THE DECALOGUE TABLETS

Spring 2020

Like all of you, Decalogue has had to adapt to the new, but hopefully, short-term stay at home mandate that Governor Pritzker put into effect in his Executive Order on Friday, March 20, 2020. We are conducting business by meeting virtually to continue the needs of the Society and Foundation.

As we all adjust our lives to the reality of a once in a century pandemic, Decalogue wants to ensure that our members who may be in need of assistance and support in this difficult time have access to the help they need.

The best resource is the JUF, the umbrella organization of many of the social services in our community. If you or someone you know needs a connection to social services, please call 855-ASK-JCFS (855-275-5237).

The ARK is open during the crisis and is accepting new client referrals. Call 773-973-1000 or email **ark@arkchicago.org**.

Seniors in Niles, Evanston, Northfield and New Trier Townships who need home delivery of cooked meals can contact Council for the Jewish Elderly at 773-508-1000 (eligibility requirements apply).

"Shelter in Place" is a safety precaution for most people but can be a great danger for those subject to domestic violence. SHALVA is open and providing support by phone 773-583-4673.

Lubavitch Chabad of Skokie has created a **help sheet** for sourcing kosher grocery products for pick-up and delivery. Delivery areas may be limited. There is a Dining Guide in this issue of the Tablets highlighting kosher restaurants and caterers with pick-up and delivery services for now and for Pesach.

And, of course, for those who are in a position to help, either financially, or as a volunteer, the need is great.

Volunteer through JUF's TOV Network to donate items, make deliveries to those who can not leave their homes, provide phone support such as well-being checks for seniors, and more. Volunteer **here.**

Make a financial contribution to one or more Jewish community charities.

The Ark **https://arkchicago.org/donate/**

Chicago Chesed Fund **https://www.chicagochesedfund.org/donate/**

CJE **https://www.cje.net/donate**

The HINDA Institute **https://jpafil.org/donate_today/**

Maot Chitim **https://maotchitim.org/give/donate/**

SHALVA **https://interland3.donorperfect.net/weblink/WebLink.aspx?name=E53954&id=2**

Acts of Chesed are the active representation of a covenant among people, a social contract. As Jews and as Decalogue members, that social contract is not aspirational – we pursue it in our daily lives – and it will serve us all now as we confront this health crisis together.

Helen B. Bloch, President, *The Decalogue Society of Lawyers*
Robert W. Matanky, President, *The Decalogue Foundation*

For general information: Chicago Jewish Community COVID-19 Resource and Information Site
https://www.jewishchicago.info/

THE DECALOGUE SOCIETY OF LAWYERS
JUSTICE, JUSTICE SHALL YOU PURSUE

President's Column

The Jewish Spring Holiday Season

by Helen B. Bloch

Purim is the kickoff to the spring holiday cycle. This joyous holiday commemorates the time in Persia, present day Iran, where the evil Haman cast a lot, known in Hebrew as "pur," to destroy the Jewish people on the day shown on the lot. Queen Esther, who had hidden her Jewish identity, proverbially came out of the closet to save her people and plead on their behalf before King Achashverosh to save them. Her plan worked and the Jewish people were allowed to defend themselves, thereby saving themselves from extinction. In celebration of the victory, Jews were commanded thenceforth each year on the holiday that became known as Purim to give money to the poor, send packages of food to friends, read the Megillat Esther (Book of Esther), and have a festive meal. As part of the tradition, people dress up in costumes to represent the hidden miracles that occurred at the time, and drink until they cannot tell the difference between the cursed Haman and the blessed Mordechai, who was Esther's uncle.

So we start the spring with a holiday that commemorates our redemption -- we get the kids involved and have a big party in which we drink and celebrate. This helps prepare us emotionally for the next holiday, which comes 30 days later -- Passover. On Passover, we are redeemed from slavery in Egypt and are born a free nation. We then commence our travel to the Promised Land, Israel. During that journey, 49 days later, we stop at Mount Sinai to receive the 10 commandments from G-d, the Torah. We celebrate our receipt of the Torah at the end of spring during the holiday of Shavuot.

The period from Purim to Shavuot is a cycle with the centerpiece being the Passover seder. Like Purim, the celebration of Passover at the seder is child-focused and meant to be a fun learning experience. We drink four cups of wine, eat a festive meal that includes matzah (unleavened bread), and have questions built into the program to engage kids to participate. This is all done while reliving the journey our people took from slavery to freedom.

The weeks that follow Purim enable us to begin a month-long process of realizing that we are a free people. We have time to get rid of our spiritual and emotional baggage called chametz -- the haughty stuff we cannot eat on Passover because it takes time to rise. We get back to the basics: we think about what it means to be a free people and how we can express our freedom now that we are born a free nation.

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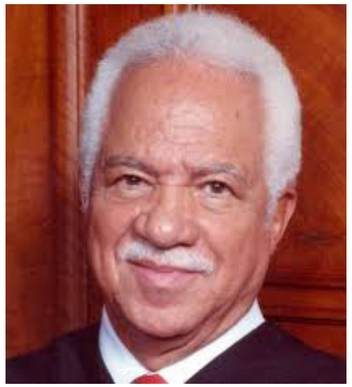
Justice Charles E. Freeman Was An Illinois Supreme Court Justice Who Helped Write And Shape History In Illinois

On the early morning of March 2, 2020, Supreme Court Justice Charles E. Freeman passed away at the age of 86. He was married to the love of his life, Marylee, for more than 50 years. Marylee passed away exactly seven years earlier on the same day and hour as her husband. He was survived by his son Kevin, his daughter-in-law Cami, two grandchildren, Sky and Miles, who he loved so deeply, and his brother, James, from Richmond, VA. Kevin Freeman said "the bond and love for one another between [his] father and mother was powerful."



In his loss, the people of the State of Illinois, especially the minorities, lost a "giant" because he was one of the leaders that brought diversity into the judiciary. The justice never saw color, but he knew that others did. What I mean by that is that he did not judge you by what color your skin was, what your ethnic background was, what your religion was, or your sexual orientation. He only cared about who you were. He envisioned a court and legal community made up of all Americans and worked to appoint all people to judicial positions and to supreme court committees so that the courts would have diversity at a time in history when diversity was only a word. He believed the only insurance to a fair judiciary for all people was one of diversity. When Justice Cerda retired from the appellate court, Justice Freeman sent all of the Latino judges to the Chicago Bar to be evaluated. He did not have any personal knowledge about them. He selected the candidate with the best recommendation and ability because Justice Cerda was the only Latino on the appellate court, and he envisioned replacing him with a capable Latino judge.

Justice Freeman recognized that the Jewish people were also a minority and appointed more Jewish lawyers to the bench than any other justice in the history of Illinois. Three of the people he appointed were past presidents of the Decalogue Society. He also appointed more African Americans to the bench than any other justice, more than four times the amount that were there in 1990 when he was elected, and numerous Latinos and Asians and other capable people from various ethnic backgrounds. He freely appointed gays and lesbians to the bench and supreme court committees. He recommended the appointment of the first Asian lawyer to the Judicial Inquiry Board and she later became a circuit court judge and continued to appoint Asian lawyers to the bench. He was a man of few words and used his influence by example and convinced many of his colleagues to make appointments based on diversity and ability. The supreme court statistics could never accurately depict the exact number of minority judges that he helped to ascend to the bench because he would convince other justices to consider diversity in their appointments.

Chief Justice Anne M. Burke said, "He was a gentleman and a truly gracious individual. I never heard him say an unkind word about anyone. He was a consensus builder and treated everyone equally and with respect."

Justice Freeman was born in Richmond, Virginia, and descended from slaves freed by Quakers before the Civil War. His name Free-man came from slave descendants of his father when those descendants were given their freedom from slavery. He attended Virginia Union University, receiving a B.A. in 1954, and earned his J.D. from the John Marshall Law School in 1962. He was in private practice from 1962 to 1976 and was an excellent lawyer, handling all types of cases. During that period, he also served as an assistant Attorney General, assistant State's Attorney, and an assistant attorney for the County Board of Election Commissioners. He served as an arbitrator with the Illinois Industrial Commission for nine years, taking the place of Harold Washington and presiding over thousands of work-related injury cases. He also served on the Illinois Commerce Commission for three years.

Freeman won election to the Cook County Circuit Court in 1976 and served for 10 years. During that tenure he was the first African American to swear in a Chicago Mayor, when he administered the oath of office in 1983 to his longtime friend, Harold Washington. For several years, the two attorneys had shared an office in Chicago.
Elected to the First District Appellate Court in 1986, Freeman served that same year as Presiding Judge of the Third Division and as a member of the First District Executive Committee. In 1990, in a First Judicial District election to fill the Illinois Supreme Court vacancy of Seymour Simon, Freeman defeated Republican Appellate Justice Robert Chapman Buckley 62 percent to 38 percent. Justice Freeman was the only African American ever elected to our state supreme court and the first African American chief judge of the supreme court.

