2319.

Michael A. Strom is a Past President and current Board Member of Decalogue Society of Lawyers; Retired Judge, Circuit Court of Cook County and former Staff Attorney for the Office of the Chief Judge of Circuit Court of Cook County. His private practice career concentrated in civil litigation.

Rosh Hashanah Mitzvah Project
Sunday, September 18, 9:00-10:30am

Maot Chitim 1908 of Greater Chicago — Celebrating Over 100 Years of Giving

Decalogue has been assigned to two buildings on Chicago's north side to distribute food packages for Rosh Hashanah.

Boxes will be delivered to the building so you do not need your own vehicle - just join us at the appointed time, grab some packages and help bring a Shanah Tovah to the needy of our community. When you register, you can choose which building you want to go to.

Children of all ages can participate so this is a great opportunity to involve your family in our mitzvah project.

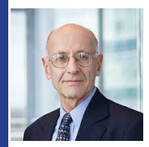
Register by noon Friday, September 16

The Decalogue Society of Lawyers & The Decalogue Foundation

2022 Jewish Legal Lecture Series

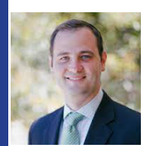
Tuesday, September 20, 2022, 5:15-7:15pm CST

Government Funding and the Separation of Church and State



Church & State: The Founders, History and Establishment Clause Tests
Sheldon H. Nahmod
University Distinguished Professor Emeritus, Professor of Law Emeritus, Illinois Institute of Technology/Chicago-Kent College of Law

The Long Road to Neutrality - The Fine Line Between Establishment and Free Exercise
Nicole Stelle Garnett
John P. Murphy Foundation Professor of Law, University of Notre Dame-The Law School



Beyond the Dollars: Why *Carson v. Makin* Matters
Michael A. Helfand
Vice Dean for Faculty and Research, Brenden Mann Foundation Chair in Law and Religion, Co-Director, Nootbaar Institute for Law, Religion & Ethics, Pepperdine Caruso School of Law

Moderator
Robert W. Matanky
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Voting in Jail: Illinois, Indiana, and Beyond

by Cliff Helm and Ami Gandhi

Introduction

In recent years, Illinois has aggressively pursued and earned a reputation as a leader in bold voter access reforms. The Illinois election system boasts innovations including election day registration, expanded early voting, and automatic voter registration that have the potential to create a more equitable democracy. But even with these changes, there are still persistent conditions that threaten access to voting in Illinois, particularly for communities of color. Beneath the surface of Illinois's reputation of providing diverse communities with access to the ballot, there remain obstacles to voting for communities of color, including people in the criminal legal system. In Illinois as well as neighboring states such as Indiana, there are significant opportunities to strengthen access to voting in this regard.

Language Matters: Jail Versus Prison

A jail is a facility where most people who are detained are awaiting trial and have not been convicted in connection with those charges. A prison is a facility where people convicted of a crime are held in connection with a sentence for that crime. *See A Guide To Voter Registration In Jails*, Chicago Votes (2021), https://chicagovotes.com/wp-content/uploads/sites/27/2021/09/A-guide-to-voter-registration-in-jails-3.pdf. As described further below, people in jail are typically in pretrial detention and legally allowed to vote, though access to voting and the process to exercise the right to vote varies state by state and county by county. While referring to people who are detained in jails and prisons, this article specifically avoids using the terms "detainees" or "inmates," as those terms dehumanize the people in the facilities by identifying them only as their current carceral status. The carceral system is deeply unfair and racially biased. Highlighting the individual people being harmed is an important and necessary step to understanding and changing the system.

The Law Provides Access for Voters in Pretrial Detention

a. Expanded Access Under Illinois Law

In 2019, the Illinois legislature passed a law that enabled election authorities to work with county jails to establish temporary polling places for people who are in jail and are eligible to vote. 10 ILCS 5/19-2.3; 10 ILCS 5/19A-20 (S.B. 2090, 101st Gen. Assemb., Reg. Sess. (Ill. 2019)); Kiran Misra, *How Cook County Jail Became the Country's First Jail-Based Polling Place*, Belt Mag., Oct. 30, 2020, https://beltmag.com/cook-county-jail-polling-election-2020/. The law mandated that Cook County Jail establish a polling place starting with the 2020 elections and opened the door for other counties to expand access to voting in jail. 10 ILCS 5/19-2.3; 10 ILCS 5/19A-20. During the June 28, 2022 primary election, Illinois saw its second county (Will) take this important step toward ensuring the protection of the right to vote by setting up an in-person polling place for the people it housed. Voting rights advocates and the legal community more broadly have an opportunity to advocate for this continued vital expansion. They can ensure the right to vote across the state of Illinois and start the work in neighboring states such as Indiana.

The conversation about voting while detained pretrial in jail – and the broader conversation about disenfranchisement for people who are convicted of a crime and serving a sentence in a prison – must be centered on the disproportionate impact that restrictions and barriers to the right to vote have on people of color. The legal community should continue to investigate the policies that most disproportionately harm communities of color, ranging from denying the right to vote in pretrial detention to the harms of prison-based gerrymandering, and consider the impacts on both the people who are incarcerated and the over-policed communities they often come from.

In Illinois, only people who are convicted of a crime and are serving a sentence (usually in prison rather than jail) lose their right to vote. This disenfranchisement comes from the Illinois Constitution, which states that "A person convicted of a felony, or otherwise under sentence in a correctional institution or jail, shall lose the right to vote, which right shall be restored not later than upon completion of his sentence." Ill. Const. art. III, § 2. Notably, Illinois law currently only restricts the right to vote when a person is under a "sentence of confinement." 10 ILCS 5/3-5. Once that sentence of confinement ends, they become eligible to re-register to vote. Additionally, people in Illinois who are on parole or probation are eligible to vote. This is true even if they previously served a sentence under a conviction, as long as they are not currently serving a sentence of confinement.

But even though people in pretrial detention are clearly eligible to vote, there is a large gap in ensuring that this right is protected. This space between the right to vote and the ability to register or cast a ballot creates a significant amount of voter disenfranchisement. These challenges are set against the backdrop of the mass incarceration system, which disproportionately locks up people of color in both pretrial detention and post-conviction sentences.

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b. Persistent Racial Disparities

Disparities in voter access for people in pretrial detention is an especially pressing issue given that Black people face disproportionate rates of being incarcerated in jails, according to national, state, and local level data. Below is a snapshot of this disturbing inequity:

- In 2020, 48% of people detained at local jails were white, 35% were Black, and 15% were Hispanic. Bureau of Justice Statistics, *Jail Inmates in 2020 – Statistical Tables*, Department of Justice Office of Justice Programs, https://bjs.ojp.gov/library/publications/jail-inmates-2020-statistical-tables. In contrast, 57.8% of the total United States population is white, 18.7% is Hispanic, and 12.1% is Black. Connie Hanzhang Jin et al., *What the New Census Data Shows About Race Depends on How You Look at It*, National Public Radio, Aug. 13, 2021, https://www.npr.org/2021/08/13/1014710483/2020-census-data-us-race-ethnicity-diversity (citing 2020 United States Census).
- In Illinois, 54% of the 2020 prison population was Black, while Black individuals made up 15% of the Illinois population. Illinois Department of Corrections, Prison Population Data Sets, https://www2.illinois.gov/idoc/reportsandstatistics/Pages/Prison-Population-Data-Sets.aspx (data from set dated 12-31-20); 2020 United States Census, *QuickFacts Illinois*, United States Census Bureau, https://www.census.gov/quickfacts/IL.
- In August of 2022, about 75% of those detained by the Cook County Sheriff's Office were Black, and 8% were white. *Sheriff's Daily Report 8/5/2022*, Cook County Sheriff's Office, https://www.cookcountysheriff.org/data. This is a wildly disproportionate number when compared to overall population figures, where only about 24% of Cook County residents are Black and 65% are white. 2021 Population Estimates, *QuickFacts Cook County Illinois*, United States Census Bureau American Community Survey, https://www.census.gov/quickfacts/fact/table/cookcountyillinois/PST045221.

In the pretrial detention context, racial disparities are often exacerbated by a misguided approach to addressing pretrial detention through reliance on an outdated bail system. Bail is the system where someone who is held in pretrial detention can post a bond, a dollar amount set by law or the court, to leave detention while they await a trial. This results in a system that disproportionately disrupts the lives of people who are unable to post a bond simply because of their economic status and regardless of any threat that they might pose, contributing to the harmful and disproportionately high detention rates of communities of color and Black people in particular.

In response to these systemic issues with bail, Illinois recently passed the Pretrial Fairness Act as part of the broader set of criminal justice reforms known as the SAFE-T Act. *See* 725 ILCS 5/110-1.5; 725 5/110-2 (H.B. 3653, 101st Gen. Assemb., Reg. Sess. (Ill. 2019)). The Pretrial Fairness Act shifts the burden and reliance on the use of bail by eliminating the cash bond aspect of bail and only holding people in pretrial detention based on the severity of the crime, any potential physical risk to someone else, or a risk that the person would not show up to their court date (as determined by a judge). *See* 725 ILCS 5/110-1.5; 725 5/110-2. Even with bail reform, Illinois jails and prisons will still disproportionately house people of color – and barriers to voting in jail will disproportionately harm those same over-policed communities.

This racialized system is the backdrop for the conversation about protecting the right to vote for eligible voters being detained while they await trial. Prior to the Illinois law that created in-person polling places in jails, people who were in pretrial detention were still eligible to vote, but their only access to the ballot was to vote by mail. While this process is open and accessible for many in the general Illinois population, there are extreme bureaucratic and practical limitations and challenges for people in jail to register, request, and vote by mail. Systems that we use every day on the outside are simply not as available or accessible to people in a controlled environment like a jail.

c. Illinois Examples of Cook and Will Counties

When Cook County Jail introduced a temporary in-person polling place, voter turnout in the jail voting population increased massively. The 2020 (presidential) primary election was the first election where Cook County Jail established a polling place. Out of a total population of about 5,600, 1,850 voted in that election, according to the non-partisan organization Chicago Votes. In the previous (non-presidential) primary election in 2018, only 394 ballots were cast through the available vote by mail processes. The 2018 election even involved limited in-person assistance by election personnel above and beyond what is normally available for people in pretrial detention.

