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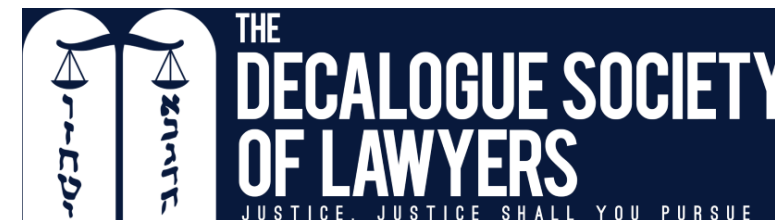
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President's Column

A Just Society

by Helen B. Bloch



The Book of Deuteronomy contains lengthy passages on how to maintain a just society. We are told to appoint judges and officers in all of our towns, that judgment should not be perverted, to refrain from taking notice of someone's face, to not accept bribes, as bribes blind the eyes of the wise and subvert righteous words. *Deuteronomy 16:18-19.*

A famous wealthy rabbi, Rabbi Shimon HaLevi Epstein, was a merchant who had a business partner named Kuppel Halperin. At some point a misunderstanding occurred based on a clause in a contract between them. They decided to appear before their local Beit Din, rabbinical court, to obtain a ruling. Upon their arrival they asked the attendant, i.e. the court's clerk, to have their matter heard by the Rabbi. The Rabbi agreed and had the attendant bring them in to the Rabbi's chamber. As the men entered, they were shocked to see that the Rabbi had a tallis, prayer shawl, over his eyes so that he could not see them. Also, the Rabbi failed to extend his hand to greet them, nor did he offer them a seat. Simply, he called out in a rather harsh tone, "Zimmel and Kuppel! Whichever one of you is the claimant, let him begin now and state his case!" The men felt insulted by the cold reception, especially since they were big donors and were used to being treated with honor. Nevertheless, they each presented their case. Upon hearing the case the Rabbi gave his ruling. Afterward, the Rabbi asked whether each party accepted his ruling. They each agreed to accept the ruling of the Rabbi. Immediately, the Rabbi removed the tallis from his face and offered each of them a warm and friendly handshake. Next, he had his attendant serve the men refreshments. The men were perturbed and could not understand the role reversal. Sensing their dismay, the Rabbi explained that the proper protocol in a Jewish court is to consider both parties as guilty. When the parties are dismissed from the court after having accepted the judgment, they shall be considered as innocent. He went on to say that if a judge were to treat the litigants with utmost dignity and honor as they enter the court's chamber, each of them would see himself as being totally righteous in the judge's eyes, which may cause them to exaggerate their claims and even bend the truth. If this were to happen, justice would not be served. Thus, as the judge, the Rabbi believed he should receive all parties in a plain manner so as to best determine the truth in order to arrive at the correct determination.

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 Welcome New Members



From the Judge's Side of the Bench

by Hon. Michael R. Panter (ret.)

"Justice, Justice Shall You Pursue," our Decalogue mission, taken from Deuteronomy 16:20. So clear and so clearly right. Could we imagine anyone thinking justice irrelevant, or worse, actually hating it? Hating justice?

"There is a story about Holmes [Oliver Wendell Holmes Jr.] and Judge Learned Hand, in which they had lunch together and afterward, as Holmes headed off in his carriage, Hand spontaneously ran after him and yelled, 'Do justice, sir, do justice!' Holmes instructed the driver to stop the carriage, and he turned back to Hand and said: 'That is not my job. It is my job to apply the law.'" From an article by Colin Rule in *Mediate.com* called, "Justice."

Holmes wasn't kidding. He also wrote, "I have said to my brethren many times that I hate Justice, which means that I know if a man begins to talk about that, for one reason or another he is shirking thinking in legal terms." Oliver Wendell Holmes, Jr., Letter to C.H. Wu (July 1, 1929).

Holmes meant that law and justice are entirely different concepts. Many other judges have written similarly.

Over the years, judges who swore to uphold the law, ostensibly the same oath our judges take today, upheld laws to enforce segregation, suppress women's rights, and sanction all sorts of terrible discrimination. Regardless of the manifest injustice, judges have followed the law. Pursuing justice would have violated their oaths.

I thought about this as I recently read that the Colorado Supreme Court had reviewed the conviction of a fifteen-year-old boy for exchanging erotic photos with two girls ages seventeen and fifteen. He was sentenced to register as a sex offender for at least twenty years. The law was then changed—now the same acts would result in a \$50.00 fine—but the judges followed the law then in place. The sentence was upheld. *In re T.B.*, No. 17SC66, 2019 WL 2495514 (Colo. June 17, 2019). Illinois judges may face similar challenges with the legalization of cannabis.

Judges have struggled for years with the "three-strike" rule. Upholding convictions requiring 25 years to life following a petty offense, Justice Stephen Reinhardt of the 9th Circuit Court of Appeals wrote, "I concur under compulsion of the Supreme Court decision...I believe the sentence is both unconscionable and unconstitutional." *Rico v Terhune*, No. 01-56692, 2003 WL 21186323, at 1 (9th Cir. May 19, 2003). Defendants' rights have been an unending struggle for judges who would want to pursue justice.

Women's reproductive rights have been a battleground for many judges' conflicting sense of justice and duty. Among the emotional examples are *MKB Management Corp. v. Stenehjem*, 795 F.3d 768 (8th Cir. 2015), and *Planned Parenthood v. Casey*, 505 U.S. 833

(1992). In a case last year, the 11th Circuit reviewed a ruling striking a ban on "dismemberment abortion." *W. Alabama Women's Ctr. v. Williamson*, 900 F.3d 1310 (11th Cir. 2018). The opinion described the medical procedures in graphic detail to make it abundantly clear how the judges felt. "I am bound by my oath to follow all of the Supreme Court's precedents, whether I agree with them or not," wrote Judge Joel Dubina, concurring. Obviously we have not heard the last of this debate.

In *Flood v. Kuhn*, 407 U.S. 258 (1972), the Court followed precedent to uphold an antitrust exemption for baseball only and no other sports although it is "unrealistic," "inconsistent," and "illogical."

Justice has no unanimity. No one is recognized as having insider information. It isn't written anywhere. It's not clear. It's not consistent. Law, more or less, is. But law makes distinctions that slice through a complicated world and turn on razor thin facts, one tiny gram of a drug, one short moment before or after an eighteenth birthday, one little inch on one side or another of a state boundary, and countless other incredibly arbitrary lines. A nation of laws will always have unjust results. But the alternative is worse. That would be a system where every judge decides as they personally believe.

Rule's article continues with this, "One's concept of justice is shaped by one's self-interest. As Mel Brooks puts it, 'Tragedy is when I cut my finger; comedy is when you fall into an open manhole and die.'"

Which exactly illustrates Holmes's point. Everyone has a different sense of what is just. No matter what we do, no matter how big or small, people rarely act in ways they believe "unjust." Even in everyday life, whether it's cutting in line or taking a questionable tax deduction, we always think we're justified for one reason or another. We, all of us, think we're pursuing justice most of the time.

Fortunately, our legal system does not charge judges with trying to reach such a lofty end as pursuing justice. Judges do not take an oath to be just. They follow the law or they don't.

Arguing justice to a judge, Holmes says, is not usually effective. You must prove your case under the law.

Decalogue lawyers, by all means pursue justice!

If that's your best argument though, don't get your hopes up when you go to court.

The Honorable Michael R. Panter has served as a full-time mediator, arbitrator and tri-panel chair with ADR Systems since his retirement from the bench in 2015.

President's Column (cont'd)

We are approaching the High Holidays, a time of judgment and self-reflection. How are we going to act in the impending Jewish year? Are we strong enough to get past how one looks on the outside and simply judge a person based on character, as directed by our Torah in Deuteronomy? Will we be careful not to engage in quid pro quos, as unfortunately occurs often in Chicago politics, especially when we seek elected or appointed positions, whether it be judicial or another branch of government? Will we be like the Rabbi who endeavors to judge without being swayed by hyperbole?

Decalogue's motto Tzedek Tzedek Tirdof—Justice, Justice Shall You Pursue, is borne out by the way in which we carry ourselves. For instance, how we participate in the Alliance of Bar Associations for Judicial Screening must remain fair and impartial even if it means giving a less than favorable rating to one of our own members. Some individuals feel based on their affinity to a certain group that they should be afforded certain ratings or opportunities. Yes, we seek diversity on the bench, elsewhere in government, and jobs as

a whole, but diversity must be achieved by applying the same set of qualifications to all applicants. No different than when we get a phone call from a prospective client or job applicant—we should not treat that prospect differently simply based on the sound of their name or the sound of their voice. We should speak with equal deference to all and make choices based on a defined set of criteria that is blind to color, race, or creed.