In 1997, the Supreme Court justices chose Freeman to serve as Chief Justice, succeeding Justice James Heiple to become the first African American to lead a branch of Illinois government. Asked about the significance of being the first African American Chief Justice, Freeman responded, "I'm an African American who now has become chief judge; I'm not an African American chief justice. I have no different perception on what course I would take because of my heritage." Freeman won retention to the Court in 2000 and 2010, both with nearly 80 percent of the vote.

Continued on next page

Justice Freeman *(cont'd)*

Among the awards and accolades Freeman received were the Freedom Award from the John Marshall Law School, the Seymour Simon Justice Award from the Jewish Judges Association, the Earl Burrus Dickerson Award from the Chicago Bar Association, the Ira B. Platt Award, and the Presidential Award from the Cook County Bar Association.

As a lawyer, Justice Freeman represented primarily the poor and underprivileged people of the city and brought the judiciary the street knowledge that only a few acquire while practicing law. He saw it all, lived it, and brought it to the court, causing administrative reform, helped put reins on prosecutorial and police misconduct, and one of his dissents led to the adoption of Rule 943, which forbids the use of restraints on a minor during court proceedings except for specific reasons. He protected the rights of the accused, the consumer, and the injured when their rights were violated under the law, and protected corporations, businesses, and insurance companies when their rights were violated under the law.

Justice Charles E. Freeman was loved and adored by his colleagues and the legal community and will be missed by all. A memorial service hosted in Springfield by the Illinois Supreme Court will be announced in the future.

This obituary was authored by Justice Robert E. Gordon, Justice Freeman's longtime friend since 1962. The Honorable Robert E. Gordon is an appellate court justice in the First District, 4th Division of Illinois and a Decalogue board member.

Remembering our members
who passed away in the last year

Michael B. Goldberg
Barry L. Gordon
Vincent Headington
Alvin Kaplan
Harold Karp
Ralla Klepak
Elias Levin

May their memories be for a blessing

President's Column *(cont'd)*

Preparing for Passover enables us to realize that we do not need certain material goods in order to survive -- it is a personal cleansing starting from the high point of indulgence we experience on Purim. Following our redemption from slavery where we celebrate living as a free nation, we rejoice on the next holiday, Shavuot, in which we revel in our receipt of the Torah, our rules of the road that enable us to maintain a just society.

The lessons that emanate from these holidays are ingrained within our Decalogue Society. If we have learned anything from our own history that we commemorate during this season it is that we cannot stay quiet in the face of evil, even if some of us would rather we not make waves because they are concerned about their personal career advancement. So, with the rise in anti-Semitism, our legislative and anti-Semitism committees have been busy responding to various events and thinking of ways to be proactive. And we have made a difference. We are sanguine that legislation will be passed in Illinois that will improve Holocaust education, protect children from anti-Semitic events in schools, and enable all children of faith to observe their holidays without repercussion from their public schools for missing classes. When one of our board members was the victim of anti-Semitic vitriol at the Basia salon in the Hilton Chicago hotel, we wrote to both entities immediately seeking corrective action and received positive responses with detailed corrective measures. The correspondence concerning this unfortunate incident between us, the salon, and the hotel can be found on my personal LinkedIn and Facebook pages. We have also formed a women's council to address issues of special concern to women. We plan on integrating the ideas generated by the women's council into the Society as a whole, such as providing CLEs on topics that advance the career needs of women. These are but few of the items we have tackled during my presidency.

You too have an opportunity to stay engaged on issues of concern to Jewish lawyers. Besides our regular CLEs, Decalogue offers some CLEs on timely topics which are open to the community, including our May 14 event on First Amendment rights and hate speech. We are here to serve our members and the community as a whole. Participate and continue in your support of Decalogue so that we may continue in our efforts to serve you and the community as a whole. If there is programming you would like to see us do, please get involved and join a committee. Usually our events and CLE committees start planning programs for the upcoming bar year over the summer. In the meantime, have a joyous spring holiday season.

Helen B. Bloch is the president of the Decalogue Society of Lawyers and the principal of the Law Offices of Helen Bloch, P.C., a general practice firm with an emphasis on business and employment matters. Helen may be contacted at hbloch@blochpc.com.

Case Law Update:
First District Illinois Appellate Court: No More Denial Of Bail In The Absence Of Statutory Procedures: People V. Gil

by Adam J. Sheppard

In December, 2019, in *People v. Gil,* 2019 IL APP (1st) 192419, the First District Illinois Appellate Court held that before a judge can deny bail to a defendant who is charged with an otherwise bailable offense on grounds that the defendant is dangerous, the State must file a "verified petition" for no bail (as the statute requires). Moreover, the defendant is entitled to a hearing on that issue.

Statutorily, there are very few offenses that are non-bailable, *e.g.,* capital offenses (which no longer exist in Illinois) or offenses where the defendant faces life imprisonment. However, judges had been routinely ordering no bail on otherwise bailable offenses by determining, *sua sponte*, that the defendant posed a danger to the community. In issuing those no-bail orders, judges relied on Circuit Court General Order 18.8A (entered July 17, 2017). General Order 18.8A was an order from Chief Judge Evans which was largely meant to encourage more I-bonds and affordable bail in less serious cases. Statistics from the Office of the Chief Judge show that the order had that desirable effect.

Unfortunately, judges also interpreted one paragraph of that order as giving them the authority to deny bail to a defendant who was otherwise statutorily bailable. The paragraph in question states, "If the court determines that release on bail is not appropriate," the court shall enter certain findings as to why it believed the defendant was a danger. *See* Gen. Order 18.8A, ¶4.

The comments to the order show that the paragraph was really intended to ensure that judges entered thorough findings on the record to allow for meaningful review of bail decisions. However, judges were interpreting that paragraph as according them the discretion to deny bail when they deemed a defendant dangerous even if the State had not petitioned for no bail.

Gil clarifies that Chief Judge Evans's order does not grant judges the authority to deny bail absent compliance with statutory procedures. Specifically, before a judge can deny bail to a defendant on grounds that he is charged with a non-probationable offense and poses a risk of danger, the State must file a "verified petition" to deny bail and the defendant is entitled to a hearing on that issue. At that hearing, the defendant has certain rights such as limited discovery, the right to call witnesses, and the right to petition the court to compel the presence of the complainant. *See* 5/110-6.1.

The *Gil* decision stemmed from the arrest of Jason Gil, a 43-year-old with no criminal history, a master's degree from the University of Chicago, strong family ties (children), and roots in the community. Pretrial Services graded him a "1-1" on the Public Safety Assessment, meaning he was the lowest risk to commit new criminal activity and the lowest risk to fail to appear.

The State charged Gil with sex offenses relating to an alleged relationship with a minor. It did not allege force or threat of force. Notwithstanding that fact, and despite Gil's positive background, judges denied him bail based on dangerousness. As the appellate court noted, however, there was no real evidence that Gil's admission to bail actually posed a danger to anybody.

Gil's lawyers – the undersigned author and his partner – petitioned three judges to release Gil on bail. After exhausting bail review in the Circuit Court, they appealed. The First District of the Illinois Appellate Court reversed the no-bail order from the trial court and remanded the case for the setting of bail. Bail was subsequently set and Gil has been released on bail. The case remains pending.

The facts of *Gil* illustrate the type of cases for which judges are inclined to set no bail: cases involving serious and extremely prejudicial allegations. However, as the Appellate Court has now reaffirmed, the seriousness of the case alone is not a sufficient ground on which to conclude that a defendant is dangerous. Before a judge can deny bail on grounds that the defendant is facing a non-probationable case and poses a threat of dangerousness, the State must file a "verified petition" requesting no bail and a hearing must be held on that issue. At that hearing, the State bears the burden of proving by "clear and convincing evidence" that the defendant's admission to bail poses a "real and present" threat to a person or persons and that "no condition or combination of conditions" will reasonably assure the physical safety of another person or persons. *Id*. at 6.1. Practitioners should be steadfast in holding the State to those statutory requirements.

Adam Sheppard is a partner at Sheppard Law Firm, P.C. which concentrates in defense of serious criminal cases and Title IX proceedings. He is a member of the Executive Committee of Decalogue Society and serves on the CBA Board of Managers.

Want to write for the Tablets?

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

Contact the Editor with your article idea.
geri.pinzur.rosenberg@gmail.com

Questioning the Constitutional Value of Hate Speech

by Justice Michael B. Hyman

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Imagine that a neighbor erects a macabre yard display of skeletons posed in the Nazi salute, a serial number etched on their forearm, and a yellow star pinned on their chests. A sign announces, "Arbeit Macht Frei" (Work Sets You Free). Imagine as well that a Holocaust survivor lives across the street, and the survivor and the neighbor have been at odds for months. Shortly after seeing the display, the survivor endures unrelenting trauma, which a psychiatrist diagnoses as post-traumatic stress.

A woman in New Port Richey, FL, who was mad at her homeowner's association, created just this scene for Halloween. As she explained to a reporter, "I have freedom of speech." vosizneias.com/2018/11/04/new-port-richey-fl-florida-womans-nazi-death-camp-themed-yard-display-angers-neighbors/. But what about the rights of our hypothetical survivor?