The program has been so successful that in the most recent primary election in June of 2022, voter turnout was higher in the Cook County Jail than it was for the City of Chicago; 25% of eligible voters in Cook County Jail voted compared to about 20% for the whole City of Chicago. Pascal Sabino, *Cook County Jail Detainees Had a Higher Voter Turnout in The Primary Than the City as a Whole*, Block Club Chicago, Jul. 12, 2022, https://blockclubchicago.org/2022/07/12/cook-county-jail-voter-turnout. This is a testament to the hard work of organizers and supporters of the work, notably the nonprofit organization Chicago Votes. It also demonstrates that the interest in civics and voting for people in jail is not any less enthusiastic than the general population. In fact, studies have shown that acts of civic participation themselves, such as voting, reduce overall recidivism rates. *See, e.g.*, Guy Padraic Hamilton-Smith & Matt Vogel, *The Violence of Voicelessness: The Impact of Felony Disenfranchisement on Recidivism*, 22 Berkeley La Raza L.J. 407 (2012).

(continued on page 10)

Voting in Jail: Illinois, Indiana, and Beyond *(cont'd)*

Will County Adult Detention Center in Joliet, Illinois utilized the process for the very first time for the 2022 primary. While Cook County was mandated to establish a polling place, other counties may optionally do so. 10 ILCS 5/19A-20(e)(2). Through the effective advocacy of the community organization Speak Up and Vote, Will County became the first Illinois county to voluntarily set up such a polling place.

The Will County Adult Detention Center is significantly smaller than the Cook County Jail (which is one of the largest jails in the country). As with any jail, this election presented an opportunity but highlighted the challenges of working in a controlled environment such as the Detention Center. The biggest challenge was low voter turnout, partly due to voter eligibility and access depending on when people were brought to the facility – particularly given that COVID precautions still require a quarantine period. Issues that remain to be resolved for the upcoming general election include timing, registration requirements imposed by the facility, and access to voting for newly admitted people. We are hopeful that these issues can continue to improve as officials gain experience with how various voting requirements can interact with the facilities' requirements and voters' needs.

There are many additional counties where an in-person jail voting process is necessary to effectively ensure that the constitutionally guaranteed right to vote is protected. It is simply not enough to just make vote-by-mail available to people in jail.

d. Challenges Under Indiana's Election System

Similar to the law of Illinois, people held in pretrial detention in the neighboring state of Indiana are still eligible to vote. Like Illinois, Indiana has a law that disenfranchises only "a person who is convicted of a crime" and who is "imprisoned following conviction." Ind. Code Ann. § 3-7-13-4. However, Indiana does not have a law providing for in-person voting at pretrial detention facilities. This means that pretrial voters in Indiana must rely upon the state's restrictive absentee ballot system, a process widely inaccessible to those being detained. The current legal landscape presents obstacles for Indiana voters in pretrial detention. As one example, the United States District Court for the Northern District of Indiana denied relief to over 300 eligible voters who were unable to vote in the 2016 election while detained at a jail in Allen County, Indiana. *Barnhart v. Gladieux*, No. 1:17-CV-124-TLS, 2019 U.S. Dist. LEXIS 57205, at *17 (N.D. Ind. Apr. 3, 2019) (granting summary judgment to county, finding that there was not enough evidence that the voters attempted to exercise their vote, citing a state law that requires voters to obtain absentee ballots themselves (Ind. Code § 3-11-4-2)). This underscores the opportunity for improvement to strengthen the voting rights of Indiana citizens in pretrial detention.

Conclusion

Protecting all of the ways that someone may need to vote, such as while they are in pretrial detention, is all the more important in the context of how and when an individual person will have access to the ballot. There is a worrisome trend of "voter blaming" for anyone who finds their access to voting cut off simply because they did not cast their vote while a different avenue was theoretically available to them. For instance, the United States Court of Appeals for the Sixth Circuit approached this issue relating to two people who were arrested in Ohio in the days leading up to an election. They were detained after the cut-off date to request an absentee ballot and were not able to vote in person because they were detained through election day. The plaintiffs challenged the law as denying their right to vote, noting that other exceptions existed for late requests for absentee ballots. The court disagreed with their allegations, using a balancing test to determine that the "moderate" burden placed on the plaintiffs was not greater than the State's interest in running an efficient election in part because they could have voted earlier. *Mays v. LaRose*, 951 F.3d 775 (6th Cir. 2020).

Unfortunately, there's also a line of thinking that somehow voting in person on election day is worthy of more protection than any other avenue to voting. The Seventh Circuit has implied that the mere existence of the constitutionally guaranteed possibility to vote in person means that states might be free to impose rules regardless of whether it makes it more difficult to exercise the right to vote in some other manner. *Common Cause Indiana v. Lawson*, 977 F.3d 663, 664 (7th Cir. 2020) ("As long as it is possible to vote in person, the rules for absentee ballots are constitutionally valid if they are supported by a rational basis and do not discriminate based on a forbidden characteristic such as race or sex.") (citing *Tully v. Okeson*, 977 F.3d 608, 615-16 (7th Cir. 2020)).

These types of court decisions make it even more important to recognize that not everyone will have the same access to the ability to vote, and that every version of voting must be protected. There remain significant challenges for protecting voting rights of people with different barriers to voting on election day – including people who are in pretrial detention. We welcome the legal community in Illinois and Indiana to contact Chicago Lawyers' Committee for Civil Rights to join us in protecting voting rights in 2022 and beyond.

Cliff Helm (chelm@clccrul.org) is a Program Counsel at Chicago Lawyers' Committee for Civil Rights. Ami Gandhi (agandhi@clccrul.org) is a Senior Counsel at Chicago Lawyers' Committee for Civil Rights. *A hallmark of Chicago Lawyers' Committee's voting rights practice area is partnering with community members in the criminal legal system to strength and expand voting rights. The authors thank legal interns Benjamin McAdams and Anneliese Thomas for their contributions to this article and their voter protection work in Cook County Jail.* https://www.clccrul.org/

A Day Late and a Dollar Short: Beware of Default Judgments in Wisconsin!

by Alon Stein

A Comparison Between Illinois and Wisconsin as to How Motions to Vacate Default Judgments Within 30 Days are Evaluated

Your client is served with a Complaint and Summons for a case pending in the Law Division of the Circuit Court of Cook County. The Summons provides that the client has 30 days to file an Answer or otherwise file an Appearance and pay the required fee. Your client sends you a copy of that Complaint, but 45 days after service. The client is technically in default. Is that a problem?

Similarly, your client is served with a Complaint and Summons for a case pending in the Circuit Court of Milwaukee County in the State of Wisconsin. Your client visits you one day after an Answer is due and tells you about the Complaint. Is that a problem?

The short answer is that, for Illinois, it is not a huge concern but in Wisconsin, it is a major concern. This is because Wisconsin has no rule that allows default judgments to be vacated with ease if filed within 30 days, as in Illinois. The client served with the Wisconsin lawsuit should be very concerned because Wisconsin has no mechanism similar to a "2-1301 Motion."

2-1301 Motions to Vacate Default Judgments in Illinois

In Illinois, courts routinely grant motions to vacate when brought within 30 days. Indeed, Section 2-1301(e) of the Code of Civil Procedure provides:

> The court may in its discretion, before final order or judgment, set aside any default, and may on motion filed within 30 days after entry thereof set aside any final order or judgment upon any terms and conditions that shall be reasonable.

735 ILCS 5/2-1301(e). It has long been held that, in considering whether or not "to set aside a default judgment, it is only required that a just result be achieved and the question is whether it is reasonable, under the circumstances, to compel the other party to go to trial on the merits." *Patrick v. Burgess*, 25 Ill. App. 3d 1083 (2d Dist. 1975).

When ruling on a motion to vacate, the predominant concern is whether substantial justice is being done between the parties and whether it is reasonable under the circumstances to proceed to a trial on the merits. Larson v. Pederson, 349 Ill. App. 3d 203, 207-08 (2d Dist. 2004); *In re Marriage of Ward*, 282 Ill. App. 3d 423 (1st Dist. 1996). The Illinois Supreme Court explained the importance of the policy for granting motions to vacate defaults filed within 30 days in *In re Haley,* 2011 IL 110886, ¶¶ 57, 69:

> Where a litigant seeks to set aside a default under section 2–1301(e), which governs before final judgment has been entered or within 30 days thereafter, the litigant need not necessarily show the existence of a meritorious defense and a reasonable excuse for not having timely asserted such defense. Rather, the overriding consideration is simply whether or not substantial justice is being done between the litigants and whether it is reasonable, under the circumstances, to compel the other party to go to trial on the merits.

Where, as here, a request to set aside a default has been made before final order or judgment has been entered in a case, section 2–1301(e) provides that the decision as to whether the default should be set aside is discretionary. 735 ILCS 5/2–1301(e) (West 2008). In exercising that discretion, courts must be mindful that entry of default is a drastic remedy that should be used only as a last resort. The law prefers that controversies be determined according to the substantive rights of the parties. The provisions of the Code of Civil Procedure governing relief from defaults are to be liberally construed toward that end. When a court is presented with a request to set aside a default judgment under section 2–1301(e), the overriding consideration, as we have already observed, is simply whether or not substantial justice is being done between the litigants and whether it is reasonable, under the circumstances, to compel the other party to go to trial on the merits.

It should also be noted that a trial court's determination to grant or deny a motion under 735 ILCS 5/2-1301(e) lies within its sound discretion and will not be disturbed on appeal absent an abuse of discretion **or a denial of substantial justice**. *Jackson v. Bailey*, 384 Ill. App. 3d 546, 548 (1st Dist. 2008) [emphasis added]. Thus, in Illinois, vacating a default judgment within 30 days is a relatively easy thing to do. It is almost unheard of to have the entry of a default judgment not vacated for being a couple of days late if a motion to vacate the default is brought within 30 days. This is very different in Wisconsin.

