



ILLINOIS STATE BAR ASSOCIATION

THE CATALYST

The newsletter of the Illinois State Bar Association's Standing Committee on Women and the Law

Chair's column

By E. Nicole Carrion

It is hard to believe that this is my final column as chair of the Standing Committee on Women and the Law. As I reflect back on the past year, so many things have changed for me personally and professionally, that it is difficult for me to think back to last June at the Abbey, where I chaired my first Women and the Law Committee meeting, and try to sum up this year's activities. Surely, it has been a busy and productive year. The Committee planned and contributed several Cable TV programs and other CLE events. We nominated several deserving women and men in recognition of their service and contribution to the legal profession and public. We analyzed legislative proposals and contributed to the discussion and debate on issues effecting women and the law. And, we had fun! In fact, I think it is fitting that our last major event of the year took place in my hometown. As mentioned in my previous columns, the Women and the Law Committee and Racial and Ethnic Minorities Committee sponsored a reception and program "Women in the Illinois Judiciary" that was held in Mt. Vernon on April 26th. It was well supported by the bar associ-

ation and we had over 100 attorneys and judges attend the evening's three-part event: we started with a tour of the historic 5th District Appellate Courthouse, followed by the reception and program with keynote speaker Michelle Jochner at the fabulous Mitchell Museum Cedarhurst Center for the Arts, and the festivities concluded at past ISBA President Mark Hassakis' home with dessert and live entertainment. I believe everyone had a fabulous time. Please take a moment to peruse the pictures of the event in the most recent edition of Illinois Lawyer Now. Additionally, as a result of the generous sponsors for the program, we were able to benefit the Land of Lincoln Legal Assistance Foundation from donations received from attendees that evening. Thank you to all of my fellow committee members who gave so generously of their time and resources to make this year so successful. It has been a great privilege and honor to serve alongside some spectacular men and women and I am confident that the committee will continue to serve the members of the bar and the legal profession in great and exciting ways in the years to come. ■

The effect of gender in a judicial race

By Angela Evans

In the spirit of celebrating women in the judiciary, I spoke with two Illinois women judges, and asked them to share their experiences as female judicial candidates. Assuming that the experience would be much different for a woman candidate than a man and that being a woman candidate must have played a significant role in their campaign, I was pleasantly surprised that both Judge Gorman and Justice Wright found that running for a judicial position was not much different for a woman than it was for a man. Jus-

tice Wright summarized it well when stating, "forget you are a woman and consider yourself the best candidate. The days are gone when we can focus on our own gender as a reason to run or not to run. If you believe you are the best, forget you are a woman and they will forget you are a woman."

For both Tenth Judicial Circuit Judge Kate Gorman and Third District Appellate Justice Vicki

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The effect of gender in a judicial race

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Wright, who is the most qualified candidate is the most important factor in a judicial race and gender is not a relevant factor; however, gender can have a positive result. Judge Gorman believes that gender is irrelevant from the standpoint of whether the candidate can do a good job. She stated, "I received support because people viewed me as competent, and I had the experience, not because I was a woman." Similarly, Justice Wright stated "I didn't receive negativity based on gender but because of lack of political experience, oddly enough a factor I consider to be an attribute on the bench."

Judge Gorman relayed that women becoming judges does have a positive result because younger women and girls are then able to see a woman on the bench and as a result truly believe that women are capable of doing that job, not just the jobs thought to be conventionally for women. Justice Wright also relayed that she is very proud of the female judiciary in Illinois.

When discussing whether women are more reluctant to campaign for a judicial position, Justice Wright stated that she can-

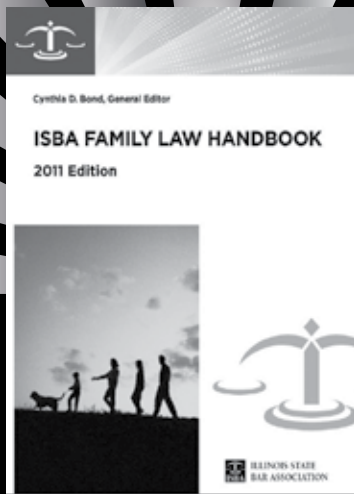
not speak to why other women dropped out of her race in particular and that she ran not because the Appellate court needed a woman, but because she thought it needed trial court experience. Judge Gorman shared that "running for public office is an undertaking that takes time and money. Regardless of gender, it is a commitment that takes away from your family. The decision to run for public office is one that requires measured and thoughtful consideration because it is a grueling process." Judge Gorman further commented, "my decision had little to do with my gender other than as I personally fit into my family unit. My husband and I both have demanding jobs and my concern was for my children."