I hope you will join Decalogue in its endeavor to promote a more just society by serving on one of our committees and participating in our events. Please share your ideas with us.

Shanah Tovah Tikatevu—have a sweet, happy, healthy, and prosperous New Year.

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Best Practices: Tips for Obtaining a 2-622 Physician Report for a Medical Malpractice Case

by Rebecca E. Neubauer

In Illinois, in order to file a lawsuit against a health care professional or provider, you are required to file a report authored by a physician, pursuant to 735 ILCS 5/2-622. In the report, the physician must conclude that, based on their review of the medical records, there “is a reasonable and meritorious cause for filing of such action.” The failure to do so will result in a 2-619 motion to dismiss. See 735 ILCS 5/2-622(g). This procedural hurdle was put in place to prevent and reduce the filing of frivolous lawsuits. See *Cutler v. N.W. Suburban Community Hosp., Inc.*, 939 N.E.2d 1032, 1042 (Ill. App. 2d Dist. 2010).

The physician writing the report must: 1) be licensed to practice medicine in all of its branches; 2) be knowledgeable in the relevant issues involved in the particular action; 3) practice/teach—or have practiced/taught within the last six (6) years—in the same area of health care or medicine that is at issue in the particular action; and 4) be qualified by experience or demonstrated competency in the subject of this case. See 735 ILCS 5/2-622(a)(1).

Once you are hired to represent the client and you are in possession of all of the relevant medical records, you must retain a consulting expert physician to review the case and opine whether there is a “meritorious basis for filing the case.” This is a different threshold than what an expert physician is required to say in 213(f)(3) disclosures. In this article, we will discuss some tips for where to find physicians, what type of physicians to retain, how to avoid pitfalls, and what the report should contain.

I. Where to Find a Consulting Physician

Expert Finding Services. There are many companies you can retain that assist lawyers in finding experts to do just this. There is an added cost, as you are paying for convenience. There are local and nationwide services. Be clear especially with the nationwide companies what you are seeking and make sure they are aware of the Illinois requirements as it varies state to state.

Settlement and Jury Verdict Reporters. Subscriptions to these newsletters are helpful for an array of reasons, and finding successful experts is one prominent aspect. Most reporters list both sides’ experts, the expert’s specialty and location. Beware that just because there was a high verdict does not mean the expert did a great job at trial. Reach out to the lawyers and ask them about their experience.

Listservs. Similarly, listservs are great resources for numerous aspects of practicing law, and sharing experts is one benefit to subscribing to a listserv. Decalogue has a listserv for its members. Additionally, Illinois Trial Lawyers Association (“ITLA”) has a medical malpractice specific listserv as does American Association of Justice (“AAJ”).

Cold Calling/E-mailing “Recognized” Physicians or Facilities. Do research to find out which Centers or Departments are highly regarded for the area of medicine your case concerns. For example: if

your case concerns asthma, reach out to the doctors at National Jewish Health. You may have success at a preeminent center by emailing all of the doctors in a specific department that you are looking for an expert, and that, based on your research, you believe that they would fit the bill. Certain physicians will respond positively to being sought.

Authors of Medical Literature. On the same note, find medical literature that supports your theory of the case. Reach out to the authors and explain why they would find reviewing your case interesting. Further, while investigating what the literature said at the time of the occurrence, make note of authors that appear in multiple articles. It could be particularly beneficial to reach out to these authors.

Reach Out to Your Client’s Treating Physician(s). It is always good practice to reach out to your client’s treating physicians and get their opinion on standard of care and causation (especially if they are the same practice area as the defendant or if your client now sees the preeminent doctor in its field). If your client’s treating physician gives a hint that he supports the case, you can see if they would be willing to review the case and advocate for the patient. More often than not, treating physicians avoid giving standard of care opinions, but if the opportunity arises, it can be very successful at trial.

II. What Type of Consultant to Retain

Make Sure Your Consultant’s Specialty Matches the Defendant’s. While it is not a requirement, it is best practice that your consultant match your defendant’s specialty. Make sure your consultant has passed the same boards as the defendant. If you want to retain the same consultant to be your testifying expert witness, you definitely want the specialty to match.

Under or Overqualified. Be sure not to hold your expert to a higher standard by having a consultant who has significantly less or more training and experience than the defendants. Additionally, since cases are often brought to suit much after the occurrence, make sure your expert’s training was complete at the time of the occurrence.

Different Certifications. Make sure your expert maintains the same certifications as your defendant’s, if it is relevant to the case.

Similar Practice. Sometimes matching specialty is not enough. Is your defendant an internist with a private practice or is your defendant an internist who only practices in a hospital setting? Be sure that your consultant has similar experience practicing as your defendant and that your consultant is familiar with the treatment at issue.

How to Handle Health Care Professionals Who Are Not Doctors? A dentist must author a report against a dentist. The same goes for a podiatrist. With regard to nonphysicians, this area is counterintuitive. In Illinois, if the physician report concerns a health professional other than a doctor (nurses, respiratory therapists, APNs, CRNAs), the report must still be written by a medical doctor. You will need to disclose an additional expert at trial who matches specialties; in some cases, it is helpful to retain both experts from the start.

(continued next page)

Best Practices (cont’d)

Conflict of Interest. Make sure that your consultant does not know the defendant. This is especially pertinent if the practice area is small and your consultant practices in the same city. Watch out for large practice groups who employ numerous doctors in the same field. You do not want to ask a doctor to testify against his coworker.

Illinois vs. Out of State. Having an expert who practices in Illinois is a plus for many reasons. Generally speaking, your costs will be less and your expert will be more accessible. That being said, it is difficult to find an Illinois doctor to testify against another Illinois doctor. If you are set on having an in-state expert, do not get discouraged if you are turned down by the first few calls.

III. How to Send Your Consultant the Medical Records

All Communication with Experts is Discoverable. If you disclose your consulting physician as your trial expert, all communication will be discoverable (and your opponent will certainly ask for it before your expert’s deposition)! Keep this in mind when corresponding with your expert.

Think About What Records Are Sent and When. It is best practice to send your consultant all of the relevant medical records. You want your consultant to have the entire picture of the pre- and post-occurrence events, so they are not looking at the occurrence in a vacuum. You want to make sure this incident truly played a role in the injury and overall picture. However, in order to maintain objectivity, it can be important to strategically leave out records especially in a wrongful death case. More on that below.

Send the Records in an Organized Manner. Time is money; especially your consulting physician’s time. Ask your expert how they prefer the records: electronically vs. paper copies. In an effort to make the case as easy for your expert to review (and keep your litigation costs down), send the records in chronological order and separated by provider. If the records are voluminous, ask your consultant if they would like certain records pulled (operative report, discharge report, prescriptions). Radiology can be difficult to your expert. Talk to your consultant about what programs they use to view radiology on their computer.

Avoid Sending Your Consultant a Written Summary. Back to discoverability, written summaries will cause problems for you at trial if you disclose your consultant as your expert. Written summaries will undoubtedly leave out things that the defense will claim were crucial or placed inherent bias in your consultant’s mind from the start. It is best practice to tell your expert the facts of the case and your working theory over the telephone rather than putting it in writing for the other side to use against you.

IV. How to Maintain Objectivity

Avoid Telling Your Consultant if you Represent the Plaintiff or Defendant. This is a great way to maintain objectivity from your consultant. The defense will certainly raise the issue that your consultant knew you

represented the injured party and that resulted in a bad outcome if an attorney was reaching out to a doctor to review the case. Try to avoid this if possible. Another reason is that many consultants prefer to only testify for one side as opposed to the other. This is a good way to flush out consultants with a separate agenda.

Avoid Telling Your Consultant the End of the Story. This is crucial in wrongful death cases when you have the autopsy. Remember that the defendants did not have the benefit of retrospect when treating the plaintiff. You want your consultant to be in as similar a position as the defendants (recognizing the fact that it will have some sense of retrospect analysis irrespective of what you do). If you tell your expert the cause of death before they conduct their review, you will hear about it from the defense at trial.

V. What the Physician Report Must Contain

Specific Threshold Language. The consultant must write in his report that “there is a reasonable and meritorious basis for filing the case.” Again, this is a lower threshold than an expert giving the opinion that the physicians deviated from the standard of care.