Motions to Vacate Default Judgments in Wisconsin

In Wisconsin, if a party is one day late, a default judgment will most likely be entered, unless "excusable neglect" is found. Specifically, Wis. Stat. § 801.15(2) provides:

> "(2)(a) When an act is required to be done at or within a specified time, the court may order the period enlarged but only on motion for cause shown and upon just terms. The 90 day period under s. 801.02 may not be enlarged. If the motion is made **after the expiration of the specified time,** it shall not be granted unless the court finds that the failure to act was the result of **excusable neglect.** The order of enlargement shall recite by its terms or by reference to an affidavit in the record the grounds for granting the motion."

[emphasis added]

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Default Judgments in Wisconsin *(cont'd)*

In addition, Wis. Stat. § 806.07 also covers motions to vacate:

> 806.07. Relief from judgment or order.
> (1) On motion and upon such terms as are just, the court . . . may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:
> (a) Mistake, inadvertence, surprise, or excusable neglect;
> (b) Newly-discovered evidence which entitles a party to a new trial under s. 805.15 (3);
> (c) Fraud, misrepresentation, or other misconduct of an adverse party;
> (d) The judgment is void;
> (e) The judgment has been satisfied, released or discharged;
> (f) A prior judgment upon which the judgment is based has been reversed or otherwise vacated;
> (g) It is no longer equitable that the judgment should have prospective application; or
> (h) Any other reasons justifying relief from the operation of the judgment.

Whether there was excusable neglect is a legal conclusion determined by applying "interests of justice factors," on a case by case basis, to make that determination. In Wisconsin, the "interests of justice factors" include whether: (1) the party seeking an enlargement of time has acted in good faith; (2) the opposing party has been prejudiced by the delay; (3) the party promptly sought to remedy the situation caused by the failure to file timely; (4) the failure to file timely was the result of a conscientious, deliberate, and well-informed choice; (5) the party seeking enlargement received the effective assistance of counsel; (6) whether there was a consideration of the merits; and (7) whether the claim has merit, but for the failure to timely file. *See Hedtcke v. Sentry Ins. Co.,* 109 Wis. 2d 461, 468, 326 N.W.2d 727 (1982); *Rutan v. Miller,* 213 Wis. 2d 94, 101-02, 570 N.W.2d 54 (Ct. App. 1997); *State Ex Rel. M.L.B. v. D.G.H.*, 122 Wis. 2d 536, 552-53, 363 N.W.2d 419 (1985); *Binsfeld v. Conrad*, 2004 WI App 77, 272 Wis. 2d 341, 679 N.W.2d 851 (Ct. App. 2004); *see also Miller v. Hanover, Ins.* 2010 WI 75; 326 Wis. 2d 640; 785 N.W.2d 493, ¶ 36 (2010).

Thus, to determine whether there was excusable neglect, the decision-maker must consider a wide range of factors—the totality of circumstances—including all of the above factors bearing on the equities in the matter. *See Casper v. American International; Miller v. Hanover,* 2010 WI 75, 326 Wis. 2d 640 (2010).

While the Wisconsin Supreme Court has held in *Casper v. American International*, 2011 WI 81, ¶ 38, 336 Wis. 2d 267, 286, 800 N.W.2d 880 (2011) that "a court must also consider the interests of justice implicated by the grant or denial of the motion and what effects such a ruling would have on the proceedings," in practice, the vacating of default judgments within 30 days of entry has been anything but routine.

One example of how a party's case could be in trouble if an Answer is not filed on time is the case *Hedtcke v. Sentry Ins. Co.*, 109 Wis.2d 461 (1982). In *Hedtcke*, the Wisconsin Supreme Court reversed an order that vacated the default judgment when the Defendant was only ***12 days late*** in filing an Answer to the Complaint. It also reversed the order granting the motion to extend the time for the Defendant to answer, and to allow the already-filed answer to be accepted.

Therefore, when handling a case in Wisconsin, it is extremely important to file an Appearance (called a Notice of Retainer in Wisconsin) along with an Answer on time, or risk getting defaulted and not being able to get that default judgment vacated. Arguing "But it is only a day late!" is not grounds to vacate the default judgment in Wisconsin. Indeed, in *Hedtke*, the defendant was only 12 days late. It is extremely important to be aware of differences in civil procedure between Illinois and Wisconsin when practicing in Wisconsin, because the differences can be deadly to a case.

Alon Stein is Founder of Stein Law Offices of Illinois and Wisconsin.

Is Retirement in Your Future? (Probably)

by Joe Scally

When it comes to retirement, we are all over the place. Some have a plan, others are winging it. Some people can't wait to retire; they plan to do so at a young age. There are those who can't imagine ever retiring, they love their work so much. Some feel they have no choice but to keep working. There are some who are forced into retirement by illness or cognitive decline. People enter retirement sadly and fearfully. People enter retirement joyfully and eagerly. Many of us cycle through all these contradictory views and feelings depending on the day. We feel conflicted about our choices. The fact is that, for almost everyone, the day will come when we choose to retire or are forced to retire. Retirement is one of the more impactful events in our lives. It is important that we plan for it the best that we can. But remember, as Dwight Eisenhower said, "Plans are useless, but planning is essential." Circumstances change. Be flexible.

Lawyers are making decisions about retirement. According to Mary Andreoni, ARDC Ethics Education Senior Counsel, citing a recently released 2021 ABA Profile of the Legal Profession, one-third of lawyers over the age of 62 have changed their retirement plans. Among those lawyers, more than half (53%) said the pandemic delayed retirement. Another 47% said it hastened their retirement. Loss of income was the major factor likely impacting senior lawyers' plans, with 36% saying they made less money during the pandemic and only 18% reporting making more money.

A lot of retirement planning is about ensuring we have the financial resources to retire. There are hundreds of books about this aspect of retiring. There are magazine articles, cable television programs, and marketing by financial advisors. There are lots of strategies and information about when to take social security, use retirement benefits, and downsize a residence. This is all important.

For lawyers there are other important logistical and ethical matters to consider when planning for retirement. We must plan for handling physical client files and data, communicating our status with clients, determining who will take over active matters, and how trust accounts should be handled. We may have to integrate our estate planning with law firm succession or exit planning. Many law firms have mandatory retirement ages. What status will we choose for our law license under Illinois Supreme Court Rule 756(b)? How much malpractice insurance is needed? A lawyer cannot ignore these issues when retiring. For your information, the Attorney Registration and Disciplinary Commission is ready to assist you with these aspects of retirement. Don't hesitate to call them. The American Bar Association Senior Lawyers Division also has good information that can be accessed online.

Another situation lawyers must be aware of is the experienced attorney who has declined and is no longer able to serve their clients well. There is no particular age at which this happens. Some lawyers begin to decline in their 50s while others are going strong at 75. It is incumbent upon each of us to regularly assess our skills and abilities. However, lawyers are often reluctant to change or give up their practices. Other lawyers, bar associations, disciplinary and ethics committees, and lawyers' assistance programs must be ready to step in. Ignoring the impact of physical or cognitive decline on a lawyer and their clients does a disservice to both. Clients need to be protected from harm. Experienced lawyers should be afforded the opportunity to end their careers with dignity by choosing to slow down or retire. This requires caring but assertive action by all involved.

In addition to these important financial, ethical, and logistical considerations, there are numerous psychological and emotional aspects in retirement planning. Many lawyers struggle with retirement decisions because they fear giving up their identity as a lawyer. They have spent great amounts of time, energy, and effort to become lawyers and to build their practices. They value the work they do helping others. They enjoy the prestige of being an attorney. They think, "Work is all I know" or "I'm not sure what else I will do." They wonder who they are if they're not practicing law. One way to get past this "identity crisis" is for the lawyer to think of other names that currently describe them: spouse, sibling, grandparent, confidante, mentor, friend, church member; then, shift to thinking of things that they would like to be identified as in the future: artist, traveler, chef, gardener, golfer, tennis player, writer, photographer, cartoonist, sports fan, dancer, student, teacher, volunteer. The list is limitless. Envisioning these possibilities helps lawyers see that "life after law" can be rewarding. Actually, having a meaningful life is the experience of most retired lawyers.

Planning directed at other emotional and psychological aspects of retirement can increase the likelihood of having a purposeful and interesting new phase of life. Lawyers are social beings. Having social connections increases our chances of staying healthy during retirement. Social connections help us feel a sense of belonging, validation, and self-esteem. Paying attention to important relationships (partner, spouse, children, friends, etc.) before we retire can help us transition more smoothly. Maintaining and enhancing these relationships during retirement is a great opportunity. Also, connecting with organizations that have social components such as religious communities, volunteer organizations, clubs, neighborhood groups, senior centers, or travel groups supports our wellbeing. Pets also provide significant emotional support.

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Is Retirement in Your Future *(cont'd)*

Being active physically and mentally are important for a rewarding retirement. Again, planning ahead will allow for a smoother transition to retirement. If you don't already have an exercise routine, start to develop one. Take up dancing, bicycling, hiking, yoga. Practice mindfulness techniques that will help keep your mind sharp. After retirement activities like taking classes, writing, reading, painting, or ceramics will help keep the mind active. Try to explore some of those activities before retirement.

It is possible to have a meaningful, purposeful, enjoyable life after retiring from law practice. Planning to meet not only your financial needs but also your emotional, psychological and physical needs during retirement is essential. If you'd like assistance with the emotional and psychological aspects of retirement or retirement planning, reach out to us at the Lawyers' Assistance Program. You can connect with us at www.illinoislap.org.

Joe Scally, MA, JD, is the Clinical Director at the Illinois Lawyers' Assistance Program (LAP). LAP provides free and confidential services to all Illinois judges, lawyers, and law students to address issues related to mental health, substance use, and compulsive behaviors like gambling.

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How Do You Say "Affiant"? Legal Terms and Their Pesky Pronunciations

by David Lipschutz

I recently read a fascinating article in the America Bar Association Journal by one of my favorite writers, Debra Cassens Weiss. The article was titled, "How is 'amicus' pronounced? Justice Breyer and Judge Jackson disagree with each other and the majority view."

What struck me most about this article was that two judges of the highest caliber could disagree on pronunciation of certain legal jargon. This article stirred up a particularly harrowing memory from my past.