While both judges seemed to feel their judicial campaigns were only slightly, if at all, impacted by their gender, both had some experience with gender bias. Justice Wright relayed that as a prosecutor she was one of the first female trial attorneys in her area and she was more tolerated in juvenile court than in felony court. She stated, "some of my rulings on the trial bench were identi-

cal to those of male judges and I was more heavily criticized." Judge Gorman shared that "unfortunately, some individuals may believe a female is not suited for the position." For example, during Judge Gorman's campaign, one older gentleman asked her "what is a little girl like you doing running for Judge?"

In sum, it is nice to be able to report that in some of Illinois' more recent judicial races, gender is not a controlling factor. One thing the Women and the Law Committee focused on in its recent celebration of women in the judiciary at Mt. Vernon were the challenges that women in Illinois' history have faced when trying to join the legal profession and the judiciary. My conversations with Judge Gorman and Justice Wright proved that at least some of the challenges of yesterday have slowly faded and today the woman candidate does not have to deal with their gender on top of all of the other challenges that come with a grueling election process. I would like to personally thank Justice Vicki Wright and Judge Kate Gorman for speaking with me and sharing their encouraging viewpoints. ■

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Illinois has a history of some pretty good lawyers. We're out to keep it that way.

Is reform a reality for women in Saudi Arabia?

By Cindy G. Buys and Stephanie Macuiba

The Arab Spring focused attention this past year on political reforms throughout the Middle East. One country in the news with respect to women's rights in particular is Saudi Arabia. In the fall of 2011, the King of Saudi Arabia announced that women would be allowed to vote and run for office in local elections beginning in 2015. To many of us in the United States, it seems incredible that there are still countries in the world that do not extend the right of suffrage and other basic human rights to women. This article provides some background on the Saudi Arabian political and legal systems and on the possibilities for future reforms to expand women's rights.

I. Saudi Legal System Overview

The Saudi legal system is neither comparable to the civil nor common law system. The Saudi system is based on traditional Islamic law, known as *Shari'ah*. *The sources of Shari'ah in Saudi Arabia come from the Quran and the Sunnah*.¹

The King of Saudi Arabia is an absolute monarch and has power to implement laws regarding subject matter that is not expressly mentioned in *Shari'ah*.² Since the creation of the modern state in 1932, the Kings of Saudi Arabia have slowly attempted to reform the legal system from a collection of tribal structures and unorganized courts to a modern legal system.³

Accordingly, the King implemented the Law of the Judiciary in 1975, which still regulates the modern Court System.⁴ However, the King but did not formally authorize legal representation until 2001. Thus, the concept and role of attorneys in Saudi Arabia was an unfamiliar one until very recently.

Additionally, since Saudi Arabia strictly abides to *Shari'ah*, the *Ulama* also play a vital role in the Saudi legal system. *The Ulama are a group of trained Shari'ah jurists and scholars who are often appointed to various positions within the government including as judges and advisors to the King*.⁵

The *Ulama* have spoken out against the codification of legal procedures.⁶ However, since legal procedure is not expressly addressed in *Shari'ah*, the subject falls under jurisdiction of the King.⁷ As a result, civil and criminal procedure has been codified

through Resolutions and Royal Decrees.⁸

II. The Saudi Court System

After coming to power in 2005, King Abdullah came to be known as a 'cautious reformer'.⁹ One of his reforms was the new Law of the Judiciary in 2007. This 2007 Law of the Judiciary mandated judicial reforms with the main objective of creating more judicial independence.¹⁰ In regards to independence, the Supreme Judicial Council (part of the judicial branch) is now in charge of all administrative tasks regarding the judiciary which had formally been controlled by the Minister of Justice (part of the executive).

Structurally, the Saudi Court system consists of Courts of First Instance, which as of 2010, consist of separate civil and criminal courts, Courts of Appeal, and a Supreme Court.¹¹ The Board of Grievances is an administrative tribunal that was set up in 1955.¹² Other separate non-independent tribunals are also present in the Ministry of Commerce and Labor and resolve disputes under their jurisdiction.¹³

However, Saudi Arabia was lacking a Supreme Court (also known as the High Court) until the new Law of the Judiciary mandated its creation in 2007. Now the Supreme Court is composed of judges from various appellate courts and the Court's decisions are final and not subject to approval by the Minister of Justice, as was previously required.¹⁴