List All Defendants. The consultant must explicitly write the names of all defendants. This includes subsidiaries and practice groups. If you are alleging a healthcare provider did something wrong, their name should be in the report. Many times, your consultant will want to leave this up to the attorney. Push your expert to explicitly tell you who acted wrongfully, what should have been done instead, and why that would have made a difference in the outcome. See 735 ILCS 5/2-622(b).

Res Ipsa. If your complaint is based on a theory of “res ipsa loquitur,” your consulting physician must state that within the report. See 735 ILCS 5/2-622(c).

Failure to Inform. If your complaint is based on a theory of “informed consent,” your consulting physician must state that a reasonable health care professional would have informed the patient of the consequences of the procedure. See 735 ILCS 5/2-622(e).

If You Cannot Get a Report before the Statute of Limitations. If you do not have the medical records before the statute is going to run, or you cannot find an expert in time to author this report, the lawyer can file suit, without the report, with the appropriate affidavit. You will have 90 days from the time the records are obtained to file the report, or 90 days from filing the complaint. See 735 ILCS 5/2-622(a)(2-3).

Rebecca E. Neubauer is an attorney at Romanucci and Blandin specializing in medical malpractice and nursing home negligence who has secured over 60 million dollars for her clients in the last five years.

Close to Home: Your Unfriendly, Neighborhood Carcinogen

by **Bryce T. Hensley and Martin D. Gould**

Located 23 miles west of Chicago near the border of DuPage and Cook County, the leafy-green suburb of Willowbrook boasts a population of approximately 9,000 people. Surrounding the town are similarly-situated communities like Burr Ridge and Darien. The area has the all-American essentials. Lights from the Hinsdale South High School football stadium in Darien can be seen lighting up a Friday night in the fall. Baseball diamonds in the summer are filled with Little Leaguers. Playgrounds at the numerous schools in the area are filled with children throughout the day. Noticeably absent from the area, though, are the ominous harbingers of environmental contamination: large smokestacks, industrial factories, or visible clouds of pollution. Understandably, due to the lack of warning, air quality was never a concern for the residents. Prior to last summer, this quiet group of western suburbs had never given the group of buildings near the Willowbrook Village Hall a second thought. No one in the community ever suspected that the business operating out of them, their neighbor, was knowingly poisoning the air they breathed on a daily basis.

That all changed on August 21, 2018. The Agency for Toxic Substances and Disease Registry (ATSDR) (a division of the U.S. Department of Health and Human Services) released a report using data from the Environmental Protection Agency (EPA) that shook these picturesque communities to their core. The Willowbrook census tract was found to have the 19th highest cancer risk in the country out of over 76,000 census tracts. The results were horrifying and surprising to the residents. How was this possible? What was responsible for the exorbitant risk of cancer present? Who was at risk? The report highlighted a single chemical as being the overwhelming culprit, responsible for nearly 89% of that risk: ethylene oxide (EtO). There is only one facility in the area that utilizes this chemical—Sterigenics.

Before the report was released, the vast majority of residents had no idea that Willowbrook was home to Sterigenics, a medical sterilization facility, located right off Midway Drive. Since 1984, Sterigenics and its predecessors have run their companies out of the business park located behind the Target and Denny's, right across from the Willowbrook Village Hall and the Willowbrook Police Station. Within a one-mile radius of the facility, alone, there are four schools and one daycare facility. Sterigenics uses EtO to sterilize medical equipment for medical device manufacturers, hospitals, and other companies. After the sterilization process, gas is emitted through the stacks on the roof of the facility while other gas is trapped inside.

The carcinogen does not discriminate, although it is especially harmful to children. Just one molecule of the chemical can kick-start a chain reaction of mutagenic reactions that may, one day, develop into cancer. Since the 1940s, EtO has been studied for its mutagenic effects on human health. In the late 1970s, EtO was found to increase the frequency of those mutations and was characterized as a potential carcinogen. In 1985, the potential

carcinogen label was heightened to that of "reasonably anticipated to be a carcinogen." In 1987, the state of California classified it as a "known carcinogen." In 1994, the World Health Organizations International Agency for Research on Cancer listed EtO under its highest risk classification: "carcinogenic to humans." Even with these escalating classifications, Sterigenics continued to operate in the area, emitting hundreds of thousands of pounds of EtO during the late 1980s and early 1990s. In fact, Sterigenics' predecessor, Griffith Laboratories, had received letters regarding the environmental impact, dangers, and carcinogenic qualities of ethylene oxide in the 1980s, shortly after it opened.

The August, 2018 report, however, limited its findings to recent years' emissions, which only numbered in the several thousands of pounds. Notwithstanding the drastic reduction in emissions since the company's early years, the ATSDR still placed Willowbrook in the top 20 tracts for cancer risk in the country. This was primarily due to recent studies that found a 30-fold increase in EtO's cancer potency. The news was chilling for members of the community. If the risk is this high now, where would it have been in the late 80s and early 90s when emissions were exponentially higher? Suddenly, the unexplained mystery of entire blocks of family homes having multiple residents with cancer began to make sense. Individuals with no family history of cancer finally had an explanation. The community's eyes were opened to a devastating reality: they were living in America's Chernobyl.

Research conducted over the last forty-plus years has shown that exposure to EtO can increase the prevalence of hematopoietic cancers (leukemia, lymphoma, myeloma), breast cancers, miscarriages, and fertility issues, as well as cancers of the stomach and pancreas. Research into the carcinogen's effects are ongoing and more conditions may be revealed to have a relation to EtO exposure. While most of the studies deal with short-term, high dose exposure from workers handling the carcinogen, individuals within the surrounding communities have received a constant dose of this cancer-causing toxin for one, two, or—in some cases—three plus decades. It has infiltrated homes where families live, businesses where adults work, and schools where children learn. For thirty-five years, EtO has been ubiquitous in these communities and the people most at risk had no idea.

The news of Sterigenics and its poisoning of the surrounding communities has since caught the attention of everyone, from national lawmakers such as Dick Durbin and Tammy Duckworth; to celebrities, such as Erin Brockovich and Jim Thome; to community members enraged at the thought that they and their loved ones' health and lives were at risk without their consent, let alone a word of warning. Perhaps most importantly though, the crisis in Willowbrook caught the attention of the Illinois state government. In February, 2019, the Illinois EPA issued a seal order on Sterigenics, prohibiting the use of ethylene oxide. Unsurprisingly, the ambient air testing being conducted in the first month following the closure showed a drastic drop off of 90% reduction in EtO detected in the air.

(continued on next page)

Close to Home (cont'd)

Sterigenics has since brokered a deal with the State in order to reopen. Despite the deafening roars of protests from residents and politicians alike, the company has elected to defy overwhelming public sentiment and attempt to reopen its doors and expel even more EtO into a community which resents the company's very presence.

Hundreds of those residents have retained attorneys within the Chicagoland area to pursue personal injury claims against the company. So far eleven cases have been filed, all of which were removed to federal court by Sterigenics. The victims have moved to remand the cases and await a ruling from the Court. The cases and remand motion are currently pending before the Honorable Rebecca R. Pallmeyer, Chief Judge of the United States District Court for the Northern District of Illinois.

Bryce T. Hensley is an attorney at Romanucci & Blandin, LLC, where he works in the firm's complex litigation group representing individual and classes of victims of toxic exposures, product defects, civil rights violations, fraud, sexual harassment, wrongful death, and other catastrophic personal injuries. Bryce is currently representing hundreds of victims of Sterigenics' ethylene oxide emissions and has played a key role in securing numerous record-breaking verdicts for the firm.

Martin D. Gould is a board member of the Decalogue Society and an attorney at Romanucci & Blandin, where he represents victims of catastrophic personal injury, wrongful death, sexual abuse, toxic exposure, and medical malpractice. Martin has been on two recent trials which secured \$44.7 million and \$21.33 million, respectively, on behalf of firm clients. He is working alongside Bryce on the Sterigenics litigation.