Several years ago, I was called into the managing partner's office to discuss a case I was preparing for hearing. As I sat across from the partner, I commented how I was going to have the affiant sign the affidavit in support of our brief. I pronounced affiant as "aah-fee-ent." The partner tilted his head slightly and said, "uh-fie-unt." I mirrored his head tilt and repeated, "aah-fee-ent." This went on for a few moments while the partner and I had a stare down. We were both confident our pronunciation was correct. Then, the partner did what most kids with access to today's technology would do – he searched the internet.

We in the legal profession think ourselves quite fancy since most of our legal terms are derived from Latin. Or German. Or a multitude of other non-English-based origins. Words like *prima facie* or *certiorari* or *ipsissima verba* are not only difficult to spell, they're also difficult to say.

I remember appearing in front of an administrative law judge where I had to say *prima facie*. I am not ashamed to admit that I would initially say "pree-mah fah-chee" until finally, one day, the judge tilted her head slightly (a lot of folks apparently look at me like that…) and responded, "pry-muh fay-shuh, miss-ter lip-shoots?" Upon further review of the word, *prima facie*, like *amicus*, seems to have a multitude of conflicting pronunciations.

Attorneys are continually reminded that we need to keep up to date on all of the constantly changing laws and rules. We are also continually reminded that we must dive deep into legal research (and always shepardize our cases) when prepping a particular argument. However, we must not forget how important pronunciation of the words we say are when making these arguments. Before telling a judge that *res judicata* applies, or that the defendant's *modus operandi* is to commit the crime, or even that your peer secretly has a *scandalum magnatum*, perhaps make sure you are pronouncing the legal term or phrase correctly.

Of course, in order to do so, you have to trust that the internet will provide you with accurate information. Unfortunately, the internet can often be wrong. For example, the internet was wrong when the managing partner discovered that affiant is pronounced "uh-fie-ent." I think we can all agree that my pronunciation was correct, right? Right??

David Lipschutz is the Managing Attorney at Trunkett & Trunkett, P.C.

Want to Understand the Rise in White Supremacy? Ask a Former Nazi

by Jacqueline Carroll

Growing up in a Jewish household, I frequently heard the term "Never Again" bandied about in the context of the Shoah. My father taught me to stand up and fight. My mother taught me to always have my passport, jewelry, and a sewing kit ready in case we had to flee in the middle of the night, as her family did during the Pogroms. I was too young to recall the Nazi resurgence in the late 1970s but heard a lot about it from my father. The Nazis seemed to be lurking in the shadows and fringes for decades.

That changed around 2016. In the past six years, white supremacists have infiltrated the mainstream world via social media and even politics. People started making antisemitic and racist comments openly. I, myself, was the recipient of antisemitic comments made shortly before the pandemic that ended up sending my life on a completely different trajectory from litigator to human rights advocate for the Simon Wiesenthal Center.

This year, 2022, feels different, more ominous. Nazi-style propaganda has been thrown on lawns all across the nation, but especially on Chicago's North Shore. Swastikas have popped up at our local schools, and our temples have received bomb threats. A string of hate crimes was perpetrated against the Orthodox Jewish community on Devon Avenue, two blocks from where I grew up. And then Highland Park.

While the motivation for that horrible massacre appears to not be antisemitic in nature, my Jewish friends were shot at a few blocks from my mother's home by a man who frequented white supremacist websites. I wanted to truly understand the rise in antisemitism and white supremacy so I did what any reasonable Jewish woman would do . . . I asked a former Nazi.

When you conjure up an image of a Nazi, Acacia Dietz is not what comes to mind. Acacia is a 5'4", pink haired, whip smart, spunky consultant for the Simon Wiesenthal Center, who happens to be the former head propagandist for the National Socialist Movement (NSM), the largest neo-Nazi organization in America. As the daughter of a preacher, Acacia grew up in a conservative Christian family in rural Ohio and was always involved with the church. She did not grow up with racism or antisemitism. That said, she had only interacted with one Jewish person and a few African Americans during her childhood.

I asked Acacia what compelled her to join the NSM and she told me it was not just one incident, but a combination of many. Acacia stated that in late 2017/early 2018, she felt completely broken inside. She lived in a neighborhood that was predominantly Black and witnessed her autistic son come home nearly every day having been bullied or beaten by the other kids. Her social media bubble primarily consisted of other conservatives, and as the political division grew in the United States, she found herself feeling targeted and dehumanized by the extreme left for her beliefs. And then there is the guy. A few years after getting away from her abusive ex-husband, who tried to kill her, Acacia found herself in another abusive relationship. Even with restraining orders, she simply did not feel safe. It was at this time she was introduced to the NSM.

The NSM had gone through a makeover, courtesy of its then leader Jeff Schoep. Instead of a swastika, their symbol was an Odal Rune. Instead of proclaiming itself as a neo-Nazi organization, the NSM's new creed was that it was a "White Civil Rights organization." Acacia did not fully realize she was being indoctrinated into a neo-Nazi organization until she was in deep. By then, she felt protected enough to leave her boyfriend. Acacia stated: "Who is going to mess with you when you are around a bunch of Nazis?" She does have a point.

While Charlottesville was the event that shook me to my core and made me worried that "Never Again" could be around the corner, Charlottesville had the opposite impact on Acacia. When President Trump, whom Acacia supported, said there were "good people on both sides," she not only agreed but wanted to get more involved. Acacia stated: "The far left says you should not hate but love everyone but, if you have extreme conservative views, then you are a Nazi and you should die." Acacia said her decision to join the NSM was "a reaction to their dehumanization" but now realizes "my reaction was to dehumanize."

A Netflix documentary called "The Social Dilemma" was a real eye-opener for me. It highlighted an internal Facebook report from 2018 which showed that "64% of the people who joined extremist groups on Facebook did so because the algorithms steered them there." I asked Acacia if she found that to be the case for her. She informed me that in late summer 2018, the NSM had already been forced off social media and their head propagandist quit. There was a hole to fill and, since Acacia had experience with websites and social media, she stepped in to fill it.

When Acacia became the head propagandist, she created a new website for the NSM and was able to get them back on social media. Acacia understood the web and marketing and figured out how to work the system to NSM's benefit. She asked herself: "How do you get content out there without it getting flagged? You change the cover of the book. Inside, the book is still the same." She gave me an example of posting an advertisement on Facebook for a podcast about World War II. The post neglected to mention that the podcast would be pro-Hitler. Acacia understood that some people would turn the podcast off once they figured it out, but some people would have their interest piqued enough to stay.

She called it "leaving breadcrumbs," and likened it to evangelizing where the goal was to cast a wide net to spread the word to as many people as possible.

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Rise in White Supremacy *(cont'd)*

Acacia says that many of the individuals who initially encountered the NSM and other similar groups were not racist or white supremacists but came because the far-right had mastered the art of political marketing. The NSM publicly espoused values appealing to a large segment of conservative-leaning citizens and would use content and video to stir emotions to entice the viewer to become "educated" and learn more. This education included the idea that it is whites versus non-whites and promoted an "us versus them" mentality. By showing videos or images of a Black person harming a white person, they would spark a visceral, primal instinct: the "survival of marginalized whites."

Due to her professional experience, Acacia became a member of the board of directors soon after joining the NSM. She informed me that she never agreed with the more extreme views in the movement but learned how to compartmentalize. Acacia quickly became desensitized to the violence as she would use graphic videos, video games, and memes to recruit. That is, until Christchurch.

While she did not watch the livestream of the massacre, she ended up viewing the video and learned about the killer's manifesto. Acacia said it looked as though the killer was playing a live shooter video game, but he killed 51 real people in two mosques because of the "Great Replacement" and "white genocide" theories –the same ideology she promoted in her role as propagandist. The guilt overwhelmed her, and she turned to Jeff Schoep to get out as he had left a couple of months prior. Acacia left the NSM in the summer of 2019.

I asked Acacia if I was going mad or if something had changed this past year to ramp up antisemitism. Acacia assured me I am not going crazy. Whew. She informed me that white supremacists have learned a new way to beat the algorithms and stay online from an unlikely source…ISIS. Yes, that ISIS. Since social media giants have become better at flagging content and forcing sites offline, white supremacist and terrorist organizations overload the algorithms to the point that they cannot possibly ban all of the content out there. "So if one account is banned, make three more. If they ban those three, make six more and just shift to new ones."

White supremacist groups have also revamped their old school tactics by meeting offline and creating "white advocacy days." Part of this includes distributing horribly antisemitic fliers. For those who have not seen them first hand, count yourself lucky. Plastic zip lock bags filled with either rice or pebbles and pieces of paper have been thrown on lawns across nearly every northern Chicago suburb since March of this year. The content sometimes changes but the idea is the same: "Every part of the COVID/Biden/media agenda is Jewish." This goes back to the conspiracy theory that Jews are puppet masters controlling the world and responsible for keeping everyone else down.

Some of the fliers include photos and names of politicians, doctors, and other important people they claim are Jewish, Zionists, or communists. Some of the fliers also claim that Jews "hijacked our country" and are committing "genocide against us."

The fliers serve as both recruitment and intimidation. Most of the fliers distributed on the North Shore suggest visiting a website that is a "white supremacist version of YouTube." Acacia said that, if someone decides to click on the site, they "end up being sent down a rabbit hole and indoctrinating themselves." However, distributing these fliers in Jewish neighborhoods is less about recruitment and more about intimidation. The goal is to "let Jews know there are Nazis in your area" and "you cannot do anything to me because what I am doing is 100% legal." The fliers even comically state "THIS IS NOT INTIMIDATION" knowing full well that it is.

Acacia told me that when leaving the NSM, she was able to let go of the racism but giving up antisemitism was harder. When something bad happened, a part of her thought "it had to be the Jews." That changed when she met my colleague, Alison Pure-Slovin, and a few other Jewish people. She told me that she was invited into Jewish people's homes and to their tables and was shown a kindness that smashed her preconceived image of a Jew. Acacia has now found a way to use her media skills for good.

As a consultant for the Simon Wiesenthal Center, she monitors the dark web and works with our law enforcement contacts when dangerous situations arise. Acacia and Jeff also created a non-profit organization called Beyond Barriers which works to counter extremism and de-radicalize white supremacists. Acacia and I come from vastly different backgrounds and ideologies, but now work together towards the same goal. Who would have thought it?