Victims of hate speech often experience negative emotional, mental, physical, and social effects. Is it justifiable in 21st-century America that the victimized person suffers the personal torment wrought by hate speech while the perpetrator enjoys legal impunity? Has the time come to untether some forms of hate speech from the First Amendment's shield?

This article does not contain a detailed legal or policy analysis. Rather, it serves as a starting point to encourage thought and debate on whether the First Amendment should cease protecting hate speech under given circumstances.

Why Protect Hate Speech?

Hate speech does not have a consistent legal definition. Generally, hate speech refers to "any form of expression through which speakers intend to vilify, humiliate, or incite hatred against a group or a class of persons" based on ethnicity, religion, national origin, gender, sexual orientation, and the like. Kenneth D. Ward, *Free Speech and the Development of Liberal Virtues: An Examination of the Controversies Involving Flag-Burning and Hate Speech*, 52 U. Miami L. Rev. 733, 765 (1998). Hate speech embraces all forms of expression—spoken, written, and visual. Individuals in its immediate wake often become fearful, silent, and drawback from fully participating in society. They also feel powerless, inferior, exposed, and, as history reminds us, victimized. Some scholars claim hate speech requires understanding its context and purpose. Chris Demaske, *Social Justice, Recognition and the First Amendment: A New Approach to Hate Speech Restriction*, 24 COMM. L. & POL'Y. 347, 349–50 (2019); Nadine Strossen, HATE: Why We Should Resist It with Free Speech, Not Censorship 1-2 (2018).

The First Amendment affords hate speech pronounced protection, unless the speech directly incites imminent criminal activity or specific acts or threats of violence against a person or a group. Thus, government ordinarily cannot ban speech or expressive conduct no matter how reprehensible or repulsive the ideas expressed. A famous local example of this is *Collin v. Smith*, 578 F.2d 1197 (7th Cir. 1978), where the court permitted a group of neo-Nazis the right to march in Skokie, IL, a town with a large population of Holocaust survivors. Likewise, in *Snyder v. Phelps*, 562 U.S. 443, 448 (2011), the Court held that the First Amendment protects the rights of the Westboro Baptist Church and its members to picket on public land outside funerals of military veterans with signs displaying hateful statements about soldiers, the Pope, and homosexuals.

To his credit, Justice Blackmun dissented when the Supreme Court denied certiorari in *Collin*. Blackmun wrote that the case presented "an opportunity to consider whether...there is no limit whatsoever to the exercise of free speech. There indeed may be no such limit, but when citizens assert...that the proposed demonstration is scheduled at a place and in a manner that is taunting and overwhelmingly offensive to the citizens of that place...it might just fall into the same category as one's 'right' to cry 'fire' in a crowded theater, for the 'character of every act depends upon the circumstances in which it is done.'"

A popular defense for the right to engage in hate speech asserts that to protect the speech we love, we must protect the speech we hate. *Matal v. Tam*, 137 S. Ct. 1744, 1764 (2017). This argument focuses on when and how we draw the line on limiting First Amendment protection when the content of the speech deserves regulation because of the grave harm it inflicts.

Defenders of hate speech rights cherish freedom of speech as a pillar of American democracy and fear any censorship. Strossen, at 3, 13. They argue that staying aware of those who express hateful speech benefits society, whereas an unawareness endangers society. Anthony Lewis, *Freedom for the Thought We Hate*, 162 (2007). They argue that the answer to speech we dislike is counter speech—responding to haters with reasoned arguments—not restriction. *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J.). They argue that the speech acts as a pressure valve, allowing individuals with hateful thoughts and de-sires to release their hatred in the form of speech before they "explode" into violent behavior. Demaske, at 377.

Speech is Not Absolute

But the right to free speech is not absolute; society already draws distinctions. *What Does Free Speech Mean?* United States Courts, (https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/what-does). Exceptions in the law exist for obscenity, fighting words, child pornography, defamation, perjury, and blackmail as well as claims of defamation and intentional infliction of emotional distress. So why do we care more about the evil of, say, obscenity, which can be established without a showing of actual harm or a compelling government interest, than we do for hate speech, which causes harm?

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Hate Speech *(cont'd)*

How is it that obscenity does not contribute to a robust democratic dialogue but hate speech does? Would a reasonable person find literary, artistic, political or scientific value in hate speech, taken as a whole?

Interpretation of the U.S. Constitution has evolved since two-thirds of the states ratified it. This has allowed the Constitution to meet the needs of the people, to reflect current social mores, and to address new problems and threats. In the words of Justice Cardozo, "[t]he great generalities of the constitution have a content and a significance that vary from age to age." *Cardozo, The Nature of the Judicial Process*, at 17 (1922).

Freedom of speech has been an indispensable part of our constitutional framework. But does strict adherence to the First Amendment make sense in an age where mere words motivate mass murders and terrorism; where platforms, such as the internet, make for rapid and far-flung dissemination of hate speech; and where the rise in hate crimes has brought unease to communities across the country. See, Lewis, at 166; *Hate-Crime Violence Hits 16-Year High*, F.B.I. Reports, N. Y. Times (Nov. 12, 2019), (https://www.nytimes.com/2019/11/12/us/hate-crimes-fbi-report.html).

How does awareness of racists, anti-Semites, and the like really make them less dangerous? Why ignore a carefully crafted regulation restraining hate-filled behavior that potentially demoralizes, weakens, and divides civil society? *See*, Lewis, at 88. Although it would be naïve to assume that regulation could altogether prevent hateful conduct, our justice system assumes that laws deter forbidden conduct. So why not hate speech?

As to the pressure valve argument, it is unproven and seemingly unheard of in the criminal context. Allowing hate speech without consequence emboldens the speaker and incites others to feel they can do the same, thereby inspiring hatred and violent behavior. *See*, Demaske, at 348. Sadly, we have become too familiar with mass shooters who target members of racial, ethnic, and religious groups. Contrary to the pressure valve argument, mass shooters have turned to posting manifestos online, perhaps on a hate group website, before committing violence. *Minutes Before El Paso Killing, Hate-Filled Manifesto Appears Online*, N. Y. Times (Aug. 3, 2019), (https://www.nytimes.com/2019/08/03/us/patrick-crusius-el-paso-shooter-manifesto.html); *Two New Zealand Mosques, a Hate-Filled Massacre Designed for Its Time*, N. Y. Times (March 15, 2019), (https://www.nytimes.com/2019/03/15/world/australia/new-zealand-mosque-shooting.html).

This evidences that "relieving pressure" by expressing hateful thoughts and ideas in a "non-violent manner" has not stopped some of the worst acts of violence in recent history. Notably, in these situations, members of the online hate groups have been known to share the manifestos, and praise the killer, leading to copy-cats.

The argument that the answer to speech we dislike is more speech, not restrictions on speech, has appeal; however, one who disseminates hate speech rarely welcomes reason or debate. "Racist speech is rarely a mistake, something that could be corrected or countered by discussion." Delgado & Stefancic, at 68–69. Indeed, asking victims of hate speech to respond could put them in even more danger.

Finally, while we should have the courage to hear unwelcome speech, as well as novel and shocking ideas in science and the arts, why must those harmed by the rage of hate take it without recourse and remain passive, impotent, immobile, and, as far as possible, invisible?

Speech or People?

Laws protect people. Why then should the targets of hate speech have their lives, their livelihoods, and their mental and physical health turned inside-out so purveyors of hate can indulge in unfettered free speech?

A traceable injury is an essential element of standing to bring a cause of action. Hate speech does not actually, or does not always, cause injury. *See*, Strossen, at 22. But hate speech that does not directly incite criminal activity or consist of specific threats of violence can still cause enormous, long-lasting harm. Hate speech has many consequences, aside from potentially provoking violence, inciting like-minded people, creating unhealthy relationships, and promulgating hatred. It is meant to hurt, degrade, stigmatize, and dehumanize people.

The harmful effects of hate speech can be both direct and indirect. Joseph Lorant, *That Should Not be Protected: Rethinking the United States Position on Hate Speech in Light of the Interpol Repository*, 25 SWJIL 413, 416. Harms directly caused by hate speech include psychological damage and a restriction on freedom of movement and association. Hearing racial slurs, or other forms of hate speech, can result in internalization of the accusations, sometimes causing mental illness and psychosomatic disease such as alcoholism, high blood pressure, drug addiction, depression, and anxiety. Deborah Levine, *Sticks and Stones May Break My Bones, But Words May Also Hurt Me: A Comparison of United States and German Hate Speech Laws*, 41 FD-MILJ 1293, 1301 (2018); *The Psychology of Hate Crimes*, American Psychol. Ass'n, (https://www.apa.org/advocacy/interpersonal-violence/hate-crime) (last visited Oct. 31, 2019).

Regarding indirect harms, hate speech has been identified as helping to maintain racial power imbalances and making its victims feel inferior and suppressed. Lorant, at 416–17. Dissemination of hate speech influences the general population, leading people to believe the message conveyed, which may encourage other harmful conduct and allow hateful speech and behavior to become normal and acceptable. Levine, at 1300.