Tuesday, September 24, 2019
Social with Cook County Bar Association

Watch your email for details

Save the Date

Thursday, November 14, 2019
to honor Decalogue members who are veterans of the US armed forces or the IDF

Are You a Veteran?

email us at decaloguesociety@gmail.com
with your branch and dates of service and
where you served

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would like to thank the following
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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

The Rise of Othering – And Why We Must Fight It

by *Jacqueline Carroll*

We are living in an increasingly polarized time. America is facing a threat unlike any in a lifetime. There has been a rise in hatred and intolerance coming from our highest offices in government. This does not just stem from nationalism, racism, xenophobia or antisemitism. It stems from Othering. “Othering” is a term coined by John A. Powell, director of the Haas Institute for a Fair and Inclusive Society, who writes:

Othering is not about liking or disliking someone. It is based on the conscious or unconscious assumptions that a certain identified group poses a threat to a favoured group. It is largely driven by politicians and the media, as opposed to personal contact. Overwhelming, people don’t “know” those that they are othering.¹

Othering plays on our sense of anxiety and is often purposefully used to divide and dehumanize groups as a way to capture and reshape governments. Othering is used to manipulate minds and slowly change people’s perception of that “other” group for their own benefit. A classic tactic for othering is dehumanization. There are five steps of dehumanization: 1) hinting at the sub-par intelligence or morality of a group; 2) the use of infestation analogies; 3) references and comparisons to animals; 4) threats of violence; and 5) the removal of the group from society.²

The Nazis were masters of othering. All five of the steps for dehumanization were used, including the depiction of Jews as rats in propaganda, making “the majority group feel like the minority is sub-human and inferior, allowing them to become more disposable.”³ Victor Klemperer, a Jewish-born German professor who chronicled his life under the Nazi regime, wrote that it was the repetition of individual words, phrases, and sentences—the language of the Nazis—that enabled the othering of the Jewish people to take root in the subconscious of the German people. “Words can be like tiny doses of arsenic, they are swallowed unnoticed, appear to have no effect, and then after a little time the toxic reaction sets in after all.”⁴

The othering of the Jewish people has made a comeback. The Anti-Defamation League identified 1,879 anti-Semitic incidents throughout the U.S. in 2018, including 39 assaults. This was a 99% rise from 2015 and does not even include online incidents. What is causing this rise? One cause is the normalization of othering in both regular and social media and our political figures’ failure to condemn and often incite such behavior. As Jim Morrison once said “Whoever controls the media, controls the mind.”

The Atlantic magazine produced an extraordinary article in December of 2017 entitled “The Making of an American Nazi,” concerning the rise of *The Daily Stormer* and its founder Andrew Anglin, who urged his followers to take their hate offline and into the real world.⁷ *The Daily Stormer* is for internet “truthers” who feel an anxiety about white displacement. They refer to the Holocaust as the “Holohoax” and blame everything they hate from feminism, liberalism and immigration on a “cabal of Jews” who have a “plot

to undermine traditional white patriarchy so Jews can maintain a parasitic dominion over the Earth.”⁸ Anglin is infamous for sharing the personal contact information of a Jewish real estate agent and instructing his followers to troll her, leading to 700 harassing messages, including death threats and anti-Semitic slurs. The agent fought back, leading to a federal judge holding that Anglin “acted with actual malice” and awarding her \$14 million and ordering the removal of all posts encouraging contact with her and her family.⁹

Online websites like the *Daily Stormer* helped create a safe space for impressionable men to become killers. Brenton Tarrant wrote an anti-immigrant, anti-Muslim manifesto before streaming his shootings at two mosques in Christchurch, New Zealand live on Facebook.¹⁰ John Earnest, a 19-year-old nursing student, carried out a mass shooting at the Chabad of Poway synagogue near San Diego California, killing one and wounding three others after publishing a manifesto on the 8chan website. Earnest’s manifesto was predominantly anti-Jewish, but also slurred Middle Easterners, Latinos and African Americans, stating, “There has been little done when it comes to defending the European race. As an individual I can only kill so many Jews.”¹¹ Robert Bowers, a neo-Nazi follower of the Gab social network, entered the Tree of Life Synagogue in Pittsburgh on October 27, 2018 and killed eleven people, wounding seven others. Bowers stated to police that Jews “were committing genocide to my people” and “I just want to kill Jews.” He chose that synagogue because it rented space to HIAS, a Jewish aid organization dedicated to assisting refugees. Gab ascribed to the anti-Semitic conspiracy theory that Jews were financially supporting the invasion of immigrants into the US, including the “migrant caravan.”¹²

The timing of the Tree of Life shooting is noteworthy. Othering is often used a tool for political gain. Prior to the 2018 midterm elections, the Trump administration and Fox News provided a platform for anti-immigrant activists to voice their arguments, portraying them as professing legitimate and acceptable positions.¹³ Trump tweeted that the caravan included “MANY CRIMINALS,” and Laura Ingraham declared on October 23, 2018, four days before the Tree of Life shooting, “We don’t know what people have coming in here. We have diseases in this country we haven’t had for decades.” The word “undocumented” became a synonym for “criminal” and “asylum seekers” became “illegal immigrants.” This barrage of othering in the media fostered false but real fear of the immigrant and asylum seeker.

Successful othering creates tolerance and justification for hateful and inhumane policies. The Trump administration created a “zero tolerance” policy towards migrants seeking to cross the U.S.-Mexico border, resulting in not just family separations but the detention of children in cages. Recently, the administration created a “remain in Mexico” policy, where asylum seekers are briefly processed, given a date of an immigration court hearing, then sent back across the border, stranding people in dangerous Mexican cities.¹⁴ The migrants seeking asylum left their homes in Central America to flee poverty and violence.¹⁵ As Jews, we are eternal refugees. From the days of Pharaoh and through the horrible fate of the S.S. St. Louis, where Jews escaping Nazi Germany after Kristallnacht were

Othering (cont’d)

prevented from entering Cuba and then refused entry by the U.S. Government, who bent to Nazi propaganda and used the country’s yearly immigration quota as an excuse for exclusion. Incidents of hate are on the rise, but it is a Jewish moral imperative to stand up against the othering of immigrants and people of other races and religions. As Pastor Martin Neimöller famously wrote:

First they came for the socialists, and I did not speak out—because I was not a socialist. Then they came for the trade unionists, and I did not speak out—because I was not a trade unionist. Then they came for the Jews, and I did not speak out—because I was not a Jew. Then they came for me—and there was no one left to speak for me.

Jacqueline Carroll is a trial attorney with the Bernstein Law Firm, who specializes in civil rights litigation, complex real estate and business litigation, appellate law and family law. Jacqueline serves on Decalogue’s board and co-chairs Decalogue’s Committee Against Anti-Semitism.

¹ John A. Powell, “Us v. Them: the sinister techniques of ‘Othering’- and how to avoid them,” *The Guardian* (Nov. 8, 2017), <https://www.theguardian.com/inequality/2017/nov/08/us-vs-them-the-sinister-techniques-of-othering-and-how-to-avoid-them>.

² Ronald E. Riggio & Clara Riggio, “The 5 Steps of Dehumanization,” *Psychology Today* (Nov. 8, 2018), <https://www.psychologytoday.com/us/blog/cutting-edge-leadership/201811/the-5-steps-dehumanization>.

³ Id.

⁴ Jörg Riecke, “Victor Klemperer: The Language of the Third Reich,” *Inference* (Mar. 1, 2019), <https://inference-review.com/article/the-language-of-the-third-reich>.

⁵ Id., citing Victor Klemperer, *The Language of the Third Reich*, trans. Martin Brady (London: Bloomsbury Academic, 2013), 15-16.

⁶ Anti-Defamation League, “Audit of Anti-Semitic Incidents: Year in Review 2018,” <https://www.adl.org/audit2018>.

⁷ Luke O’Brien, “The Making of an American Nazi,” *The Atlantic* (Dec. 2017), <https://www.theatlantic.com/magazine/archive/2017/12/the-making-of-an-american-nazi/544119/>.

⁸ Id.

⁹ “Federal Judge Finds Neo Nazi Publisher ‘Acted with Actual Malice,’” *First Amendment Watch* (July 16, 2019), <https://firstamendmentwatch.org/federal-judge-finds-neo-nazi-publisher-acted-with-actual-malice/>.

¹⁰ Shannon Van Sant, “Accused Shooter in New Zealand Mosque Attacks Charged with Terrorism,” *NPR* (May 21, 2019), <https://www.npr.org/2019/05/21/725390449/accused-shooter-in-new-zealand-mosque-attacks-charged-with-terrorism>.

¹¹ Michael Davis, “The Anti-Jewish Manifesto of John T. Earnest, the San Diego Synagogue Shooter,” *Middle East Media Research Institute* (May 15, 2019), <https://www.memri.org/reports/anti-jewish-manifesto-john-t-earnest-san-diego-synagogue-shooter>.