Jacqueline Carroll works for the Simon Wiesenthal Center as the DIrector of the Mobile Museum of Tolerance. Jacqueline is a Decalogue Board member and co-chairs Decalogue's Committee Against Anti-Semitism and Hate.

Want to write for the Tablets?

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

Contact the Editor with your article idea
cdseleman@gmail.com

My Illegal Immigrant

by Aviva Miriam Patt

His name was Abba-Choneh. He was the eighth of nine children and youngest of the three boys. Their mother died when he was eight years old and the oldest sisters took care of the younger children. They lived in a large white house with a wrap-around verandah on the most fashionable street in Ilukxt, Latvia. The expansive grounds held a stable for their horses, a carriage house, and gardens where his sisters grew vegetables and herbs. Cooking and baking began on Thursday and continued into Friday, when they would hand out loaves of challah to their neighbors who didn't have ovens in their own homes. The neediest among them were also given chicken soup with boiled meat and vegetables to make a proper Shabbat meal.

Their father, Yisrul, was a *shochet*, with his own butcher shop that served not only the Jews but some non-Jews in their town. His most important customer was the Catholic abbey, and each week he would load their large order into the wagon to deliver it personally to the Abbess. Custom decreed that he must bow and kiss her hand – a terrible *averah* for a *Chosid* – but a necessary concession to the dominant culture. His children would remember the weekly ritual as the greatest humiliation of their father's life.

Abba-Choneh and his brothers Azriel and Simin-Itzkeh went to *cheder*, but the girls attended the public school, run by the Catholic church, and had many non-Jewish friends. It was a fragile coexistence that could easily be set asunder by forces outside their community. Antisemitism was always present and sometimes rose to violence that transcended the family's prominence, taking a terrible toll. One night Abba-Choneh's uncle, a merchant, was set upon by bandits as he returned home. It was not an ordinary robbery – the mutilation he suffered before being killed indicated his attackers had targeted him as a Jew. A cousin and her friends, returning from an outing to Riga, were pursued through a train by a group of men as the other passengers ignored the cries of the Jewish girls. When they reached the last car, the three girls joined hands and leapt to their deaths to avoid being raped. Daily humiliations, random acts of violence, and the ever-present fear of pogroms encroached on what could have been an idyllic existence in another place.

One by one, Abba-Choneh's siblings began to leave for that beckoning existence. The first to go was Azriel, the eldest. He had served seven years in the Tsar's army – a dreadful experience for Jews – and had with great difficulty succeeded in never violating the laws of *kashrut*. Upon returning home, he fell in love with a neighbor girl and married. While expecting their first child, a notice came conscripting him for another seven years. Azriel quietly slipped away to America, later sending for his wife and baby. The next to go was Shaina, the eldest daughter. She too had married, and when her husband found it difficult to earn a living they also left for the "*goldene medina*." Beilkeh and Ziskeh were looking after their younger siblings following their mother's death, but the next eldest daughter, Esther, left for America on her own when she was 16. Chana-Rochel soon followed, lying about her age so she could travel unaccompanied at 14. War was brewing in Europe and families were rushing to get their young daughters out of harm's way. Hinda-Leikeh, still just 10, remained at home.

And the war came. Ilukxt was on the front line and the entire population of the town was evacuated as the Germans advanced. Abba-Choneh's sisters sewed money and jewelry into the linings of their clothes and the family loaded their possessions into the wagon, joining the caravan of exiles. They found refuge in one place, then another, moving as the war raged on. Abba-Choneh's sisters in America were also sewing jewelry into clothing, which they sent as relief packages, hoping authorities would not discover the hidden valuables. The family survived the war and returned home, only to find that the town had become a battlefield, and there was not a house left standing. They would have to begin again.

In their new town, Yisrul opened a butcher shop and his children helped in the store. Abba-Choneh married and had two children, Velvel and Soraleh. Hinda-Leikeh also married, then Beilkeh and Ziskeh. But they struggled in the post-war years. Abba-Choneh's wife left him during the Depression and he began to dream of a new life in a new land where his children could have a better future. He would go to America, like his brother and sisters had done, establish himself in a business, and send for his children to join him. But immigration was not as simple as it had been. After the great war, the United States passed a law limiting the number of immigrants from Eastern Europe, to stop Jews and other "inferior" people from polluting their shores. He would have to find a way around the law.

Abba-Choneh went to Riga, where he paid a substantial bribe to stow away on a ship to America. His plan was to sneak into the country and make his way to Chicago to join his siblings. But he was found out while the ship was still at sea and when he reached the United States was immediately put in a jail cell to await deportation. He pleaded his case to the officials. "My brother is Azriel Fine – he will vouch for me. Please, I want to live in America." But the name that was so respected in the town of his childhood meant nothing to these officials who did not even understand his foreign tongue. So Abba-Choneh returned, his hopes crushed, facing an uncertain and, ultimately, unimaginable future.

Within a few years, another war broke out, but this time there was no evacuation as the Germans advanced. Simin-Itzkeh's elder daughter Minna and her baby died in the bombardment of Dvinsk. Within days of the occupation, Hinda-Leikeh, her husband, and their children Sora-Tzilinka and Yossel-Bereleh, were killed – beaten to death in their own home by Nazi collaborators. Beilkeh and Ziskeh were transported to Auschwitz with their husbands, where they were gassed. Simin-Itzkeh's son-in-law managed to get passes for his family to enter Russia, but Simin-Itzkeh hesitated, promising his younger daughter he would follow in a few days. His fate is unknown.

(continued on next page)

My Illegal Immigrant *(cont'd)*

Abba-Choneh and his children were interned in the ghetto in Kovno. Soraleh was still in school but Abba-Choneh and Velvel were conscripted into forced labor. Velvel was shot to death while walking down the street, in one of the gratuitous acts of violence deployed by the Nazis to terrorize the populace. One day Abba-Choneh returned from work to discover Soraleh was gone, rounded up with her classmates and taken from the ghetto, presumably murdered in the forest and dumped in a mass grave. "Abba-Choneh lost his mind when they took away the children," a surviving neighbor would later recall. Then Abba-Choneh also was taken, in a collection of the feeble-minded and the feeble-bodied to be exterminated.

I've known Abba-Choneh's story for as long as I can remember. In my grandmother's room, the words flowed in a wave of tears born of grief and self-recrimination. Her life was haunted by the horrifying deaths of those she loved and left behind when she came to America, but her little brother's fate was the hardest to bear. "He was **here**," she would cry. "We could have saved him. But we didn't know." She rocked back and forth sobbing and I put my arms around her, my head on her shoulder, absorbing her tears.

When I was a child, there was a superhero, a cartoon character who fought injustice and protected the weak from the strong. His name was Mighty Mouse, and he was tiny, like me, but had powers I could only dream of. When danger threatened, he would raise his little mouse fist and cry out in his little mouse voice, "Here I come to save the day!" and fly up, up, and away to vanquish the forces of evil. In my dreams, I was Mighty Mouse, and I would fly across the country and across the bounds of time to find my uncle's prison. I didn't know what Abba-Choneh looked like. His face was not on the picture postcards the family had sent to America. But in my grandmother's room there was a large portrait of their father. It was a youthful face with a short beard and familiar eyes – my grandmother's eyes, my own eyes – that I imagined would be Abba-Choneh's as well. In my dream, I found my uncle's cell, and with my little mouse hands, pried open the bars and flew him up, up, and away to Chicago and my grandmother's arms. His terrible fate was averted, and her tears dissolved in his embrace.

My grandmother is long gone, and I am now older than she was when I first heard her stories. But I still dream. Other people in other lands still live in peril and untenable situations. Like Abba-Choneh, they turn to the United States for refuge, only to be deported to an uncertain fate. In my dream I fly to the border prisons, searching the cells. A hand reaches out and I peer inside to see a face I do not know. But it has familiar eyes – my grandmother's eyes, my own eyes – beseeching me. "*Ayúdame, por favor, quiero vivir en los Estados Unidos.*" I grasp the hand and we fly up, up, and away – across the miles from the border, across the span of my uncle's life, and my grandmother's life, and my own.

In my grandmother's room, we three embrace the stranger, who joins us as we open our mouths in songs of praise: "*Baruch atah, Adonai Eloheinu, Melech haolam, matir asurim*."

And my grandmother weeps no more.

Aviva Miriam Patt, Chana-Rochel's granddaughter, is the Executive Director of the Decalogue Society of Lawyers and a 50-year veteran of the struggle for social justice.

Munich Massacre: Fifty Years Later

by Bruce Ogron

On September 4, 1972, I sat in front of the television and heard three words that shattered much of my remaining childhood and would chart the course for much of my adult life. Three words introduced an eleven-year-old boy, and millions more around the globe, to the horror of Arab terrorism. Three words that fundamentally altered the geopolitical landscape and changed the way people would live their lives, even to this day. The three words were spoken by ABC Sportscaster Jim McKay, who was broadcasting live from the Summer Olympic Games in what was then Munich, West Germany. "They're. All. Gone." With those three words, McKay told the world of the brutal murders of eleven members of the Israeli Olympic team who were killed at the hands of the Palestinian terrorist organization known as Black September. With those three words, the world would begin to learn of the massacre of the "Munich 11."

The Olympics returned to Germany for the first time since 1936, known as the "Nazi Olympics." Hoping to present a different image to the world, the West German Olympic Organizing Committee promised this Olympics would be "The Carefree Games." Despite protests that marred the 1968 Mexico City Games, the fallout from banning Rhodesian athletes who had already arrived in Munich, and especially the West German forensic psychologist, Georg Sieber's, ominous prediction for a near identical scenario, which he called Situation 21, the Committee insisted that the games proceed with only a small security contingent and no overt display of force.

Without having been permitted to bring a security detail, Israel sent 28 athletes, coaches, and referees on August 21, 1972 to West Germany, many of whom were survivors or children of survivors of the Holocaust. The 20th Olympiad brought heroes like Jewish-American swimmer, Mark Spitz, who won seven gold medals and set numerous Olympic records, before it brought the world a new, televised horror.