III. Qadis (Judges)

Qadis are appointed by Royal Decree from the King after recommendation from the Supreme Judicial Council.¹⁵ According to *Shari'ah*, the greatest role of the Ruler is to establish justice and therefore appointment by the King to the judiciary is not seen as an infringement on judicial independence.¹⁶

Because *Shari'ah* is derived from God, it is interpreted by religious officials as opposed to members of the State.¹⁷ Therefore, *qadis* are extensively trained in religion and the process of using sacred Islamic texts to ascertain the will of God.¹⁸ Graduates of *Shari'ah* institutes automatically qualify to become *qadis* but graduates of law schools must pass an exam administered by the Supreme Judicial Council (judicial branch).¹⁹

Qadis apply *Shari'ah* law to individual

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cases and the outcome becomes binding and final on the parties only, unlike common law which follows precedent.²⁰ Therefore, *qadis* are not obligated to consider previous decisions.²¹ The *qadis* and *Ulama* have consistently ruled against codifying *qadis'* decisions arguing that choosing a particular view takes away the legal reasoning of a *qadi*.²² Instead, the *qadis* are given significant freedom when performing the religious task of ascertaining God's will.²³ *Qadis* are instructed to use six standard (medieval) canonical texts in which majority and minority views are all considered valid.²⁴ *Qadis* are free to choose among these views, with the result that some rulings over identical disputes may diverge.²⁵

IV. Lawyers

Saudi Arabia was one of the last countries in the Middle East and the world to formally recognize the practice of legal representation.²⁶ Historically, the function of a lawyer did not exist and only the limited notion of attorney-in-fact was known, in which a party would appoint (or perhaps hire) another party to pursue its claims in its stead before the court.²⁷ The non-existence of lawyers in Saudi Arabia until recently occurred because the role of the law in *Shari'ah* is to ascertain God's will and was therefore performed by a religiously trained member of society.²⁸

Not until 1997, during a highly publicized trial, was the first person defended by a lawyer.²⁹ This does not mean that a legal field did not exist; it just did not exist in its modern capacity. At the time of the 1997 trial, the Kingdom's economy was rapidly developing with hopes of increased foreign investment. In response to international publicity in regards to the trial and a desire to increase investment, the King administered a Royal Decree that officially authorized legal representation in the Kingdom in 2001.³⁰

According to the Decree, practicing lawyers must be qualified and have an appropriate legal degree from either a *Shari'ah* college or from one of the Saudi Kingdom's universities or its equivalent, if obtained from an overseas university.³¹ Additionally, a graduate with a bachelor's degree must have completed three years of practical training while a graduate with a masters' degree need only receive two years, and a PhD graduate is not required to have any practical experience.³² Furthermore, a lawyer must practice according to the principles of *Shari'ah* and the laws in force in the Saudi Kingdom.³³ Other than upholding the principles of *Shari'ah*, there

are no laws that govern the profession and no uniform criteria for granting licenses.³⁴ As a result, the standard of the legal representation varies.

V. The Role of Lawyers in Saudi Society

Despite having a late start and a legal system based on *Shari'ah*, much of the legal profession in Saudi Arabia is similar to that in other parts of the world. Much of a lawyer's work in the Kingdom is transactional. A basic Google search of "law firms Saudi Arabia" confirms that there are a large number of firms in the Kingdom that cater to business, investment and all the consulting, litigation and arbitration that comes with those fields.

However, there are a few practical and historical differences. Neither civil nor criminal *Shari'ah* is codified.³⁵ Without codified criminal law, society is left with an unclear picture of what constitutes an 'illegal' act. Therefore, a judge may determine that televised fortune telling is "witchcraft," or that dressing 'emo' is un-Islamic.³⁶ Likewise, ascertaining the meaning of laws in *Shari'ah* court is extremely difficult as judges are given significant freedom in interpretation and are not bound by previous decisions.

The role of the attorney in litigation in Saudi Arabia also differs slightly from the role of Western lawyers as it is less adversarial and more inquisitive. In *Shari'ah* Court, it is the role of the judge to question the opposing party and any witnesses, somewhat similar to the judge's role in civil law.³⁷ However, attorneys are still given the responsibility of presenting an oral argument, any relevant evidence, witnesses and defenses before the court.³⁸

Lawyers are still not as present in the courts as lawyers in Western countries because of the long held view that one does not need a representative because breaking the law is an issue between you and God, to be resolved by a religious official. However, with Saudi Arabia's economy growing and foreign investment increasing, the legal profession is taking on a more important role in society. Specifically, the commercial and labor tribunals have become important forums for lawyers to represent their clients in business disputes.