¹² Chas Danner & Adam K. Raymond, “What to Know About the Pittsburgh Synagogue Shooting,” *New York Intelligencer* (Oct. 28, 2018), <http://nymag.com/intelligencer/2018/10/what-to-know-about-the-pittsburgh-synagogue-shooting.html>.

¹³ “Mainstreaming Hate: The Anti-Immigrant Movement in the U.S.,” *Anti-Defamation League* (Nov. 2018), <https://www.adl.org/the-anti-immigrant-movement-in-the-us#the-medias-role>.

¹⁴ Nomaan Merchant, “U.S. Government’s ‘Remain in Mexico’ Policy is Expanding, Stranding More People in Dangerous Mexican City,” *Time* (July 19, 2019), <https://time.com/5630490/government-migrant-mexico-policy/>.

¹⁵ Juan Montes et al., “Fleeing Poverty and Violence, Central American Women Explain Why They Join Caravans,” *Wall Street Journal* (Dec. 4, 2018), <https://www.wsj.com/articles/fleeing-poverty-and-violence-central-american-women-explain-why-they-join-caravans-1543947664>.



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Decalogue Society of Lawyers & Decalogue Foundation 2019-2020 CLE Series

Register at www.decaloguesociety.org/services/legal-education/

Unless otherwise noted, CLE credit is only available to members of Decalogue whose dues are in good standing

Thursday, September 12, 12:00pm-1:30pm

SEASON KICK-OFF Video CLE: All the Queen's Horses

Class Leader: Cliff Scott-Rudnick

"All the Queen's Horses" tells the story of Rita Crundwell, city comptroller of Dixon, IL (population 15,838), who stole \$53 million dollars of public funds across 20 years. We will discuss ethical issues posed in this documentary of the largest municipal fraud in US history.

Scharf Banks Marmor, 333 W Wacker

Ethics credit pending. Credit available to attorneys at the host firm.

Thursday, September 26, 12:15pm-1:15pm

How to Get Out of Your Long-term Lease

Speaker: Hon. Ellis Levin

134 N LaSalle Room 775

Thursday, October 24, 12:15pm-1:15pm

Evictions Law

Speaker: Aileen Flanagan, Senior Attorney, Lawyers Committee for Better Housing

Loop Location TBA

Thursday, October 31, 12:15pm-1:15pm

Sibling Rivalry & How to Disinherit Someone

Speaker: Michael Erde

134 N LaSalle Room 775

Thursday, November 21, 12:15pm-1:15pm

Civil Rights: Issues in Section 1983 Litigation

Speaker: Jonathan Lubin

134 N LaSalle Room 775

Hon. Gerald C. Bender Memorial Lecture

Sunday, December 8, 9:00am-12:00pm

Speaker: TBA

Lincolnwood Jewish Congregation AG Beth Israel

7117 Crawford, Lincolnwood

Credit available to all attorneys.

Thursday, December 13, 12:15pm-1:15pm

Cannabis Law Update

Speaker: State Representative Bob Morgan

134 N LaSalle Room 775

Thursday, January 9, 12:15pm-1:15pm

TBA

134 N LaSalle Room 775

Special MLK Day CLE

Thursday, January 16, 11:30am-1:30pm

Video CLE TBA

Speakers & Location TBA

Diversity/Inclusion credit pending. Credit available to members of co-sponsoring Bar Associations.

Thursday, January 30 12:15pm-1:15pm

The Illinois Biometric Information Privacy Act Impact on Business

Speakers: Alan S. Wernick and David A. Johnson Jr.

134 N LaSalle Room 775

Thursday, February 6 12:15pm-1:15pm

Restrictive Covenants

Speaker: Sarah Marmor, Partner, Scharf Banks Marmor

134 N LaSalle Room 775

Thursday, February 13, 12:00pm-1:30pm

2019 Income Tax Update

Speaker: Lawrence R. Krupp, Partner, Wipfli LLP

134 N LaSalle Room 775

Thursday, March 5, 12:15pm-1:15pm

Valuation of Closely-Held Businesses

Speakers: Nathan Lichtenstein & Brandi Ruffalo

134 N LaSalle Room 775

Thursday, March 26, 12:15pm-1:15pm

Strangers in a Strange Land – Political Asylum 101

Speaker: Nancy Vizer

134 N LaSalle Room 775

Thursday, April 23, 12:15pm-1:15pm

Collection and Enforcement of Real Estate Tax Liens

Speaker: Rodney Slutzky

134 N LaSalle Room 775

Wednesday, May 6, 12:15pm-1:15pm

Attorney Discipline Updates

Speaker: Wendy Muchman

Loop Location TBA

Thursday, May 14, 12:15pm-1:15pm

TBA

134 N LaSalle Room 775

Thursday, May 21, 12:15pm-1:15pm

Topic TBA

Speaker: Judge (ret.) Deborah J. Gubin

134 N LaSalle Room 775

Still to be scheduled: Addiction/Wellness presented by LAP.

The Decalogue Foundation is planning a 4-part Jewish Lecture Series that will address Hate Speech and the 1st Amendment as well as other topics to be determined based on the availability of speakers. These programs will be on Sunday afternoons or weekday evenings, with various community partners.

What Does Judicial Diversity Really Mean?

by *Patrick Dankwa John*

We all want more diversity, right? Being against diversity is like being against goodness and sunshine. No one is against diversity. We're all for it, in theory. Until it may cost us something. Then most of us aren't so gung-ho. Oh, but how we love to talk about diversity so plitudinously. Real diversity means that the dominant group must share some power and wealth, which they are almost always reluctant to do. Real diversity takes a lot of hard work. When it gets right down to it, most of us are unwilling to put in the effort real diversity requires.

By diversity I don't just mean people from lots of different backgrounds working together. I mean people from different backgrounds who take the time and effort to learn (in a non-judgmental way) about those who are different. That's true diversity. That kind of diversity doesn't just happen by accident. It takes lots of hard work. Note how high school and college students of different ethnicities tend to stick with members of their own racial or ethnic group once class is over.

When I was in the military, there were even studies done showing that military bases were very racially integrated, but when soldiers left base, they segregated themselves, and the civilian community surrounding the base was usually also racially segregated. Is it any different with attorneys? I don't think so. What about with judges? Several years ago, a black judge in New York City complained that most of his white judicial colleagues were, simply put, clueless about the racial discrimination that most blacks face routinely. The judge was Bruce Wright, and he wrote book about it called "Black Robes, White Justice."

When we think about judicial diversity, perhaps we're aiming too low. We're aiming to get our numbers up (as we should), but we're not incentivizing anyone to put in the hard work of actively engaging and learning about those outside their affinity group. How can we encourage judicial aspirants to put in the hard work that true diversity requires? We can provide a real incentive for them that goes beyond mere lip service.

There are several bar associations that focus on protecting the interests of various ethnic/racial/religious/gender groups (often called affinity bar associations). Imagine how much judicial aspirants would learn about those who are different from them if they were active in bar associations that focused on the interests of those outside their affinity group. If a white attorney were active in the Cook County Bar Association, she would learn more than any formal "diversity and inclusion" seminar could ever teach. A non-Jewish attorney who became active in the Decalogue Society of Lawyers would gain an appreciation and understanding of the Jewish community that would be hard to gain in any other way. But this takes great effort. That's why so few people do it.

So how can we get attorneys to do it? It could be done if the Illinois Supreme Court and the circuit judges make it a priority when appointing associate judges and appointing circuit judges to fill vacancies. But how can we get beyond the mere sugar-coated feel-

good talk about how we all want more diversity and actually get people to do diversity? I think one way to do that is by adding a question to the applications for judicial evaluations for the Alliance of Bar Associations for Judicial Screening, the Chicago Bar Association, and the applications for associate judge and to fill circuit court vacancies. Currently, all of those forms ask the applicant to list the bar associations they've been a member of. I propose that a question be added along the lines of: "Explain in detail your activities in a bar association whose focus is to further the interests of those outside your ethnic/cultural/religious/gender group." Imagine if such a question were added to the applications, accompanied by a public statement from the bar associations, the Illinois Supreme Court, and the Office of the Chief Judge of the Circuit Court of Cook County, that active involvement in a bar association outside an applicant's affinity group would be looked upon favorably. This could incentivize real diversity and send a clear signal to attorneys that if they put in the hard work on diversity, their hard work will be rewarded. I have to admit there is one drawback to this idea. I fear that so many attorneys will rush online to join the affinity bars that their websites may crash.