Shortly after midnight on September 5th, the majority of the Israeli team returned to the Olympic village after spending the evening taking in a performance of Fiddler on the Roof. At the very same time, eight Palestinian terrorists were meeting in Munich's central railway station, putting together the final touches on their plan. Their goal was to storm the Israelis' apartments, take the Israelis hostage, and negotiate the release of 234 criminals incarcerated in both Israel and West Germany.

At 4:10 that morning, dressed as athletes with athletic bags (except they were filled with guns and ammunition), the terrorists hopped the village perimeter's fence (with the help of American athletes), and walked to 31 Connollystrasse. There were seven Israelis inside Apartment 1 when the eight terrorists reached their door and tried to get inside. A 285-pound wrestling referee, Yossef Gutfreund, heard the noise and ran to the door to prevent it from opening. He held the terrorists at bay long enough for weightlifting trainer, Tuvia Skolsky, to escape out the back window. The terrorists broke through and held six Israelis hostage. The terrorists went past Apartment 2 to Apartment 3, where the wrestlers and weightlifters were housed. After a fierce struggle, the hostages in Apartment 3 were taken to Apartment 1. What happened next can only be described as acts of tremendous courage pitted against sheer evil. The terrorists brutally murdered Yossef Romano and his coach, Moshe Weinberg. They bound the remaining nine Israelis and forced them to sit in a room with one of their dead teammates and guns pointed at them. For hours. In Germany.

The noise of gunfire awakened the Olympic village and by 5:00 a.m. the news had reached Munich's chief of police, Manfred Schreiber. Schreiber's cocky sheriff-style attitude belied the fact that he already had botched one hostage crisis. During the Second and Third Reich, the Germans earned a reputation for efficiency and attention to detail. It was that organizational competence that led to the systematic roundup of Jews for transport to the death camps. What happened over the next few hours amounted to German hubris and incompetence on a grand scale for all the world to see. The terrorists outgunned and outmatched the Germans. As every news station broadcast the hours-long standoff to millions of viewers, the Germans failed to realize the terrorists were also watching, and saw German snipers climbing the roof. After intense negotiations proved fruitless, the West Germans acceded to the terrorists' demand for a bus to transport them and the hostages to a helipad, where they would fly by helicopters to an awaiting plane at the airport in Furstenfeldbruck, just a few miles from Dachau.

At the airport, the Germans aborted their ill-conceived rescue plan when the ill-equipped and untrained snipers decided to bail. The terrorists quickly realized it was a trap and, after a ferocious firefight, all nine Israeli hostages (still shackled inside two helicopters), a German police officer, and five of the terrorists, were dead. The Reuters News Agency had erroneously reported that the hostages had been rescued, leading to celebrations in Israel and around the world. Then, Jim McKay came on the air and uttered those three words. "They're all gone."

David Berger. Ze'ev Friedman. Yossef Gutfreund. Eliezer Haflin. Yossef Romano. Amitzur Shapira. Kehat Shorr. Mark Slavin. Andre Spitzer. Yakov Springer. Moshe Weinberg. These are the "Munich 11."

Avery Brundage, the President of the International Olympic Committee, refused to cancel the games and only reluctantly agreed to a 24-hour suspension. The first televised terrorist attack occurred and the games simply continued, with nary a mention of the murdered Israelis by the IOC until 2016. Most people are more familiar with what happened next. Within two months of the massacre, the PLO hijacked a nearly empty Lufthansa airliner and the West Germans agreed to release the three remaining Black September terrorists. We now know that the West Germans were in on it and made an agreement to try to avoid future attacks on their soil.

(Continued on next page)

Munich Massacre: Fifty Years Later *(cont'd)*

Prime Minister Golda Meir debated long and hard but, after the terrorists returned home as heroes, she released Operations Spring of Youth and Wrath of God. Israelis struck fear in the Palestinians and the rest of the Arab world and had proven it would exact retribution no matter the time, no matter the place.

Before the beginning of the London Olympic games in 2012, Rabbi Jonathan Sacks penned these words to memorialize the massacred Israeli athletes:

> In remembrance of the eleven Israeli athletes brutally murdered in an act of terrorism at the 1972 Olympic Games in Munich, because they were Israelis, because they were Jews. At this time of year, when we remember the destruction of our holy temples, and the many tragedies which have befallen our people throughout history, and continue to protest against those who hate our people, we pray to you, O God: Comfort the families and friends of the Israeli athletes who continue to grieve and grant eternal life to those so cruelly robbed of life on earth. Just as we are united in grief, help us to stay united in hope. As we comfort one another under the shadow of death, help us strengthen one another in honoring life. The Olympic message is one of peace, of harmony, and of unity. Teach us, almighty God, to bring reconciliation and respect between faiths as we pray for the peace of Israel, and for the peace of the world.

It has been fifty years since I witnessed that extraordinary act of violence. I have since witnessed several acts of terrorism a few thousand miles away and, recently, in my own backyard. I cannot help but wonder what today's eleven-year-old hears and what they will remember fifty years from now.

Bruce Ogron retired from the legal profession after practicing for 32 years. He now teaches adult Jewish education at Moriah Congregation in Deerfield, Illinois.

TOWN HALL

Wednesday, November 2, 2022
6:30-8:30pm

Pulling up the Weeds of Antisemitism at the Grass Roots: How the Community, Police and Government Can Work Together to Combat Antisemitism

A program in conjunction with the Cook County Task Force on Antisemitism

Panel 1 - Law Enforcement and the reporting, investigation and prosecution of antisemitic incidents

Panel 2 - Local Government and Community Organizations - What more can be done outside of law enforcement and what resources are available.

We will hear from representatives of law enforcement, the Cook County States Attorneys Office, local government and Jewish community organizations, followed by Q&A from the audience.

1.5 hours CLE credit for all attorneys

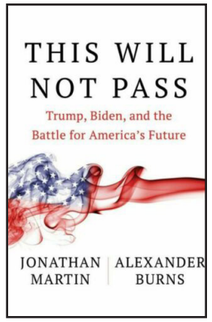
Location and speakers TBA - watch your email for more information

Book Review: This Will Not Pass

by Michael S. Jordan

Jonathan Martin and Alexander Burns, *This Will Not Pass: Trump, Biden, and the Battle for America's Future*. New York: Simon & Schuster, 2022.

If this book were listed as historical fiction, it would be hard to accept the assumptions made as true with so many outrageous acts by Donald Trump and his minions – the plot line would be incredible; but as history, we come to realize that these reported events actually took place. The events are so very well documented in vivid detail that the book is hard to put aside to take a break when finishing a segment or chapter of the it. You will want to read on to learn what is next. In the history of our nation, we have never had a president who was seditious or thought of attacking our own government, derailing our democratic institutions, failing to concede defeat, or refusing to cooperate in the peaceful transfer of power to his successor – that is, until Donald Trump!



The authors, Jonathan Martin and Alexander Burns, are national correspondents for The New York Times who have used their many contacts in Washington and elsewhere to obtain inside information from people at all levels having firsthand knowledge and insights into the attempt by Donald Trump to stage a coup. They cover the period of the campaign in 2020, the period after the election until January 6, 2021, and the events thereafter with precision and jarring detail so the reader can learn what people knew, what people did, and how other people reacted. There were numerous unlawful acts by despicable people and many persons who stood by silently enabling the wrongdoers. Yet, many heroes emerged in both political parties at the national and local levels to protect our democracy.

At various critical times, the authors take us from one critical player in events to another at a different location, showing what those people were doing and saying at the same time. As various events described in the news are covered in the book, we learn precisely what was going on with others. Where was Trump as Mike Pence was ushered to safety only 30 feet from the insurrectionists?

The revelations demonstrate how close we were to losing our democracy and finding ourselves subjugated under the tyranny of an autocratic dictator. At the eve of the insurrection brought forward by a seditious conspiracy, many persons saw that January 6 would be a dangerous day rather than a day where we merely take a step in the peaceful transition of power.

As the book begins, we learn that Congresswoman Abigail Spanberger (D-Va.), with a military and intelligence background, having a good sense of the dangers possible on January 6, gave sound advice for safety to Congresswoman Alexandra Ocasio-Cortez (D-N.Y.), who would most likely be a recognized target by the Trump mob that could use the chaos to harm, rape, or kill her. The women were not close friends.

We learn very detailed and specific conversations such as that moderate congresswoman telling a left-leaning congresswoman to drive and not walk to the Capitol building, to enter through an adjoining building and use the tunnels while dressed in clothing not typically worn to confuse anyone looking for her, and to definitely not wear her congressional pin and only present it to the guards when going through security. This advice was designed to get the congresswoman safely to the constitutionally mandated January 6 processes to accept the electoral vote.

This book is a near contemporaneous documentation of the events taken with the voices and eyes of many famous and not so famous persons. It will be available in future years to look back and see where we failed and where we were lucky enough to succeed in preserving our democracy – if just for a while. We see that our 245-year experiment with democracy may easily become a passing fancy. We learn of the angry climate that can exist and did exist in our nation not caused only by Donald Trump but taken advantage of by Trump. Special interest money in election donations, gerrymandered congressional districts, information systems and right-wing television cable news pedaling lies later called "alternative facts," and power-seeking unpatriotic populist politicians pandering false narratives are just a few of the precipitating factors and ingredients igniting the insurrectionists now under either investigation, indictment, or jail sentence.

I read this book as I heard the revelations made by the January 6th bipartisan select committee in the U.S. House of Representatives showing that the wrongdoing before, on, and after January 6, 2021 was not spontaneous; it was planned and orchestrated by Trump, his chief of staff, Mark Meadows, and Trump's henchmen such as Rudy Giuliani, John Eastman, Jefferey Bossert Clark, and Sidney Powell.

History continues to be made and we will see where the continuing investigations take the prosecutors in the Justice Department as well as those in states such as Georgia, Arizona, New York, and elsewhere. Until those events unfold, while there are many great books telling the story up to this point, *This Will Not Pass* is a great book to read and learn what occurred and what was done by whom and when.

Michael S. Jordan is a former judge having served in the Circuit Court of Cook County from 1974 to 1999. He is now serving as a mediator and arbitrator under the firm name of Mediation & Arbitration Services in Glenview, Illinois. Judge Jordan was editor in chief of the Illinois Bar Journal and served as an editor of the Bench Bar Newsletter of the Illinois State Bar Association for many years.