Considering the undeniable injury that hate speech inflicts, which should the First Amendment foremost protect: speech or people? Perhaps, the United States can protect both speech and people, as has been done in other democratic countries.

Continued on next page

Hate Speech *(cont'd)*

Other Countries on Hate Speech

The United States remains one of the few democratic nations that gives wide latitude to hate speech. Lewis, at 157. Several countries prohibit hate speech, although their approach varies in form, punishment, and scope. Demaske, at 354–55. Prohibitions can come in the form of regional laws, national statutes, and constitutions; and punishment can be anywhere from a fine to incarceration. Demaske, at 354–355.

Germany has expansive hate speech laws. Demaske, at 355. Although the German Constitution protects the right to freedom of expression, German law criminalizes inciting hatred and assaults on human dignity because of race, religion, ethnic origin, or nationality. Levine, at 1318–20 (defining human dignity as "an attack on the core area of the victim's personality, a denial of the victim's right to life as an equal in the community, or treatment of a victim as an inferior being excluded from the protection of the constitution."). Unlike the United States, German laws do not mandate that the speech cause imminent lawlessness. Levine, at 1318–19. The German Criminal Code also prevents the dissemination and use of Nazi symbols and promotion of Nazi ideology. The German Criminal Code does not actually name the outlawed symbols, but the Nazi symbol falls under the law.

In Canada and a few European countries, denying the Holocaust constitutes a crime. Canada's Constitution, like ours, guarantees the right of free expression. Yet, Canada's highest court has held that Holocaust deniers can be prosecuted and punished. Lewis, at 158. In contrast, in the United States, Holocaust deniers can claim an exercise of their First Amendment rights. Additionally, Canada has gone so far as to criminalize public incitement of hatred and willful promotion of hate speech. Criminal Code, RSC 1985, c C-46, § 319.

England, Wales, and Scotland prohibit using threatening, abusive, or insulting words or behavior, or displaying written material that does so when intended or likely to stir up racial hatred. The law de-fines racial hatred as hatred against a group of persons by way of their color, race, nationality, citizenship, or ethnic or national origins. European Hate Speech Laws, The Legal Project, (https://www.legal-project.org/issues/european-hate-speech-laws).

Placing limits on hate speech is not the heresy that defenders of hate speech rights insist, especially after the experiences of other democratic societies. Levine, at 1326–27. Legislators and courts have been able to identify speech deserving protection and speech not deserving protection, yet free speech remains robust.

Where Does This Leave Us?

Ideas abound for how the United States should regulate hate speech. Some suggest developing a framework to clarify and provide specific guidelines to deter-mine when hate speech transforms into incitement, which is not protected. *When Hate Speech Leads to Violence*, Russell Sage Foundation (Mar. 8, 2018), (https://www.russellsage.org/news/when-hate-speech-leads-violence). Perhaps hate speech laws could mirror obscenity laws by employing a test to determine if the speech qualifies as hate speech. The laws can be expanded to regulate not just incitement to violence, but also incitement to hatred. Also, hate speech regulation may be molded after an existing tort, "with the race of the victim a 'special factor' calling for increased protection." Delgado & Stefancic, at 71. In addition, hate speech laws could be narrowly written to protect groups that historically have been victims of discrimination. *See*, Strossen, at 15.

We already counteract and provide limitations on some of society's freedoms of speech. We should protect the speech that we all treasure, and reject speech that has become a weapon for harassment, intimidation, bigotry, fear, and division.

Our nation has been undergoing rapid and radical transformation via technology, especially digital technology. Life today little resembles our nation at the time of ratification of the Bill of Rights, let alone 25 years ago. Legal norms should reflect reality. Today's reality. An inclusive society must defend "the other," whether a person or a group, against those who promulgate and perpetrate hate, or that society will find it-self in turmoil, slipping toward chaos, decay, disorder. Without restraints, hate speech will flourish, becoming more erratic, more controversial, and ever more destructive of the fibers that keep the nation together.

For the sake of defending our sacred values, we must ask ourselves how, not whether, to delegitimize hate speech.

Justice Michael B. Hyman, of the Illinois Appellate Court, First District, is a past president of the Decalogue Society of Lawyers. He serves as editor-in-chief of the CBA Record. Courtney Rosenfeld, a third-year law student at Loyola University School of Law, assisted in the research and preparation of this article.

Thursday, May 14, 7:00-8:30pm

Jewish Lecture Series IV:

Hate Speech and the First Amendment

Speakers:

Justice Michael Hyman
Judge Renee Goldfarb
Alison Pure-Slovin

Moderator: Jacqueline Carroll

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"Orech-Din" – The Modern Hebrew Lawyer

by Adv. A. Amos Fried

The word for lawyer in modern Hebrew is "orech-din" (עורך דין), literally: "arranger of the law" ("orchei-din" in the plural). The term "orech" also means to manage, as in "orech lel haseder"– the leader of the Passover Seder night ceremonies. It is also used as editor, i.e., the editor of a newspaper is an "orech iton."

From whence does the moniker "orech-din" come? In the High Holidays liturgy we find the famous piyyut (poetic prayer) "L'E-l Orech Din," that is "To G-D, the Arranger of Judgment." Composed by the seventh century poet, Rabbi Elazar ben Kallir, this part of the service is traditionally chanted in the most solemn of tones and recited responsively between the Chazzan (cantor) and the congregation. "To the scrutinizer of the heart on the Day of Judgment; to the revealer of the depths in judgment," reads this stirring supplication in alphabetic (aleph-bet) acrostic order. "To He Who dons righteousness; to the forgiver of transgressions," the prayer continues imbued with obvious legal imagery.

True story: Once during the Rosh HaShana services a fellow congregant turned to me and asked rather innocuously if as an attorney I felt like I'm pleading before the Almighty on behalf of my client. Of course I responded with that pearl of wisdom inherited from my father (himself a proud member of the Decalogue Society), to wit: a lawyer who defends himself has a fool for a client! Surely, the utter pretentiousness of being referred to as an "orech-din," a term seemingly reserved for G-D himself, should leave any attorney humbled and uneasy!

Nevertheless, the apparent scriptural source behind such an appellation clearly denotes a reference to humans, as derived from the Book of Job (13:18) wherein the protagonist proclaims his desire to argue his innocence before the L-RD: "Behold now, I have arranged my case ("arachti mishpat"), I know I shall be vindicated." Job, acting as his own attorney (we tried to warn him…) is certain of his victory before the Divine Court. Of course here the Bible uses the term "mishpat" instead of "din," but the two words are almost interchangeable and both essentially mean law.

The Mishna in the Ethics of the Fathers (1:8) provides us with another hint as to the derivation of the title "orech-din." There we find the first century BCE sage Yehuda ben Tabai asserting: "Don't make yourself as the arrangers of the judges (orchei hadayanim)…" It is evident that this instruction is intended for members of the judiciary, imploring them to remain skeptical and impartial during their adjudication of the parties before them. "And as long as the litigants stand before you, view them as guilty (lit. wicked)," the Mishna harshly admonishes the presiding justice. But the ending is happy after all: "Yet when the trial is over, you should view them as righteous, having accepted upon themselves your decree." The problem here is that the Mishna uses the expression "orchei-dayanim" instead of "orchei-dinim." A "dayan" is a Rabbinical judge ("dayanim" in the plural), hence the phrase "orchei-dayanim" would denote some sort of judicial managers rather than lawyers per se.

Since it is difficult to discern what exactly such a denomination as "judicial managers" could mean–all the more so in light of ben Tabai's reproach for judges not to behave in such a manner–we can conclude with some certainty that the Mishna really is referring to lawyers representing litigants before the court. Accordingly, the presiding magistrate ("dayan") must refrain from any inclination "to take sides" in the trial, which is precisely the job of the attorneys ("orchei dayanim") who advocate on behalf of their clients and promote the validity of their claims. It is not unreasonable to conjecture, therefore, that in the phraseology of the Tanaim (sages of the Mishna), "orchei dayanim" refers to lawyers and eventually evolved into the very similar phrase used today: "orchei-din."

Such an understanding would coincide well with the true intentions behind R. Kallir's above prayer from the High Holidays. In calling upon G-D to serve as the "orech-din," we are indeed begging Him to intervene as a solicitor on our behalf. Even as the Almighty sits in judgment over all His creation, we humbly beseech Him to bestow upon us mercy as if He were at the same time advocating for the sake of His children.

In the modern period, the earliest written citation of the contemporary meaning of "orech-din" arrives in an edition of the Hebrew language Russian newspaper, HaMelitz, from the year 1861. There we find an enigmatic item concerning a certain plaintiff who evidently spent a considerable amount on legal representation, thus warranting the newsworthy observation: "So let this be a sign to us that his Torah is dear to him more than his money, since he has retained a Christian orech-din (advocate) to vindicate him in his dispute." The fact that the word "advocate" appears in parentheses clearly indicates that the use of the term "orech-din" was at the time uncommon and even innovative.