Patrick Dankwa John is the 1st Vice President of the Decalogue Society of Lawyers. His practice is concentrated in domestic relations. He has served as an investigator and interviewer for the Alliance of Bar Associations' judicial evaluation process. Patrick is originally from Guyana, South America, a place of kaleidoscopic racial, cultural, and religious diversity.

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The 3 Rs: Reading and Writing Reduces Recidivism

by *Abigail Rabinowitz*

The Hinda Institute is currently implementing a pilot educational program in correctional institutions, and we are looking for assistance in delivering the sessions and tutoring our clients as well as general support.

Understanding the Problem—Education, Incarceration, Recidivism and Employment

It is no secret that there is a nexus between incarceration and the ability to read and write. Forty-eight percent of the incarcerated population is estimated to have low reading skills (Bromley Briefings Prison Factfile, Autumn 2013). While there are no formal statistics, contrary to popular myths, incarcerated Jews like the general population also have low literacy skills; more than half of our clients do not have a high school diploma or higher education.

Furthermore, for formerly incarcerated individuals, the disadvantage of not having a high school diploma is compounded by the multiple barriers to successful reentry and the additional stigma they face when they reenter their communities and the workforce. On average, formerly incarcerated individuals earn 11 percent less than those with no criminal record doing the same job. They are also 15 to 30 percent less likely to find a job in the first place. Most importantly, literacy reduces recidivism rates. Simply put, education means jobs and the self-esteem to move on with life. It's vital that our clients are provided opportunities to develop their literacy level in prison and envision a better future; an engagement in reading and writing is crucial to this process.

Reducing Recidivism

Education opportunities in correctional institutions may be the key to reducing crime and initiating meaningful justice reform. Education is the most cost-effective way to reduce crime and leads to long-term benefits across the entire U.S. population. Prison education is far more effective at reducing recidivism than boot camps or vocational training, according to the National Institute of Justice. In 2001, the Correctional Education Association's "Three State Recidivism Study" quantified this reduction, demonstrating that correctional education lowered long-term recidivism by 29 percent. In 2016, the RAND Corporation produced a report that showed that individuals who participate in any type of educational program while in prison are 43 percent less likely to return to prison. Individuals who do not complete high school are rearrested at the highest rate (60.4 percent), while those who have a college degree are rearrested at a rate of 19.1 percent.

Correctional Institutions Need Our Help

Correctional institutions are having difficulties implementing educational programs. We need to help fill this gap.

- Only 26% of state prison inmates said they had completed the GED while serving time in a correctional facility.
- In 2016, the Vera Institute of Justice reported that only 35 percent of state prisons provide college-level courses, and these programs only serve 6 percent of incarcerated individuals nationwide.

Receiving a quality education continues to be out of reach for much of the prison population due to a lack of funding for, and access to, the materials needed for the success of these programs.

Budget cuts have also resulted in decreased access to books. In 2000, the Illinois Department of Corrections spent \$750,000 on books -- but in 2017, the Department spent only \$276 on books (according to NPR, Apr. 16, 2018), leaving multiple non-profits to fill the void. Books and learning are tremendously valued commodities in a prison environment where reading material is expensive and hard to access and the Internet is restricted. Simultaneously, books are a critical factor in rehabilitation.

Hinda Institute Pilot Educational Program

The objective of our program is to improve reading and writing skills of our clients within adult education courses that have value, meaning and the opportunity for self-reflection.

As part of the pilot, we are collaborating with the University of Illinois to develop a course called "From Victim, to Survivor to Offender: Where is Justice?" as well as developing a Jewish-text-based tutoring/mentoring package called "Joy in the Depths." Both courses will include exercises developed by experts in special education to encourage literacy skills and motivate individuals who may have difficulty with reading and writing. All courses will also involve extensive opportunities for reflection and discussion. For the pilot, we will be delivering these courses to one Federal correctional institution, two Illinois state correctional institutions, and Cook County Jail, either on a monthly, weekly, or biweekly basis depending on the institution. Workbooks are being developed so that our clients can work on their own after the sessions (a blended learning approach). The courses will be highly interactive and the ensuing discussions are designed to be provocative. Our lending library is also expanding, which is resulting in books being distributed in participating correctional institutions to encourage supplementary reading in this new innovative program.

How You Can Help

We are looking for lawyers to co-facilitate our criminology classroom sessions in conjunction with students or anybody to mentor/tutor students at least once a month starting in January 2020. Participants will need to have prison volunteer training by the fall, and background checks are required. This work may be counted toward your legal volunteer hours. If you don't have time to volunteer, please consider donating towards books, workbooks, or textbooks in honor of the High Holidays. Please contact Abby Scheiman at the Hinda Institute for more information. This program is sponsored by the Walder Institute in honor of Daniel Azari.

Abigail Rabinowitz is a volunteer coordinator for the Hinda Institute.



"Shabbat Shalom Amigo" – Panama

by *William Choslovsky*

It's not every Sabbath you hear, "Shabbat shalom, amigo," but so it goes in Panama City, a thriving, modern city that includes about 15,000 Jews.

To be clear, my wife and I did not travel to Panama in search of Jewish culture. It more found us, which was a treat.

Like most, we went to see and explore the canal, a relatively quick five-day trip that proved beyond memorable. We arrived on a Thursday night—an easy five-hour non-stop flight from Chicago—and stayed the first two nights in Cosco Viejo, old Panama City. On Friday morning we rode bikes along the city's beautiful Pacific Ocean spit, which juts out for spectacular views. In the afternoon we toured the old city and canal museum.

And then came Friday night. On a lark, I Googled synagogues in Panama and found five. I called a couple, and we decided to go to Shabbat services at Sinagoga Beth El, one of the Azhkenazi synagogues. We were stunned. The synagogue is one of the nicest, most modern we have ever seen. The people were equally cosmopolitan. Listening to the rabbi's short sermon in Spanish was fascinating. It reminded me just how universal Judaism is. It's one thing to go to Israel or Europe and hear Judaism in different languages, but seeing the Siddur transliterated in Spanish on the left side of each page was special.

The community—modern Orthodox—was most welcoming. I learned Panama's Jews have little assimilation (i.e., most keep kosher, go to Jewish day schools, and do not intermarry), yet they are warmly accepted and successful in Panamanian society. There have even been two Jewish presidents!

And some say, there might not even be an Israel today without Panama due to "Sam the Banana Man." Sam Zemurray, a Zionist,

was the Jewish banana king in Panama who apparently used his "influence" to get the central American countries to flip and be the deciding votes in favor of Israel's creation at the UN. Google it. Fascinating stuff. Who knew?!

Of course, the highlight was the canal. We did the "full" transit, ocean-to-ocean baby, which is only offered as a day trip twice a month. It was iconic. You start in Panama City in the Pacific Ocean—where because of the weird, sideways, shape of Panama, the sun rises in the east over the Pacific Ocean and sets at night in the west over the Atlantic—and ends in Colon in the Atlantic Ocean's Caribbean Sea. Just nine hours and you have literally travelled ocean to ocean, shaving more than 7000 miles off your journey around the tip of South America.

Most amazing, the boat we traversed in, the Isla Madora, was built in 1912 and owned by Al Capone—yes, that Al Capone—who used it to run rum from Cuba to the Florida Keys and then up to Chicago's speakeasies during Prohibition. Uncle Sam confiscated it when he went to prison, and now it runs tourists through the canal.

The canal ends in Colon, a tough, run-down town. We then visited an indigenous village (Panama has seven Indian tribes) where the Embara (Indian) people live. Then a night in beautiful Portobelo before we took the legendary Panama Railroad back to Panama City, a quick one hour, beautiful jaunt that hugs the canal.

If you want any tips or are thinking of going, give a ring. And if you go, you must read iconic historian David McCullough's *The Path Between the Seas* before going, which frames everything perfectly.

In the meantime, "Shabbat shalom, amigo."

William Choslovsky is a partner at Ginsberg Jacobs LLC, where he splits his time between commercial litigation and corporate bankruptcy matters.