Decalogue's Revitalized Mentoring Program

by Michael Rothmann

Happy Rosh Hashana! With the coming of this New Year, I hope you make a resolution to become a mentor for newly licensed attorneys and law school students. If you are a law school student or a new attorney who has been practicing less than five years, please take the opportunity to become a mentee.

Teaching others about ideas and sharing experiences provides others with wisdom, which in turn creates a desire of the mentee to become a teacher who will share their wisdom with others and so on. As lawyers, we often share our "wisdom" with our clients. However, we often neglect to pass on what we have learned and how we got where we are with new attorneys, who have been sent into the world ill equipped by law schools to deal with the practical aspects of the law.

Mentoring develops effective and intelligent lawyers. At nearly every waystation in attorneys' careers, new attorneys have opportunities to take advantage of a wide variety of mentors. That said, mentoring isn't just for novice lawyers—even the most experienced attorneys learn new ideas and improve their practice through their relationships with peers and subordinates.

Most lawyers will agree that mentoring is one of the most critical components to a lawyer's success. A mentor can provide tools needed to understand how to navigate a career, whether as an attorney in-house, firm, non-profit, or a government agency. Mentors provide insight, experiences and skills and can help mentees feel more comfortable and included in organizations. The mentor also can actively advocate for the mentee with others. This type of education cannot be discounted.

This summer, Decalogue started its mentorship program in which lawyers who have more than five years' experience will be mentoring lawyers with less than five years' experience, who will mentor law students. This chain provides law students the benefit of two mentors. Unlike other mentorship programs, this is not just a one-year program, but will provide mentorship and relationships that will last a lifetime.

To benefit from any mentoring relationship, both the mentor and mentee must ensure that they are trustworthy, open and willing to participate in the program and in a relationship which requires give and take.

For mentors, it is imperative that they can commit the time needed to make the relationship work. The meetings are vital for the future of the mentee, therefore mentoring is not something that you do when you have time for it. A mentor also needs to listen, offer guidance and be candid, even about one's own background and challenges. Mentors need to be able to push their mentees out of their comfort zones and inspire them to be better.

Mentees must also make the time to meet. They must understand that they have a lot to learn and explain their expectations about what they intend to gain from mentorship program. A good mentee will have insight to understand one's own strengths and weaknesses. Like mentors, good mentees must be good listeners, not worry if they appear to not know everything, and be able to accept a mentor's advice and put those teachings into practice.
Whether you are a solo practitioner, a large or small firm attorney, part of a government agency, or a member of a corporate law department, or a new lawyer seeking your first job, you will benefit from the mentoring program experience. This opportunity allows established lawyers to mentor new lawyers and help them develop practical skills, judgment and networking skills as a foundation to practice law and become successful. It also helps instill ethical and professional values that will remain with them for their careers.

If you are interested in signing up, please contact Decalogue, decalogueso ciety@gmail.com or Michael Rothmann, mrothmann@glinklaw.com. We are planning to have an event this coming Fall to formally initiate the program in a fun way, whether online or in person. Thank you and we all look forward to seeing you.

Michael Rothmann is a Decalogue Board member and a litigation attorney at The Law Office of Martin Glink.

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Chai-Lites

by Sharon L. Eiseman

For each Tablets issue, the "Chai-Lites" routinely features news about our busy members coming, going, celebrating, being recognized, speaking, writing, making new career moves, standing up for the oppressed, fighting antisemitism and BDS movements on college campuses and almost everywhere else as such incidents seem to be increasing, volunteering to deliver holiday dinners to those in need, serving on the DSL Judicial Evaluation Committee, acquiring more new titles and awards than seems possible, giving birth to future lawyers, judges, and Decalogue members, mentoring law students, and ***running*** *and* ***running****…for office, for the bench, to court—whether virtual or in-person, and in Race Judicata to raise funds for CVLS!*

One of our most well attended and successful gatherings this year was **Decalogue's 88th Annual Installation and Awards Dinner** held at the Union League Club on July 7, 2022. And, judging from the sheer intensity of enthusiasm of the attendees visible and audible from wherever one may have been standing and schmoozing, or sitting and schmoozing, in the enormous event room on the 5th floor of the ULC, all present were turned on and tuned in at their greatest capacity as the evening began with a noisy, crowded reception and progressed to a noisy, crowded formal dinner for the many hundreds of guests in attendance.

Before we move to the part where all of our award recipients and the slate of new DSL Officers were sworn in to their new years ahead of service to the DSL, or were recipients of shiny DSL plaques for outstanding service to the Society and the profession, a moment must be set aside to warmly acknowledge the superb quality of all tasks performed by our long-standing, long-sitting **Executive Director Aviva Patt** who has consistently proven herself to be a pure energy machine, always working, never resting, to keep the DSL fully funded and fully operational. No one of us who serves the Society, its Foundation, or on our many committees, fully understands how she succeeds every time on every endeavor she supports so we can continue to do it all.

So, who are our new Officers? Not so fast: many thanks to **outgoing President Mara Ruff** for a busy, productive year as our fearless leader in a time of growing antisemitism and concerns about the impact of Critical Race Theory in educational institutions and beyond to the extent that some legislators are trying to prevent it from being taught anywhere. It was no surprise to see Mara display, at the event, her capacity to captivate a crowd by overseeing the officer and board member installations, bestowing upon multiple stars among us those coveted shiny plaques for service to the DSL, and acknowledging and honoring a long list of members of the judiciary for their exemplary service to the Society, the judiciary, and the profession.

Mara welcomed **Judge Myron F. Mackoff** to the *bima* to congratulate him on his transition to the office of President of the Society, following which Hon. Mackoff gave a warm welcome to the audience. (Please see attached list of 2022-23 Decalogue Society of Lawyers Officers and Board Members, all of whom Chief Judge Timothy Evans swore in as part of the Annual Installation.) Of special import was Judge Mackoff's recognition of all in the Society who "stayed the course" during the challenge of the pandemic, continuing to perform our functions in order to keep intact and alive the DSL mission of pursuing justice wherever it is being threatened, and doing whatever is necessary to protect the vulnerable from being victimized by hatred and other forms of discrimination. He also praised all who spent energy keeping themselves and others safe from the virus so that important work might soon return through in-person meetings where commitment abounds to keep our projects going and find new ways to serve our community.

Thereafter, Board member and recently retired **Judge Moshe Jacobius** was acknowledged and honored with Decalogue's **Lifetime Achievement Award** for his long career of excellence as a member of the Judiciary. His wisdom, attention to detail, and impressive demeanor as reflected in his judicial service encouraged those in higher office to appoint Judge Jacobius to many leadership positions along the way, and eventually to service as the Presiding Judge of the domestic relations division. He'll be missed in the courthouse but we may call upon him for any one or more of our DSL projects.

For her distinguished career in the law and on the bench, most recently in the domestic violence division hearing matters involving domestic and elder abuse, **Judge Judith C. Rice** received the **Charles E. Freemen Judicial Merit Award**. She brings the same sense of compassion and understanding to her cases as she has long devoted to service on boards of several NFP entities, and has also been honored for her valuable work in promoting financial literacy for the Illinois Council of Economic Education, the City Colleges of Chicago, and the Federal Reserve Board.

The **Decalogue Society Award** was bestowed upon **Judge Neil H. Cohen** for his long and distinguished service in the general chancery division as well as his commitment to addressing criminal and social justice issues as reflected in his role on several Illinois Supreme Court committees devoted to such concerns. And, we have been informed of his equally productive personal life which he shares with his longtime spouse Susan Sher and their four children, four grandchildren, and three grandpuppies!

Board member **Appellate Court Justice Robert E. Gordon** was the recipient of the Society's long-standing annual **Hebrew University Fellowship Award** for his widely known, relentless pursuit of justice through his devotion to serving the interests of all parties who appear before him, whether through settlement or other means of resolution. In addition to that commitment, Justice Gordon is further revered for his support of fellow Decalogue members and other minorities seeking judicial appointments, is a co-founder of the Jewish Judges Association of Illinois, and, among many other recognitions, has been designated as a legal scholar of the Public Interest Law Institute.

(continued on next page)

Chai-Lites *(cont'd)*

By the conferring of its **Award of Excellence** on **Donald C. Schiller**, the Society paid tribute to Mr. Schiller for his 50+ years of meaningful contributions in the area of family law and all of its complexities, which have resulted in his being deemed one of the nation's top matrimonial lawyers by numerous public entities. Besides his founding of the well-known family law firm Schiller DuCanto & Fleck, Schiller has been teaching divorce law at the University of Chicago Law School for more than 20 years, a term reflecting the high regard in which he is held in one of the most difficult and challenging practice areas. Perhaps this award will help keep him fueled!

Decalogue Board member **Sharon L. Eiseman** happily accepted the Decalogue **Founder's Award** from President Mara Ruff while simultaneously wondering how she was chosen from among a field of extraordinarily active, gifted, and dedicated women who achieve results in their varied roles for the Society and its Foundation. However, Sharon promises she will continue to serve the DSL to the best of her ability in order to be worthy of that award.

The **Presidential Citation** was conferred by the DSL upon Board member **Joel F. Bruckman**, whose practice focuses on matters relating to data privacy, cybersecurity, and complex commercial litigation involving trade secrets and restrictive covenant matters. Yes, he does the work that many of his fellow lawyers simply avoid—due to its complexity, of course. Likely, his interest in those issues was sparked by his position as a Cook County ASA in the Public Corruption Unit of the Special Prosecutions Bureau. He should probably get an award at the end of each week he survives!

Apart from the Installation and Awards presentation, we deem it relevant to note wedding bells in the background for two of our past presidents. Those bells celebrate the recent marriage of **Judge James Shapiro** to Karin Elizabeth Clifford, and the recent engagement of **Judge Myron Mackoff** to Andrea Chavarria. We always enjoy hearing good news about our members. Accordingly, we extend a hearty MAZEL TOV! to both couples and wish them well as they travel through life with their new partners.

And more Chai-lites!