VI. Legal Status of Women

Women have little ability to function independently in Saudi society, which limits their legal rights and roles. Women in Saudi

Arabia are assigned legal guardians. Women must then seek permission from their legal guardian to make personal decisions such as to travel, elect to have surgery, apply for a job or attend school. Legal guardians are a woman's closest male relatives; a father, husband or in the case of a widow or divorcee, her son or uncle.

The Saudi tradition of guardianship is rooted in an arguably misinterpreted verse of the *Qu'ran* that names men as the protectors of women.³⁹ Many scholars have argued that the reasoning for male guardians has become obsolete in modern society while other Islamic scholars have argued that guardianship should only be applied to minors and not extended throughout a woman's life.⁴⁰ Despite the various views on guardianship, the Saudi *Ulama* have chosen to interpret the verse to be the most restrictive on women's freedom.⁴¹

Requiring women to have a legal guardian places an enormous obstacle to a woman's equality in society and burdens her everyday life. Many Saudi women find daily activities impossible. Mundane tasks like purchasing a cell phone, enrolling a child in school, picking up a birth certificate or taking a business trip cannot be done without a male guardian. Additionally, extremely personal decisions cannot be made without permission of a male guardian. Many hospitals still require male permission for certain surgeries and a woman is often denied the ability to file a police report without the presence of a legal guardian.⁴² Women are forced to be completely dependent upon their male guardian.

In addition to women being subjected to the guardianship system, women are not allowed to be the legal guardian of their children.⁴³ However, in exceptional cases, women may be permitted to act in an advisory role (*wisaya*) for children that do not have any available male guardians.⁴⁴

Internal and international forces have routinely pressured King Abdullah to abandon the male guardian system. In 2009, the King accepted recommendations by the United Nations to take small steps to eliminate the guardianship system in the Kingdom.⁴⁵ Despite the Kingdom's promise to eliminate the system, almost no changes have occurred. However, many women have chosen to challenge the system. One woman has been involved in drawn out litigation so that she can choose the husband of her choice.⁴⁶

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Despite outcry for change to the guardianship system, a number of Saudi women have started a campaign against the pressure to abandon the guardianship system. The "My Guardian Knows What's Best for Me" campaign has gained the signatures of over 5000 Saudi women and seeks to guarantee the guardianship system is kept in place to ensure "strict adherence to *Shari'ah* law and family customs."⁴⁷

VII. Women and the Courts

The male guardianship requirement is a major barrier to women's access to the court system. If a woman chooses to file a complaint in court she will find it difficult if she does not have a legal representative.

Within the court itself, one report found that courts generally refuse to recognize women as witnesses and instead will only hear testimony through a male representative.⁴⁸ Another barrier to appearing in court is the fact that a woman is required to bring along a male guardian who is able to confirm the identity of the women while she is wearing *niqab* (headscarf).⁴⁹ One attorney told Human Rights Watch that "the attitude in the *Shari'ah* courts is that people don't need lawyers to deal with the *sheikh* (judge). Of course a woman shouldn't address the *sheikh* herself. If she does, she needs to wear *niqab*. It's preferred that a *mahram* (legal guardian) speaks for her."⁵⁰ While women are not officially banned from appearing in courts, in practice women face many obstacles and hostilities that constructively prevent their participation in the judicial system.⁵¹

VIII. Female Lawyers

Considering the obstacles women face with legal guardianship and court participation, it is no wonder that only 5 percent⁵² of the workforce is female. Although women were allowed to attend law school beginning in 2006, female attorneys are essentially blocked from practicing law. Currently, female law graduates can work in the women's section of law firms and government offices, but cannot argue cases before court as lawyers.⁵³ Some women have been allowed to argue cases in court on the behalf of other women as legal representatives, but not officially as lawyers.⁵⁴

The government has yet to issue rules and regulations certifying the profession of female attorneys in Saudi Arabia.⁵⁵ For this reason, women are unable to receive the official title of lawyer in the Kingdom and,

therefore, are not able to become officially certified which prevents them from opening their own offices.⁵⁶ Saudi Arabian society is highly segregated and opening law offices run by women would afford women the opportunity to practice law without violating the societal taboo of mixing the sexes.⁵⁷

Despite the large obstacles women face in Saudi Arabian in regards to gender equality, there has been some recent progress. In 2010, the Saudi government officially released its plan to 'reform' the court system by allowing women to argue cases on child-custody, divorce and other family-related issues in special courts as lawyers.⁵⁸ Currently, those special courts for women are still in development within the Kingdom.⁵⁹