The phrase appears again two years later in an obituary also published in HaMelitz for the renowned Dr. Gabriel Riesser, a leading proponent of the Jewish emancipation movement throughout Germany. A victim of anti-Jewish discrimination himself, Dr. Riesser was initially prevented from practicing as a lawyer in the city of Hamburg on account of his Jewish lineage. Some years later, however, he was allowed to serve as a notary and, ironically enough, was eventually appointed as the first Jewish judge in all of Germany. Understandably, therefore, his obituary was replete with the nomenclature "orech-din," along with "orchei-dinim" in the plural, as opposed to the presently grammatically more correct "orchei-din."

To be sure, additional synonyms abound for the occupation "orech-din," including "praklit" (attorney), "sanigor" (defense attorney), "tovea" (prosecutor), "yoetz mishpati" (legal advisor), and so on. Yet the prevalent title is "orech-din," and hence the Israel Bar Association is known as "Lishkat Orchei-Hadin." Considering the esteemed etymology of such a distinction, this seems to be no coincidence. When pleading before magistrates in a court of law, we should always remain cognizant that we are also appearing before the Judge of judges, as declared in the Book of Psalms (82:1): "G-D presides over the Divine Assembly; amongst judges (lit. "gods") he shall adjudicate."

Tuition Payments by Parents as Fraudulent Conveyances

by Michael Traison and Jocelyn Lupetin

On January 18, 2019, we issued a client alert concerning the recovery of tuition payments as fraudulent conveyances. The case discussed in that alert, *Geltzer v. Oberlin*, Adv. Pro. Case No. 18-01015-MG, was issued by a bankruptcy court in the Southern District of New York.

Over the last few years, various courts have issued decisions addressing this topic.

On November 12, 2019, the Court of Appeals for the First Circuit issued the only appellate decision on this question to date. That court reviewed and reversed a Massachusetts Bankruptcy Court decision. Interestingly, the Massachusetts Bankruptcy Court had certified an appeal directly to the Court of Appeals without the usual intermediary step of appealing first to the District Court.

At first glance, the facts of *In re Palladino*, Case No. 14-111482 (D. Mass.), are similar to those of other such cases – an 18-year-old child goes to college and her parents pay her tuition. Subsequently, the parents file for protection under Chapter 7 of the Bankruptcy Code, and a Chapter 7 trustee is appointed. The trustee sues the college as a recipient of a fraudulent conveyance, alleging that the transfer was made while the debtors were insolvent and that the debtors did not receive reasonably equivalent consideration in return. (One suspects that it was not unimportant to the Court of Appeals that the debtors were perpetrators of a Ponzi scheme for which they were criminally prosecuted and convicted.)

Although the Bankruptcy Court had found in favor of the college, the Court of Appeals reversed the decision, treating the parents' payments of their adult daughter's tuition as a constructive fraud. Since the parents themselves had not received anything of value in exchange for the payment, nor were they under any obligation to pay for their daughter's tuition, the Court of Appeals found that their tuition payments were a transfer that could be clawed back pursuant to the Bankruptcy Code, and remanded the case to the Bankruptcy Court.

After a review of the relevant opinions, the determination of whether tuition payments made by insolvent parents on behalf of their adult children constitute fraudulent transfers may hinge upon a court finding that the applicable state law requires the parent(s) to support the child beyond the age of majority, and/or whether there is another obligation existing in the specific situation which requires the parent(s) to pay the adult child's tuition, which would in turn constitute fair consideration.

Should there be another Court of Appeals ruling inconsistent with that of the First Circuit, the U.S. Supreme Court may be called upon to issue a final decision on this topic.

In the meantime, what can colleges and universities do to insulate themselves from the risk of having to disgorge tuition payments? While the frequency of this scenario may not warrant the taking of any protective measures at this time, one way to avoid allegations of fraudulent transfer would be to require that tuition payments be made by the individual student – the party receiving reasonably equivalent value in exchange for the transfer. While this condition would not prevent a trustee from pursuing the college as a third-party recipient, the defenses to the trustee's claim would be much stronger, as the college would be in a position to argue that it was a bona fide recipient of the tuition from the student without knowledge of the insolvency of the parent(s) or of any creditor's claim which may have existed at the time of payment.

Please note that this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient. If you have questions regarding these provisions, or any other aspect of bankruptcy law, please contact Michael Traison at 312-860-4230.

Michael Traison is a partner, and Jocelyn Lupetin is an associate, in the bankruptcy and creditors' rights department at Cullen and Dykman LLP.

Orech Din *(Cont'd)*

May we merit the honor of faithfully serving both our clients and the precepts of justice, as true and upright "orchei-din"–managers of the law.

Adv. A. Amos Fried is a licensed member of both the Israel and New York State Bar Associations and has been practicing law in Jerusalem for over 25 years. He specializes in civil litigation, criminal representation, and commercial law. His private law firm is located at 5 Ramban St. in Rehavia, Jerusalem, and he can be reached at 011-972-544-931359, or aafried@aafriedlaw.com.

ISBA Election

The following Decalogue members in good standing are candidates in the ISBA election:

3rd Vice President
Nora Devine
Shawn Kasserman

Board of Governors
Stephen M. Komie

Cook County Assembly
Joel Chupack
Chris Cohen
Sharon L. Eiseman
Stephen M. Komie

The Millennial Perspective: *Remix Judaism* Gets It Right

by Carrie Seleman

Roberta Rosenthal Kwall, professor at DePaul University College of Law, just released a book called *Remix Judaism: Preserving Tradition in a Diverse World*, and everyone needs to read it. The question driving the book is in the title. How do we preserve Jewish tradition in a world of diverse beliefs and, frankly, priorities? The answer is there, too: remix. Professor Kwall spends the chapters presenting remixed approaches to Judaism that can appeal to a variety of those she terms "liberal Jews," Jews who are not strictly observant.

Before diving in, here's some background about me and the perspective I'm coming from. I am twenty-six years old and therefore lovingly (or not so lovingly, depending on whom you ask) referred to as a millennial. My generation has been scapegoated for the dying off of many things.

Most relevant here is our detachment from religion (or so baby boomers say). I, personally, am an active member of the Decalogue Society of Lawyers' board and serve as Co-President of Jewish Women International's Chicago Young Women's Leadership Network. I frequent Shabbat dinners and programs at Chabad, which regularly have 40-50 attendees, all in our 20s and 30s.

I am also a passionate and dedicated user of OneTable, a non-profit organization which funds Shabbat dinners for young adults, as both a dinner host and attendee. The bottom line: we're here and we're proudly Jewish, even if we're not showing it in the way you wish we would.

After reading that background, many of you may be wondering how I could be writing a rave review about a book that seems to be lecturing me on my lack of involvement in the traditional synagogue structure. I actually felt affirmed as I read *Remix Judaism*, the pages of which Professor Kwall uses to present practices that "start[] with something familiar as a base, and then add[] to it or somehow personaliz[e] its relevance."

Remix Judaism addresses the concepts of Shabbat, food, marriage and family, Jewish education, grandparents, tikkun olam (repairing the world), and mourning. She writes different parts of the book for different audiences, making it that much more valuable for everyone to read the book.

At the very foundation of the issues being addressed here is a lack of understanding of one another's perspectives. By reading chapters that seem as though they may not be written for you, your mind will be opened to the positions that others within the Jewish community are taking when you are having conversations about preserving and practicing Jewish tradition.

For example, the Shabbat chapter seems to be speaking to more traditional Jews, explaining why they should be open and accepting to a remixed approach, and proposing that liberal Jews may actually be observing Judaism more than they think (you'll find a shoutout to OneTable, the organization I mentioned above, in this chapter). The second chapter, on food, also comes off as reassuring traditional Jews that liberal Jews are constantly recognizing their connection to Judaism through food. It goes further though, giving examples of a remixed approach to kashrut, as if to inspire liberal Jews with ideas for how to remix. Professor Kwall stresses that what matters most to engaging liberal Jews in a remixed approach to Judaism is "education, respect, and selected buy-in."

Professor Kwall does something so important in *Remix Judaism:* she reframes the narrative. This isn't about "observing" Judaism. The term "observe" is a turn-off to many, reminding them only of the extensive rules contained within *halakha*, rules which people feel they don't relate to.

Liberal Jews can connect to Judaism through the numerous values instilled in the Jewish people throughout the Torah, Talmud, and other rabbinic sources. Specifically, within the chapter on food, Professor Kwall draws out the values of *oshek* (worker welfare), *bal taschit* (caring for the environment, and *sh'mirat haguf* (safeguarding one's own health).

For traditional Jews attempting to communicate to liberal Jews why preserving Judaism is important, drawing these connections between Jewish values that are already being practiced by those liberal Jews can be extremely effective. This comes out in droves in the chapter covering tikkun olam, reminding social justice-oriented liberal Jews how their values are actually Jewish, and stressing that Jewish insight creates a richer tikkun olam experience.

The next chapter, marriage and family, is an especially inspiring read for those feeling less connected to Judaism. The chapter is chock-full of tools for being proud of our religion, such as being millennia ahead of American law on topics of consent and sexual assault. The chapter on education is a must read for parents of school-aged children looking to incorporate Judaism into their children's lives, possibly in a way that is more positive than the memories those parents harbor of their own days in Hebrew school. And, as mentioned above, there is even a chapter for grandparents, focused on how to communicate with their children about embedded Jewish tradition in their grandchildren's lives.