Mazel Tov to **Marc Blumenthal** and Sharon Veis on their daughter Sara's graduation from Hebrew College with a Rabbinical Ordination, a Masters in Jewish Education, and the Betty K. & Philip Fein Memorial Prize for Outstanding student in Jewish Education and Ordination. Sara is now Assistant Rabbi at Congregation Agudath Israel in New Jersey.

Jeffrey Leving's article "Flexible remote work arrangements benefit both employees and their companies" was published in the St. Louis Post-Dispatch.

Jacqueline Carroll, Board member and co-Chair of the Committee Against Antisemitism and Hate, has been named Director of the Simon Wiesenthal Center's Mobile Museum of Tolerance.

Paul Plotnick, a Decalogue Society member, with offices in Skokie, was selected as the Military Marshal of the Village of Skokie 4th of July Parade. Although the parade was canceled in the wake of the Highland Park tragedy, the Village of Skokie and the Illinois National Guard held a ceremony August 15 to honor Paul and the other Marshalls for their military and community service.

Ron Stackler, a 60-year member of Decalogue, celebrated his 85th birthday July 30, 2022, living contentedly in retirement on the beach in Malibu, California.

Michele Katz started a philanthropic or tikkun olam foundation that's turned a year old (back in March). The Plus One Adoption Foundation is an information resource company to create more awareness about adoption as a family planning option. The website is www.plusoneadoption.org and we are active on Instagram @ plusoneadoption.

On 7/13/22, **Chuck Krugel** was interviewed for his fourth time by South Korea's national news network Arirang's The Daily Report. It's a daily hour long news program for Arirang TV's 2pm time-slot based in Seoul, Korea. Host Sun-hee MIN interviewed Professor OH Joon-seok of Sookmyung Women's University & Chuck concerning the Great Resignation—Why are people quitting their jobs amidst high inflation and possible recession? All of Chuck's Arirang interviews are available here: https://www.charlesakrugel.com/charles-krugel-media/two-new-video-interviews-including-south-koreas-arirang-trust-radio-networks.html

Also, on 5/13/22, Chuck was interviewed by Steven A. Leahy, BA, JD, LLM, CCE, Principal Attorney, Opem Tax Advocates & Law Office of Steven A. Leahy, PC, on his video podcast available on the Trust Radio Network & YouTube. They discussed practicing law, labor & employment law & business in general. The interview is just short of two hours and is here: https://www.charlesakrugel.com/charles-krugel-media/two-new-video-interviews-including-south-koreas-arirang-trust-radio-networks.html.

Finally, on 4/19/22, Chuck was quoted in Construction Dive's article "IL suspends requirement for in-state workers on public projects." It's available here: https://www.charlesakrugel.com/charles-krugel-media/construction-dive-quotes-cites-me-in-il-suspends-requirement-for-in-state-workers-on-public-projects.html.

On 8/5/22 Chuck received an A+ accreditation rating by the Better Business Bureau.

Judge **Neil Cohen** was appointed to fill the At-Large vacancy created by the appointment of the Honorable Raymond W. Mitchell to the First District Appellate Court. The appointment is effective September 8, 2022, and will conclude December 2, 2024, following the November 2024 general election.

Welcome New Members!

Loveleen K. Ahuja
Hilda Bahena
Bernadette Garrison Barrett
Efrem Berk
Sydney Lauren Box
Leonard Charles Brahin
Steven M. Burgeman
Aziza Michelle Cunningham
Stephen G. Daday
Elliot A. Dubin
Koula Fournier
AJ (Alan Joseph) Gallivan
Debra Gassman
Danielle Gensburg
Theresa Weil Greenberg
Carrie Hamilton
Liam Kelly
Abigail Kuchnir
Moshe Liberman
Jordan Matyas
Eden Messick
Andrea K. Muchin Leon
Floyd Perkins
Angela Munari Petrone
Matt Schwartz
Mary Sevandal Cohen
Alan J. Spellberg
Melissa Spero
Giel Stein
Sam Tenenbaum

Thank You to Our Members Who Gave Above and Beyond

Sustaining Members

Kevin B. Apter
Bernadette G. Barrett
Robert K. Blinick
Adam E. Bossov
Hon. Neil H. Cohen
Stephen G. Daday
Hon. Morton Denlow
Robert L. Don
Sharon L. Eiseman
Charles P. Golbert
Hon. Richard P. Goldenhersh
Robert P. Groszek
Robert W. Kaufman
Daniel A. Kelber
Robert D. Kreisman
Clint Krislov
Charles A. Krugel
Hon. Tracie R. Porter
Carmen M. Quinones
Jody B. Rosenbaum
Hon. Nancy Rodkin Rotering
Mara S. Ruff
Yolanda Harris Sayre
Jeffrey A. Schulkin
Robert A. Shipley
Adam M. Stern
Neal B. Strom
Scott W. Tzinberg
Adam J.C. Weber

Life Members

Howard Ankin
David Lipschutz
David Olshansky

2022-2023 Calendar

Sunday, September 18, 9:00-10:30am
Rosh Hashanah Mitzvah Project with Maot Chitim
See page 6 for more information

Tuesday, September 20, 5:15-7:15pm
CLE: Government Funding and the Separation of Church and State
See page 7 for more information

Thursday, September 29, 12:15-1:15pm
CLE: Recognizing Dementia
Speaker: Dr. Diana Uchiyama, *Illinois Lawyers' Assistance Program*
1 hour MCLE credit *(mental health/substance abuse credits pending)*
Register by noon September 28

Thursday, October 13, 6:00-8:00pm
Whiskey in the Sukkah
See page 19 for more information

Thursday, October 20, 12:15-1:15pm
CLE: The Psychology of Fraud
Speaker: Stuart Berman, *Capital Forensics*
1 hour MCLE credit
Register by noon October 19

SPECIAL EVENT - TEA & CLE
Thursday, October 27
Defending Britta Stein CLE & Book Signing
See page 30 for more information

SPECIAL EVENT - TOWN HALL
Wednesday, November 2, 6:30-8:30pm
Pulling up the Weeds of Antisemitism at the Grass Roots
See page 21 for more information

Thursday, November 10, 12:15-1:15pm
CLE: Veterans' Court
Speaker: Judge Michael Hood
1 hour MCLE credit

Sunday, November 20, Time TBA
CLE International Law and the Legal Status of the West Bank/Judea/Samaria
Speakers: TBA
Cosponsored with Lincolnwood Jewish Congregation AG Beth Israel

Thursday, December 1, 12:15-1:15pm
CLE: M&A Due Diligence – Focus on Privacy/Cybersecurity, Technology and IP Issues and Concerns
Speaker: Alan Wernick, *Aronberg Goldghen*
1 hour MCLE credit

Thursday, December 8, 12:15-1:15pm
CLE: Title IX in its 50th Anniversary Year
Speakers TBA
1 hour MCLE credit

Monday December 19, 6:00-7:00pm
Decalogue Family Zoom Chanukah Party

Thursday, January 12, 12:15-1:15pm
CLE: The Never Evolving Legal Landscape Regarding the Use of the Emoji And Emoticon
Speaker: Justice Jesse Reyes
1 hour MCLE credit

Sunday, February 5, Time TBA
Solidarity Awards/Green Book CLE at the Holocaust Museum

Thursday, February 9, 12:00-1:30pm
CLE: Income Tax Update
Speaker: Cyndi Trostin, *Glick and Trostin, LLC*
1.5 hours General MCLE credit

Thursday, February 23, 12:15-1:15pm
CLE: How to Write an Order
Speaker: Justice Michael Hyman
1 hour MCLE credit

Wednesday, March 15, 5:30-7:30pm
Judicial Reception
Location TBA

Thursday, March 23, 12:00-2:00pm
Video CLE TBA
Presenter: Clifford Scott-Rudnick
2 hours Diversity & Inclusion credits pending

Thursday, March 30, 12:00-1:30pm
Model Seder
Location TBA

Thursday, April 20, 12:15-1:15pm
CLE: Hot Topics in Family Law
Speakers TBA
1 hour MCLE credit

Thursday, May 11, 12:15-1:15pm
CLE: Estate Planning
Speaker: Corinne Heggie, *Wachner Law Firm*
1 hour MCLE credit

Wednesday, May 24 Time & Location TBA
Jewish History Month Veterans Event

Thursday, June 1, 12:15-1:15pm
Professor Wendy L. Muchman Decalogue Society Professional Responsibility Lecture Series
1 hour Professional Responsibility Credits

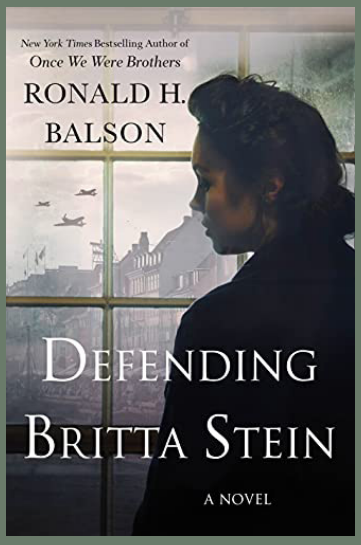
Thursday, July 13, 5:15-8:30pm
89th Annual Installation and Dinner
Location TBA

TEA & CLE

With attorney and award-winning author Ronald Balson

Thursday, October 27, 2022
5:00-6:00pm VIP Reception
6:00-7:00pm CLE

The Arts Club of Chicago, 201 E Ontario, Chicago



There are a limited number of tickets for a pre-CLE meet and greet with Ronald Balson. Non-kosher food, tea service, open bar, and other beverages will be provided by The Arts Club of Chicago.

Copies of "Defending Britta Stein" and Mr. Balson's other books including his new thriller, "An Affair of Spies" will be available for purchase. (if you already have one of Mr. Balson's books, bring it with and get it signed by the author)

Tickets are selling fast but are still available for $50/pp Don't miss out!

There is no cost to attend the CLE. Register for the CLE, the reception, or both at www.decaloguesociety.org/cle

Diversity Scholarship Foundation

SAVE THE DATE

December 1, 2022

Join us for our Unity Award Gala
& 20th Swearing-In of Bar Presidents Ceremony!

Hilton Chicago, Grand Ballroom
720 S. Michigan Ave., Chicago, IL
diversitychicago.org