 Jewish Judges Association of Illinois 	17th Annual Justice, Lifetime Achievement, and Public Service Award and Installation Dinner
<i>Honoring</i> Justice Michael B. Hyman Judge Martin S. Agran Justice Robert J. Steigman	Wednesday, October 30, 2019 Reception 5:30 p.m. Dinner 6:30 p.m.
	The Standard Club, 320 S Plymouth Ct, Chicago \$150.00 per person \$1,500.00 per table Last date to purchase tickets is October 15, 2019
	Call (312) 593-8953 or email bobgordon9@aol.com If you would like to sit at Decalogue's table, order at www.decaloguesociety.org/events/events2

Joey Lane – A Great Story

by Justice Robert E. Gordon

This is the story of a young man who captured the hearts of a team, its coaching staff, and the team's fan base.

Joey was a good high school basketball player at Deerfield High School. At six feet tall, he did not have the resources to be a college star in Division I basketball, but he was talented enough to excel at Division II or III. However, instead of going to a Division II or III school, he chose Ohio State, a Big Ten powerhouse. His mother was from Toledo, Ohio, and she and most of her family went to Ohio State. In an interview Joey gave to WFNY in Columbus, he said, "I was born and raised to be a Buckeye, so that had always been the dream."

Joey began his college basketball career as a walk-on at Ohio State. Later, Joey was given a scholarship prior to his sophomore season by former head coach Thad Matta, and it was continued by coach Chris Holtmann when a coaching change was made, keeping Joey on scholarship for his final three years of eligibility. Normally, a walk-on for any team would not receive a scholarship.



Joey totaled only 89 minutes of playing time during his four-year career at Ohio State, scoring 33 points with 12 rebounds, 8 assists, and 4 steals. When Joey became a senior, he was voted captain of the team. His teammates loved Joey. He was the type of player every coach wants and a successful team needs. The fans and media loved Joey. He was the team's most vocal leader, even though he was one of the last players to be put in a game. He was dedicated to his team and kept a positive attitude and instilled that attitude to his teammates. He was the lone four-year player on the roster. He had a tremendous impact on the team and the fans with his positive attitude and was the team's best cheerleader. He knew his role as the leader of the team and used his personality and know-how to support his teammates and to keep their spirits high. If

you watched Joey on the bench, you could observe his positive attitude, cheerleading ability, and his love for the team and the game of basketball. He also had that same impact in recruiting players, in workout sessions, and in the locker room. The Buckeyes fans loved Joey and tried to help him obtain playing time during blowout victories, chanting "put Joey in" over and over again. Some members of the student section, the Buckeye Nuthouse, even went as far as painting "Put Joey In" on their chests.

Ohio State video coordinator Kyle Davis told WFNY, "He worked to change his body physically, fought through injuries, battled the heartbreak of a coaching change, and then turned around and helped unite the locker room to embrace a new staff and instill a new culture. And somehow through it all, he never faltered from bringing a positive attitude every day which translated to him becoming a 'connector' and a leader on and off the floor; you never doubted that he was 100 percent committed to our program and understood what it meant to be a Buckeye. Now that his journey with us is complete I can look back and say that Joey has made a bigger impact on our program than I ever thought possible, and his presence in our program is going to be hard to replace."

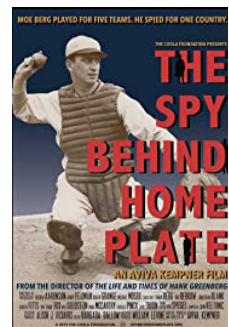
In the final game of the Big Ten season in 2019 against Wisconsin, coach Holtmann started Joey at guard in an upset victory over a ranked opponent, which essentially clinched a spot for Ohio State in March Madness. Coach Holtmann decided to start the vocal leader and player that had meant so much to Ohio State for the last four years.

Joey is the son of Decalogue member Scott Lane, and grandson of our beloved past president Fred Lane.

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

The Spy Behind Home Plate, Directed by Aviva Kempner

by Judge Martin P. Moltz



In the 1930s, Moe Berg was a Jewish catcher for several major league teams, including the Chicago White Sox. He was also a true genius who had a law degree from Columbia Law School in New York. He spoke 12 languages—although Yankees manager Casey Stengel said that he couldn't hit in any of those 12 languages!

More interestingly, he was one of the leading American spies for the OSS during World War II. Moreover, it appears that he was working in that same capacity during the 1930s, using his baseball status as a cover. He was a fascinating Jewish American hero. See this movie wherever it is playing!

Judge Martin P. Moltz is an associate judge with the Circuit Court of Cook County, First Municipal District and a past president of Decalogue.

Jewish Baseball

by Justice Robert E. Gordon



Team Israel players lining up for the national anthem prior to their World Baseball Classic game against the Netherlands in Tokyo, March 13, 2017.

The Jewish players in the major leagues are:

1. Ryan Braun, age 34, Milwaukee Brewers outfielder in a 12-year career. Ryan's father was born in Israel and Ryan became the 24th player to combine 300-plus homers with 200-plus stolen bases. Ryan will eclipse Hank Greenberg's 331 homeruns this year. He was nine short at the start of the year.

2. Alex Bregman, age 24, Houston Astros third-baseman, was named Most Valuable Player in the American League in the All-Star Game in 2018, and finished 5th for the American League Most Valuable Player Award. Alex was a first-round draft pick.

3. Richard Bleier, age 30, is a left-handed pitcher for the Baltimore Orioles in his third big-league season, and had a 1.93 ERA last year. He had season-ending surgery and is on the DL.

4. Max Fried, age 24, is a left-handed pitcher for the Atlanta Braves, and is a promising star with a low ERA and may be one of the best relief pitchers in baseball. Max is a former first-round draft pick.

5. Ty Kelly, age 29, was a star for Team Israel, but this infielder and outfielder has yet to show such promise for the New York Mets.

6. Ian Kinsler, age 36, had a terrific major-league career as a great second-baseman, but this should be his last year in the majors with the San Diego Padres.

7. Ryan Lavarney, age 30, a catcher, was a star on Team Israel, but has yet shown such promise for the Pittsburgh Pirates and now with the New York Yankees.

8. Joc Pederson, age 25, is over six-foot-five, blond hair, blue eyes, and yes, he is Jewish and was born Jewish. A homerun hitter, he plays centerfield for the Los Angeles Dodgers.

9. Kevin Pillar, age 29, a centerfielder, was recently traded from the Toronto Blue Jays to the San Francisco Giants. He is in his sixth year in the big leagues.

10. Ryan Sherriff, age 27, is a left-handed pitcher who recently had Tommy John surgery and is on the DL with the Tampa Bay Rays and formerly with the St. Louis Cardinals.

11. Robert Stock, age 28, is a right-handed pitcher with the San Diego Padres, who throws over 100 mph. Last year, he finished the season with a 1-1 record and an impressive 2.50 ERA in 39.2 innings pitched, making 32 relief appearances.

12. Ryan Tellez, age 23, is a first-baseman with the Toronto Blue Jays. He was a September call-up in 2018, and hit three consecutive doubles his first three times at bat, making him the first player in major-league history to record three extra-base hits in his first three times at bat. He hit .314 with 4 homers and 14 RBIs in 19 games.

13. Zack Weiss, age 25, was a right-handed pitcher with the Cincinnati Reds who is now with the Minnesota Twins.

14. Craig Breslow, age 37, a left-handed relief pitcher, who had a wonderful 12-year major-league career was released by the Cleveland Indians and then signed by the Toronto Blue Jays and sent to the minors.

15. Danny Valencia, age 33, an infielder, outfielder, was released by the Baltimore Orioles and remains unsigned, possibly because of a reputation as a problem in the clubhouse, even though he had a .263 batting average.

16. Garrett Stubbs, age 24, a catcher with Houston, is the player to watch when he arrives in the majors. He had a good spring, and last year was voted on the AAA All-Star Team and batted .310. He is with the Fresno Grizzlies in the PCL, but he should be in the majors soon.

Between 1900 and 1966, 28 players had the last name of Cohen, but only two used their real names: Andy Cohen and Hyman Cohen, who pitched for the Cubs. Today, when we look at the roster of the 16 players above, only 4 have Jewish names.

Brad Ausmus is the new manager of the Los Angeles Angels, as is Gabe Kapler with the Philadelphia Phillies. Zach Borenstein, age 28, the outfielder from Buffalo Grove, is playing for the Chicago Cubs' AAA Iowa team and had a good spring with the Cubs. The White Sox traded pitcher Brad Goldberg to the Arizona Diamondbacks, and he is pitching for the Jackson Generals.

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

Chai-Lites

by Sharon L. Eiseman

Decalogue 'Chai-Lites': up to the minute news about busy members coming, going, celebrating, being recognized, volunteering, acquiring more titles and running and running—including for the judiciary! You should be in our next Tablets—so please let us know what you're doing!