The final chapter of the book, on mourning, is one from which everyone can pull meaning. Given the lack of research on how Jews today mourn, this chapter is mostly anecdotal. We get to know Professor Kwall on a more personal level as she threads her own experiences throughout this chapter.

The takeaway: *Remix Judaism* is a must-read for Jews of all levels of observance. It creates the space for such an important discussion on how we can, and are, preserving the most vital aspects of Jewish traditions for generations to come. "Jewish tradition has the capacity to make life better for those willing to give it a chance," and many are, just in their own ways.

Carrie Seleman is a member of the Decalogue Society of Lawyers' board. She works as an Assistant Public Guardian in the juvenile division of the Office of the Cook County Public Guardian and received her J.D. from Loyola University Chicago School of Law.

Book Review:
Inheritance: A Memoir of Genealogy, Paternity, and Love
Author: Dani Shapiro

by Nora Devine

Inheritance is a compassionate memoir written by popular fiction and memoir author, Dani Shapiro. At the age of 54, she orders a commercial DNA test through Ancestry.com. From there, she matches with a mysterious first cousin, which causes her to ask her half-sister to also send in a sample. Discovering that she is biologically unrelated to her half-sister, she uses her journalistic skills to unravel her true biological origins. Raised as an observant Jew, the discovery that her biological father was an Anglo-Saxon Presbyterian becomes at once healing and disruptive to her sense of self and belonging.

With so many commercial DNA companies available, including Ancestry.com, 23 and Me, MyHeritage, and others, tens of thousands of people are discovering, through similar scenarios, that their lives have been impacted by a non-paternity event. In the support groups on Facebook, the members who learn that they were mistaken about their biological origins refer to themselves as "NPE." NPE results from sperm donation, undisclosed adoption, intercourse with multiple partners in close succession, non-consensual sex, medical mistakes, or a previously undisclosed extra-marital relationship.

If you spend enough time talking to people who are NPE, you will learn that the author's experience is somewhat common: parents in the '60s, '70s, and '80s had no idea that commercial DNA testing would one day unravel their secrets. What is interesting about Dani Shapiro's story is the personal way she comes to grips with the fact that she is only half-Jewish.

When Dani realizes that her birth certificate father is not her biological father, her first two questions were "Am I still Jewish?" and "Did my parents know?"

Dani first consults *Halacha,* Jewish law, to analyze whether she is a *mamzer* (child born of a forbidden sexual union) due to the circumstances of her conception. She learns that artificial insemination would have been considered an abomination by observant Jews in the '60s. Would her father – a devout Jew – have agreed to artificial insemination if he knew it was a violation of the Jewish law? Wondering if this proves that her father could not have known, she seeks advice from her father's friend and Rabbi. He assures her that, yes, she is still Jewish, and tells her that her father would have set aside the Jewish law to help his wife have a child if she was desperate to have one. For this reason, he assures her, her father was "kingly" – *kol hakavod* – "to him, all the honor." After all, he was abiding by the first mitzva found in the Torah: Be fruitful and multiply," or "*pru u'rvu*."

Dani writes with clarity about how disorienting it was for her to grow up in a conservative Jewish family and community as a person who looked Anglo Saxon rather than Jewish. "There's no way you are Jewish," she heard throughout childhood and into adulthood. "We could have used you in the concentration camp," an elderly Holocaust survivor told her. "You could have gotten bread from the Nazis." When she discovers her NPE status, the feeling of disorientation and 'otherness' is finally explained, and the news brings some order and healing to her.

Inheritance walks the reader through the painstaking work that many people do when everything they thought they knew is called into question by the news of mistaken paternity. Dani Shapiro's journey of self-discovery is viewed through the lens of her Jewish identity and what her faith teaches about life, morality, family, and identity.

A note for lawyers:
The law has struggled for decades to keep up with the rapid changes and increased popularity of reproductive medicine. The legal rights of the adult-parents have been the focus of the legal system. Does an egg donor have rights to be in contact with the child? Does a sperm donor have a right to anonymity? Does a surrogate have a right to change her mind? Do the parents have a right to sue if the wrong egg or sperm is utilized? The next frontier in the legal landscape should address the rights of the child who was donor conceived and/or NPE.

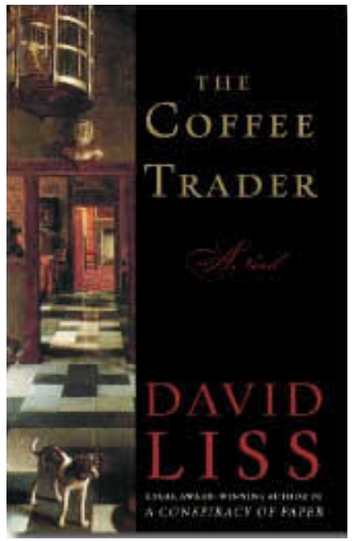
In Illinois, people who were raised by adoptive parents have a right to request an uncertified copy of their original birth certificate when they reach twenty-one years of age. Any adult should have the right to modify their birth certificate to reflect the truth of their biological origins. In Illinois, an adult who realizes their birth certificate father is not their biological father can do one of three things to have the birth certificate corrected: (1) sue their biological father to establish a parent-child relationship; (2) have their biological father sue the mother on their birth certificate to establish a parent-child relationship; or (3) have their biological parents jointly file a petition to adopt a related person. All three options require that the biological father be alive. Option one requires that service be obtained on the father. Option two requires the mother to be alive and that service be obtained on the mother. Option three would require the mother's participation and cooperation, and that neither the biological mother nor father are currently married to other people. The biological father could still adopt the adult offspring, but the mother's name would then drop off the birth certificate altogether if the mother did not jointly petition for the adoption. There may be time requirements under the Parentage Act related to options one and two.

Nora Devine is a real estate attorney and a member of the Decalogue Society. Though raised Catholic, she grew up attending temple on Friday nights and eating lox and bagels on Sundays with her Jewish godmother in West Rogers Park. Nora learned when she was 34 that her social father was not her biological father.

Book Review:
The Coffee Trader, *Author: David Liss*

by Hon. Michael Jordan

David Liss was the author of *A Conspiracy of Paper* for which he was awarded the Edgar Award for Best First Novel. This is a second work that was only recently given to me to read after the book spent a long time on a bookshelf. I was told I might enjoy it. Well, I certainly did, and I think others might enjoy it as well!



The author takes us back in time to 1659 where our central character, Miguel Lienzo, is a transplant from the Inquisition in Portugal where his family became secret Jews, known as "New Christians," pretending to be Catholic while actually retaining their Judaism. Knowing the deception could not last, they immigrated to Amsterdam, a more tolerant Protestant city, in the Netherlands. They found an active merchant class of traders at the city's Exchange with contacts throughout Europe and parts of Asia. Modern day Chicago mercantile traders would feel comfortable reading the language of "puts" and "calls" used today in the futures market.

We learn that the Jewish community in Amsterdam from Portugal has established a religious court, known as the Ma'amat, to regulate and strictly control the lives of former Portuguese Jews. The goal is to avoid any member of the "Nation" doing something that will put the entire Jewish people at risk of another exile or banishment. The court regulates daily life proscribing who their citizens may and may not see and with whom they may have any business dealings. The panel issues rulings that preclude women from learning – even the language of prayer. Women are to be fully covered from head to feet – unlike what they were used to in Portugal. Unlike the Dutch merchants who dress in black, the former Portuguese tend to dress in bright colors – unlike present-day Orthodox Jews, although some immigrants do begin to imitate the Dutch and dress in black.

Whether you are interested in learning about life in prior centuries, particularly the life of Jews in those time, the need for immigration due to hatred and ignorance evidenced by the Inquisition, or how commercial markets and communications and all of commerce took place, you will find answers in this novel. Additionally, you will find intrigue when a member of the religious court, another trader having a grudge against Miguel, brings him before the court with the threat of excommunication or lesser sanctions for disrespecting the panel's laws and orders. A summons is to be honored or the ignoring Jewish citizen will face severe sanctions merely for ignoring the summons.

We follow the machinations as Miguel slips from a position of financial security to disgrace as a debtor beholden to his brother, to attempting to emerge as a financially secure merchant able to challenge the panel and his nemesis there. He has allies who become enemies and enemies who become allies as he pursues his goals. We find that many of them are conversant in many languages, switching from one language to another as the need arises.

Of course, there were no e-mail trails then as we have today for commerce, but there were written contracts between merchants and traders handwritten in duplicate. Sureties, guarantors, and co-signers existed as well. It was interesting to see how we might have practiced law centuries ago. Gossip usually preceded factual knowledge regarding cargo ships reaching safe harbors or being torn apart by the seas or taken over by pirates. Fortunes would rise and fall with false or true claims of events. The actual trade and futures trade are amazing and mind-boggling as reported in the book. Information is overheard in bars as well as at the Exchange. Spies are everywhere. The spies serve adversarial traders, the Ma'amat, debt collectors, and schemers.