Past President **Deidre Baumann**, was interviewed by the New York Times in relation to the Chicago mayoral election. <https://www.nytimes.com/2019/04/02/us/chicago-election-lightfoot-preckwinkle.html>

An article authored by recently installed Decalogue President **Helen Bloch**, was published in the Illinois Bar Journal, entitled “To Pay Or Not to Pay: Should You Reimburse Your Employee’s Expenses?” Her piece focused on a recent amendment to the Illinois Wage Payment and Collection Act that became effective January 1, 2019. The new law requires employers to reimburse employees for expenses incurred in the scope of their employment.

At the Illinois Creditors Bar Association annual dinner on April 25, 2019, **Hon. Martin P. Moltz**—our very own, always resplendently outfitted Decalogue Past President—received The Hon. Alexander P. White Award, which is indeed a prestigious recognition. And at the event, Judge Moltz of course stood up and out, this time in a lime green suit jacket with a bright green tie in the center of which was a sunburst shining brightly.

On May 16th, Decalogue Life Board Member **Ralph Ruebner**, received the John Marshall Law School’s 2019 Freedom Award. Now an associate dean emeritus since his retirement in 2015, Ruebner joined the John Marshall faculty in 1981. During his remarkably active career at JM, Prof. Ruebner founded the School’s Criminal Justice Clinic and served as its director for four years. For sixteen years he was also moot court director, and he chaired the law school’s Centennial Planning Committee. Prof. Ruebner was named Associate Dean for Academic Affairs in 2007.

Taylor Riskin accepted a new role as corporate counsel with Athletico. Additionally, in keeping with the theme of “newness” in Taylor’s life, her family recently celebrated the birth of her new nephew, Graham Levi Riskin, for whose bris the whole family was present. Welcome, Graham! May you live long and prosper!

Past President **Mitchell Goldberg** was named Chairperson of the Dean’s Advisory Council at DePaul University’s College of Liberal Arts and Social Sciences. And it is no surprise that Mitchell received a Vanguard Award this April at a special luncheon hosted by the Chicago Bar Association annually to honor those individuals and institutions in the legal community who have “made the law and legal profession more accessible to and reflective of the community at large.” Finally—at least for this issue—Mitchell volunteered “sua sponte” to speak, with his litigation opponent, to a group of high school seniors touring the Daley Center courtrooms on April 25th as part of the Women Everywhere: Partners in Service Education

Day Project, a 20 year old NFP benefitting high school students and community service agencies that support women in need, of which Decalogue is a Bar Partner.

Sandy, the wife of 50-year Decalogue Society member **Ron Stackler**, achieved her Bat Mitzvah several weeks ago in the Malibu Jewish Center and Synagogue. Mazel Tov, Sandy! Ron and Sandy are happily living in retirement in Malibu, California but clearly are keeping busy. Perhaps Malibu is a better environment in which to study for a Bat Mitzvah than Chicago!

Alan E. Sohn recently spoke at the National Business Institute program on probate. Happily for the audience, Alan covered “Complex Issues in Estate Administration.”

Victoria Shoemaker was elected to partnership at Cassiday Schade LLP in February, 2019. Congratulations to Victoria on her important promotion and for being another valuable role model for women seeking advancement in the profession, especially within the law firm practice area.

Transcripts from a precedent setting deportation case that **Richard Hanus**, successfully defended—included up to the U.S. Court of Appeals, 7th Circuit—were adapted verbatim for the theatrical production of “The Courtroom.” The actual case is the subject of the precedent-making decision, *Keathley v. Holder*, 696 F.3d 644 (7th Cir. 2012). The production ran Off Broadway in recent months at various locations across New York City. Following a performance at a New York City Bar Association venue, Richard Hanus participated in a lively panel discussion about the play as well as current immigration law issues.

Past President **Curtis Ross** was just re-appointed to the Illinois State Bar Association’s Assembly Finance Committee by President David Sosin. Congratulations Curtis!

On July 10th, board member **Chuck Krugel** was part of a Financial Poise™ & West LegalEdcenter™ panel presentation entitled “Managing Leaves of Absence and Accommodating Disabilities.” On June 24, 2019, Chuck was featured in VentureClash.com’s article “Should You Require Your Employees to Sign a Non-Compete?” On June 12th, Chuck was quoted in Expert HR’s blog article: “Closing the Strategic Gaps Between HR and Senior Leadership.” On May 16th, Chuck spoke before The Masters Conference for Legal Professionals on their panel “Forensics: Past, Present, Future: Where Are We in 2019?” On May 9th, he participated on a panel for Resolution Economic on the subject of survey design. On May 8th, Chuck was part of Financial Poise & West LegalEdcenter™ webinar HR, “Talent Management & Employment Law Boot Camp: An Ounce of Prevention: Policies, Procedures and Proactivity.” On May 7th, Chuck presented before the Chicago Bar Association’s Solo & Small Firm Practitioners’ Committee on “How to Make Media Contacts & Obtain Media Interviews.” <http://waterwell.org/watch-the-courtroom-trailer/>. It’s exhausting just to imagine Chuck’s schedule!

Chai-Lites (cont’d)

On June 11, 2019, the Illinois Institute for Continuing Legal Education (IICLE) noted its pleasure in announcing the presentation of its 2019 Addis E. Hull Award for Excellence in Continuing Legal Education to **Robert G. Markoff**, Markoff Law, LLC, Chicago. This Award recognizes Bob’s quarter-century of service to IICLE as a general editor, author, lecturer, board member and board chair, and acknowledges his outstanding leadership in Illinois continuing legal education through career-long scholarship and generosity in sharing his knowledge and experience with other Illinois attorneys.

Sharon Eiseman, long-time DSL board member and author of the Chai-Lites section of the Tablets, was recently the recipient of one of four ISBA Board of Governors Awards presented by ISBA President, the Hon. James McCluskey, on June 15th at the Association’s annual meeting in Lake Geneva, Wisconsin. Sharon received the Award “in recognition and appreciation of her service and contribution to the Association and the Bar of Illinois.”

Finally, board member **David Lipschitz**, a seasoned thespian and playwright as well as a very fine attorney, wrote a new play, *The Golden Girls: The Lost Episodes, Vol. 3*, which is currently being presented by Handbag Productions at its 5400 N. Clark St. venue through August. You have time to get tickets and when you go, consider yourself a drama critic and submit your review so we can publish it and support David in the process. David also authored another play, *The Lonely Devil Plays His Fiddle*. It too was produced and by Eclectic Full Contact Theatre, but sadly for us, it ran for one night only—with other plays—as part of the Theatre’s Chicago 24 Festival.

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

In Memoriam: Sid Serota

by Justice Robert E. Gordon

Sid Serota passed away on May 30, 2019, at the age of 94 in Boynton Beach, Florida. His graveside services were private. In 1951, he met the love of his life, Irene, and shortly thereafter they married and spent 67 lovely years together. They had three children, Jeffrey, Scott (Mary), and Ken (Rona); five grandchildren, Steven (Jennifer), Amy (Nick) Parker, Daniel (Chloe), Charlie, and Maddie; and seven great grandchildren, Emma, Lily, Samuel, Drew, Ethan, Dean, and Owen.

Sid was a World War II veteran who received both a Purple Heart and the Bronze Star after being shot in action while saving the life of his comrades. He attended DePaul Law School and was admitted to the Illinois Bar in 1949 and practiced law in Chicago as a sole practitioner for over 40 years concentrating in subrogation, divorce, and real estate matters. Sid was known as an honest, respectful, and competent lawyer who spent most of his time in the courthouse trying subrogation and divorce cases. He had a wonderful temperament and it was always an honor and privilege to have a case with him because he was trustworthy and a real “mensch” in his dealings with everyone. Sid always dangled his trademark unlit cigar outside the courtroom and shared his latest joke.

But most importantly, Sid was a Jew and he was proud of it. He was a member of Decalogue for years, not because Decalogue could do something for him, but because he believed in Decalogue as an organization that would do their best to protect all minorities from bigotry and would promote the American way.

Upon Sid’s death, his family asked that donations be made in his honor to the Decalogue Society of Lawyers Foundation at decaloguesociety.org/donations.

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

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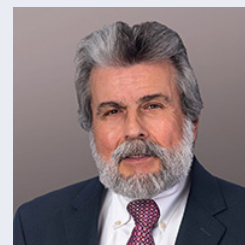


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