While this book was written several years ago, it is of present interest as some Jews in America now worry if alt-right nationalism and violent anti-Semitism will drive us away to some other temporarily "welcoming" land if Israel is not available. The book raises the issue of trust within family and with business partners. The author has us consider age-old Jewish traditions in changing times. There is a desire to retain one's faith and adhere to dietary laws and values while some use religion and the religious court as a weapon for their own power and financial enrichment enslaving the observant Jewish refugees. Some readers may conclude that things do not change much over the many years. There are many reasons to read the book, but be aware there is included some profanity, sexual encounters, and violence. The book is not for those offended by that content.

The Hon. Michael S. Jordan served as a judge in the Circuit Court of Cook County from 1974 to 1999 and then began a private mediation and arbitration practice that continues today (Mediation & Arbitration Services, Glenview, Illinois, 847-724-3502). He has been a member of the Decalogue Society of Lawyers since 1975, previously served on the Decalogue Board, and has lectured on various subjects for the CLE program.

Why I Fish

by Herb Franks

Being a senior partner has some real perks. Some of your clients call you "Mister" and really mean it. They listen to legal advice without argument. They even thank you for a case well won.

Others question every decision, wondering if a doddering old man can really help with their modern day problems.

Yet even the best days can be challenging. When I really need to escape the grind, I head out fishing. This wasn't always the case. Growing up on a hog farm, I was never raised to fish. This all changed the day that I met a Southern young lady who happened to love to fish. I knew what I wanted to do, so I went fishing. It was love at first bite.

Fishing became my perk. I have often wondered how I became so involved with fishing after such an informal initiation. In the beginning, I fished for sport -- a hobby that you could enjoy with as much or as little effort as you wanted to put in.

It also didn't hurt that fish live in beautiful places. Places where you could be at peace with the world, without interference or interruption. At least until the cell phone was invented. Now I have a strict policy for those who want to fish with me. No cell phones allowed.

As time went on, my competitive nature led me to fish in tournaments where I enjoyed a modicum of success. I held a spot on the "Professional Walleye Trail" for several years. This earned me a touch of respect, a fair number of trophies and many unwanted 1099s. After all, anything you do a lot of, you should learn to be competent at.

From there, I went on to share my love for fishing with friends and colleagues. Our gathering grew to be known as the annual Franks fishing trip. Before long, we filled an entire fish camp at Birch Island at Minaki, Ontario. When that location became too small, we moved on to a larger camp at Tetu Island Lodge, about 30 miles further north of Birch Island. The trip has become so popular that we regularly must turn away interested would-be guests. What a nice problem to have.

Our group is esteemed and diverse. Many of the names you would recognize, with members originating from England, Maryland, Kansas, and Illinois. This year, our group also included five members of the Senior Law Section of the ISBA. Each morning we would switch fishing partners so that everyone had a chance to get to know each other. Our lunch break consisted of freshly caught walleye, beans, potatoes and cigars. In the afternoons, we would switch partners again and head out to catch northern pike, smallmouth bass, and muskies. Then back to the lodge for tipping a few and fisherman's tales replete with boasting about our greatest catch and lamentation about the big one that got away. A delicious dinner and an interesting game of poker were a perfect night cap to the evenings.

Speaking of boasting, this past trip, I was finally able to beat Pat Leston with this pictured walleye, just an inch bigger than his. Perry Browder and I landed a 42.5-inch northern pike, which was the biggest catch of the trip.

The perks continue. This little Southern lady and I have been fishing together for 63 years. Our three sons and six grandchildren have also proven to be avid fisherman. I wonder where that came from?

Henry David Thoreau once wrote, "Many go fishing all of their lives without knowing it is not fish they are after." I am grateful to be one of the lucky ones.

Herb Franks practices law in Marengo, Illinois at a nine lawyer office on the family farm. He is a former president of the Illinois State Bar Association as well as a former vice president of the American Association of Jewish Lawyers and Judges.

Being a Great Grandfather at 40

We all know that being a grandfather is special. You finally get to see the fruits of your investments. But, being a great grandfather means much more; it stands for continuity.

A few months ago, one of the original Jews whom as a teenager Rabbi Scheiman visited in a correctional institution celebrated the birth of his first grandchild. Rabbi Scheiman says: "D is a spiritual son to me, because when you teach someone Torah, it is considered as if he was your son. In my case, I supported and felt connected to him spiritually as a son in many ways, especially due to his young age in prison."

Rabbi Scheiman visited D for over six years in prison. D sincerely repented for his crime and changed his life. In prison, D became a practicing Jew. When he got out early for good time served, he found a job, married, had children and continued to live a spiritual life full of good deeds and learning. He is an intrinsic part of his community. His children now live rich Jewish lives as well. His son became a rabbi and got married one year ago. Rabbi Scheiman attended his son's wedding. Just a few months ago, D's son had a son. Words cannot express the joy felt at the bris (circumcision) for D's first grandson — and a "first great grandson" for the Hinda institute.

This is true success — a life and generations afterward are totally transformed. Recidivism and the cycle of crime has been truly reversed over generations. This story is an example of Jewish continuity and a personal return from a holocaust; lives for generations have been saved. In Judaism, it is believed you should regard every Jew as if he is an entire world. The multiple personal stories of our Hinda heroes are our real successes. Our first great grandchild is a momentous event and an indication of a forty-year milestone.

There is a joke told among Shluchim (emissaries of the Rebbe). Every Chabad rabbi is always forty years old. When he is young, he must assume the responsibilities and maturity of a forty-year old and when he is older, he needs to keep as active as a forty-year old. Rabbi Scheiman says he will always be 40 years old, even if the Hinda Institute gets older, because there is way too much to accomplish. Being a great grandfather at 40 is truly a reason to celebrate.

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Jews In Baseball

by Justice Robert E. Gordon

In 2019, three Major League Baseball games occurred on Yom Kippur. Three Jewish players played that day, and all of their teams lost. The St. Louis Cardinals beat the Atlanta Braves, 13-1, and Max Fried relieved in the decisive Game 5 of the National League Division Series. The Washington Nationals beat the Los Angeles Dodgers, 7-3, and Joc Pederson played. The Tampa Bay Rays beat the Houston Astros, 4-1, and Alex Bregman also played.

Some baseball reporters are calling this the Sandy Koufax curse. But what they may not know is that Major League Baseball contracts prohibit players from not playing in a playoff or World Series game because of a religious holiday without the team's consent. The Dodgers did give Koufax the consent in 1965 for Game 1 of the World Series. Don Drysdale, who took his place, was routed in the first inning of the game and told his manager when he was removed, "I guess you wish I was Jewish." The Mets gave Shawn Green the consent in a playoff game, and his teammates left a sign in the locker room that said, "Let's win one for the Kipper." Reportedly, even the Hiroshima Carp gave Richie Scheinblum the consent in the Japanese World Series. I do not know what the contracts provided in the days of Hank Greenberg, but today I doubt we will see a baseball team consent to excuse a player on Yom Kippur again.

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

During the crisis as we all shelter in place, Decalogue is working to bring our programming into the virtual world. We are in contact with the speakers for our scheduled CLEs (and the March classes we canceled) to try to set up Zoom webinars. Please check our website and watch your emails for updates.

Chai-Lites

by Sharon L. Eiseman

The 'CHAI-LITES' Section features news about our busy members coming, going, celebrating, being recognized, speaking, writing, making new career moves, standing up for the oppressed, volunteering, acquiring more new titles and awards than seems possible, and RUNNING and RUNNING… for office, for the bench and in Race Judicata! Please share YOUR always meaningful accomplishments with us for the FALL 2020 issue!

Alan Sohn was scheduled to be a presenter on behalf of the Chicago Estate Planning Council at the Woodridge Public Library on March 26, 2020. The topic is "Demystifying the Estate Planning Process." However, due to the unfortunate COVID-19 outbreak, that program is likely rescheduled, although it may have been recorded. Please check with the Chicago Estate Planning Council or the Library for details concerning a new date or, alternatively, information about accessing the online program or recording.

Nora Devine spoke at the joint national conference for the ABA and Institute for Professionals in Taxation on March 20th in New Orleans on the topic of "Gender Bias in Tax Law" unless that program was canceled due to the Covid-19 outbreak and travel ban. What an important topic, as so many of us don't connect the two: tax law and gender bias, so Nora is likely breaking new ground in covering this intriguing subject. For information on program access and/or rescheduling, we suggest that you contact the ABA or the referenced Institute. Nora is also a candidate for Third Vice President of the Illinois State Bar Association.

Solomon Gutstein and his son, Joshua A. Gutstein, co-authored the 4th edition of their Illinois Real Estate 3 volume treatise, which was published at the end of last year by Thomson/Reuters as part of its Illinois practice series.

How is this for an impressive line-up of devoted Decalogue volunteers? President **Helen Bloch**, Board members **Charles Krugel** and **Max Barack**, and member **Gary Savine**, are all serving as faculty for Financial Poise in an important program about employment issues. Charles is moderating and Max, Gary and Helen are panelists for a six-part webinar series that began in January and ends in June on Employee Assets. The series is co-produced by WestLegal and Financial Poise, an entity dedicated to choosing subject matter experts in various professions to host timely substantive programs geared to a range of practitioners and presented in 'plain English.' Here is the Part Two press release: http://www.prweb.com/releases/financial_poise_announces_announce_of_prevention_policiesprocedures_and_proactivity_a_new_webinar_premiering_february_25_at_1_00_pm_cst_through_westlegaledcenter/prweb16877574.htm

Now let's turn the spotlight on another prominent writer among us: **Nathan Lichtenstein** co-authored the chapter on *Valuation of Minority Interests in Closely Held Illinois Businesses* in the 2020 edition of Disputes Involving Closely Held Companies, published by the Illinois Institute for Continuing Legal Education.

And now for the section of Chai-Lites devoted to our most quoted member, **Charles Krugel**: SHRM, the Society for Human Resources Management, quoted him in its 1/15/20 Article: "Unlimited vs. Limited PTO: Which One Is Right for Your Workplace?" Check it out below:

https://www.charlesakrugel.com/charles-krugel-media/shrm-quotes-me-in-their-1-15-20-article-unlimited-vs-limited-pto-which-one-is-right-for-your-workplace.html.

Also, Bob Carroll, EVP, Permanent Solutions Labor Consultants and host of the podcast Employee Relations Words of Wisdom interviewed Charles on their 1/29/20 podcast. The conversation covered changes in the NLRB for 2020. Also discussed were predictions for union organizing activity and new organizing targets we might see in 2020. https://www.youtube.com/watch?v=cINlJKa6FL8&feature=emb_logo

Marc N. Blumenthal, Decalogue member for over 30 years, was named as one of four Illinois Super Lawyers in 2020 in the category Franchise/Dealership. What a track record: Marc has been named each year in this same category from 2012-2020!

Decalogue 2nd Vice President **Mara Ruff** is joining the executive leadership team at Sinai Health System as Vice President of External Affairs where she will oversee the health system's policy agenda and legislative advocacy efforts across all levels of government—federal, state, and local. No doubt her former employer will miss her greatly but this new position of significant scope and import in the health care profession will call upon Mara to utilize her many impressive skills and talents. We wish her well and expect a full report from her at our next Board meeting.

In the last 'class' of newly appointed Associate Judges of the Cook County Circuit Court that was announced on December 5, 2019 by the Director of Administrative Office of the Illinois Courts, we count among those advancing to such a meaningful position Board member **Hon. Geri Pinzur Rosenberg**. Judge Rosenberg was sworn in on January 6, 2020 and is currently assigned to Traffic, First Municipal. And amazingly, she continues to serve as Editor of *The Decalogue Tablets* in which this Chai-Lites section is appearing. How she does it, we won't ask. Instead, we simply extend our warm congratulations and our thanks for her devotion to DSL and its important mission.

By the time you are reading this Chai-Lites, veteran personal injury attorney and Decalogue member **Jason M. Kroot** will have joined Cavanagh Law Group as a partner. Before this new affiliation, Kroot managed the medical malpractice division at Goldberg, Weisman & Cairo, LTD. We wish him the best!

Chai-Lites *(cont'd)*

And finally, although the State's primary election is over, we pause to extend a note of respect and admiration for those members of Decalogue, some of whom are Past Presidents, who made the difficult choice to run for a position on the 'Bench,' including those who ran to keep their seats. This group of brave and talented individuals includes **Hon. Michael Hyman, Hon. Michael Strom, Hon. Sheldon Harris, Deidre Baumann, Hon. Jesse Reyes, Jamie Guerra Dickler, Jonathan Clark Green, Hon. Thomas Cushing, Ira Silverstein, John Stromsta**, and **Hon. Michael Gerber**. Whatever the outcome, these candidates deserve recognition for their courage in choosing to face an often unreadable, unforgiving and sometimes disinterested electorate. So even if they did not secure their sought-after position, we know they have the talent and determination to take on any future project that 'appeals' to them and, hopefully, the good fortune to achieve victory.

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Decalogue Thanks Our Sustaining Members

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Marvin A. Brustin
Keven G. Chin
Hon. Lauren G. Edidin
Michael H. Erde
Susan K. Horn
Paul S. Kayman
Robert D. Kreisman
Cary J Wintroub

Welcome New Members!

Hannah Alderks
Tzuriel Amster
Howard Ankin
Dan Balanoff
Josh Braude
Joel Bruckman
Max Cardin
Mark Carter
Keven Chin
Nora Devine
Jerry Feigen
Mara Flack
Saundra Gavazzi
Jennifer Gelman
Justin Goldfarb
Samuel Goldstein
Jacob Gordon
Talia Grossman
Alexandra Halbeck
Morgan Handwerker
Howard Huntington
Allyson Jacobs
Naftali Jacobs
Jeffrey Jacobson
Jocelynn Jordan
Rachel Klein
Richard Klott
Stephen Komie
Mat Kresz
Uriel Kurtz
Sarah La Pearl
Manon Laborde
John Lamantia
Donald LeBoyer
Michael Leib
Lawrence Levin
Samuel Levine
Joel Mackler
Jacob Meister
Sarah Merkatoris
Carly Minsky
Thomas Morrissey
Steven Obiajulu
Wiktoria Oginski
Robert Porada
Matthew Renetzky
Jackie Resnick
Deborah Ritz
Kyle Rosenberg
Daniel Schlessinger
Joey Sherling
Abra Siegel
Stephanie Sklar
Jonathan Stone
Benjamin Usha
Alice Vagun
Andrew Weissman
Erin Wilson
Jesse Yaker
Megan York
Barry Zlotowicz

Zelda's will be open for Pesach

Visit us at ZeldasCatering.com to view individual passover meals and dining-in options!

Passover Menu

All items sold in packages that serve 8-10 guests
Orders over $350 will receive a Complete Seder Plate package: Charoset, Parsley, Roasted Egg, Horseradish, Roasted Bone, Lettuce Leaf and Matzah

STARTERS
Chicken Soup $60
Matzah Balls $25
Roasted Butternut Squash Soup $58
Sweet and Sour Meatballs $60

ENTRÉES
Apricot Glazed Chicken (Bone-In) $145
Chicken Marsala (Boneless Breast) $150
Oven-Baked Chicken Schnitzel $155
First Cut Brisket of Beef with Red Wine Demi-Glace $225
Oven Roasted Salmon with Horseradish Dill Sauce $165
Eggplant Napoleon $130

ACCOMPANIMENTS
Squash Soufflé $45
Roasted Seasonal Vegetables $45
Roasted Rosemary Red Potatoes $45
Sweet Glazed Tri-Color Carrots $45
Old-Fashioned Potato Kugel $48
Sweet Matzah Apple Kugel $52
Traditional Tzimmes $45
Charoset $25

DESSERTS
Chef's Pastry Selection $52
Chocolate Covered Macaroons, Brownies, Chocolate Chip Cookies, Cinnamon Rugelach
Chocolate Lover's Flourless Chocolate Cake $48
Caramel Espresso Chiffon Cake $48
Orange Raspberry Layer Cake with Whipped Cream Topping $48

ORDER PICKUP:
Drive-up pick-up available in Skokie
Tuesday, April 7th 4pm–8pm
Wednesday, April 8th 9am–3pm

Menu Items may be subject to limited availability
Inquire about delivery

Special Dietary Requirements?
Just ask! We'll let you know which items best fit your needs.

Zelda's CATERING
847.674.0033
4113 Main St. Skokie, IL 60076
ZeldasCatering.com
inquiry@ZeldasCatering.com

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Skokie, IL 60076
224-534-7787
steven@chicagotailgators.com

We are now offering a lunch and dinner menu with delivery ($5) or curbside pickup. Call 224-534-7787 to order.

Thank you for all the support during these difficult times.

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For delivery now or save them to enjoy in-restaurant dining when the crisis has passed.

WE ARE OPEN FOR DELIVERY! ($10 charge)

Please email catering@miltsbbq.com with your order and address

Delivery to to WRP/Lincolnwood/Skokie order by 2pm for delivery 5-6pm
Additional late delivery to Skokie about 9pm
Delivery to Northbrook/Deerfield/Highland Park, by dinnertime

Our full **menu** is available plus we have the catering package below *(with notice)*.

Catering Package for 4-6 people includes:
$99 plus tax
6 smoked chicken quarters
2 pounds of chopped brisket
1 pint of bbq sauce
1 medium container of green beans
1 medium container of mashed potatoes
6 brownies
6 Slider rolls

Catering Package for 8-10 people includes:
$149 plus tax
10 smoked chicken quarters
3 pounds of chopped brisket
1 pint of bbq sauce
1 large container of green beans
1 large container of mashed potatoes
10 brownies
10 Slider rolls

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Pick-up and Delivery Available
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Sunday 3:30-9pm
Saturday 90 mins after sundown – 11pm

We deliver all over the City and the Suburbs; during the crisis we are offering FREE LOCAL delivery to Skokie, Lincolnwood, Peterson Park, West Rogers Park. $25-$80 fee outside free service area

Gift cards available at www.shallotsbistro.com

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