IV. Current Developments in Women's Rights

Despite the bleak reality of lack of women's freedoms in the Kingdom, King Abdullah has pushed women's rights further than any other Saudi monarch. On September 25, 2011, the King announced that women would be able to vote and run for municipal office in the 2015 elections.⁶⁰ Three months later, the King announced that women would be able to participate in the elections without the permission of their guardians.⁶¹ In this same announcement, the King announced that women would also be able to join the *Shura* Council with full voting powers.⁶² The *Shura* Council is an appointed advisory board to the King and currently contains 12 women that do not yet have the power to vote.⁶³ However, women in Saudi Arabia still cannot drive and do not enjoy many other basic human rights and fundamental freedoms. Thus, it appears that the King is continuing to live up to his reputation as a "cautious reformer."[■]

Cindy G. Buys, Professor of Law at Southern Illinois University School of Law and Stephanie Macuiba, JD expected 2013, Southern Illinois University School of Law.

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2. Esmaeili, *supra* note 1 at 31.

3. *Id.* at 29.

4. *Id.* at 32.

5. *Id.* at 40

6. Abdulaziz H. Al Fahad, *The Prince, the Shaykh - and the Lawyer*, 32 *Case W. Res. J. Int'l L.* 307, 315 (2000).

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12. Samir Shamma, *Law and Lawyers in Saudi Arabia*, 14 *Int'l & Comp. L. Q.* 1034, 1037 (1965).

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14. Abdullah F. Ansary, *A Brief Overview of the Saudi Arabian Legal System* (2008), <http://www.nyulawglobal.org/globalex/saudi_arabia.htm>.

15. *Id.*

16. *Id.*

17. Trumbull, *supra* note 1 at 630.

18. *Id.* at 627.

19. Ansari, *supra* note 10.

20. Trumbull, *supra* note 1 at 626.

21. *Id.* at 629.

22. *Id.*

23. *Id.*

24. Al Fahad, *supra* note 6 at 315.

25. Trumbull, *supra* note 1 at 629.

26. Esmaeili, *supra* note 1 at 35.

27. Al Fahad *supra* note 6 at 317.

28. Joseph L. Brand, *Aspects of Saudi Arabian Law and Practice*, 9 *B.C. Int'l & Comp. L. Rev.* 1, 15 (1986).

29. The first case in which parties to a case were represented by a lawyer was the case of two British nurses, Deborah Parry and Lucille McLaughlin, accused and convicted for the murder of an Australian nurse, Yvonne Gilford, in 1997. Both the victim and the defendants were foreign, Western nationals. The case was the subject of international media attention and both the British and Australian governments intervened to protect their nationals, Esmaeili, *supra* note 1 at 35.

30. *Id.* at 34. See also Royal Decree M/38, 28 Rajab 1422 (Oct. 15. 2001) (The Code of Law Practice).

31. *Id.*

32. Khaled Benjelayel and Nima Mersadi Tabari, *How to Qualify as a Lawyer in Saudi Arabia, International Bar Association*, <http://www.ibanet.org/PPID/Constituent/Student_Committee/qualify_lawyer_SaudiArabia.aspx>.

33. *Id.*

34. Al Fahad *supra* note 6 at 318.

35. Frank E. Vogel, *Saudi Arabia: Public, Civil and Individual Shari'a in Law and Politics in Shari'ah Politics: Islamic Law in the Modern World* 55, 58 (Robert W. Hefner ed., 2011).

36. Christoph Wilcke, Human Rights Watch, *Looser Rein, Uncertain Gain* 37 (September 2010) available at <<http://www.hrw.org/sites/default/files/reports/saudi0910webwcover.pdf>>. In October 2009, for example, a court in Medina found television presenter Ali Sibati guilty of "sorcery" for his work in Lebanon on a program that gave

callers-in advice about the future while girls and women were arrested for wearing black clothes associated with 'Western style emo' music, *Id.*

37. *Law of Procedure before Shari'ah Courts* (2000), *Royal Decree No.M/21, 20 Jumada I*, 1421 [19 August 2000], Part Five, Hearing Procedure and Order, Royal Embassy of Saudi Arabia Washington D.C., available at <http://www.saudiembassy.net/about/country-information/laws/Law_of_Procedure_before_Shariah_Courts.aspx>.

38. *Id.*

39. Farida Deif, Human Rights Watch, *Perpetual Minors* 10 (April 2008) ("Sura 4 verse 34 of the Quran states, "Men are the protectors and maintainers of women, because God has given the one more [strength] than the other, and because they support them from their means."").

40. *Id.* at 11.

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43. *Id.* at 32.

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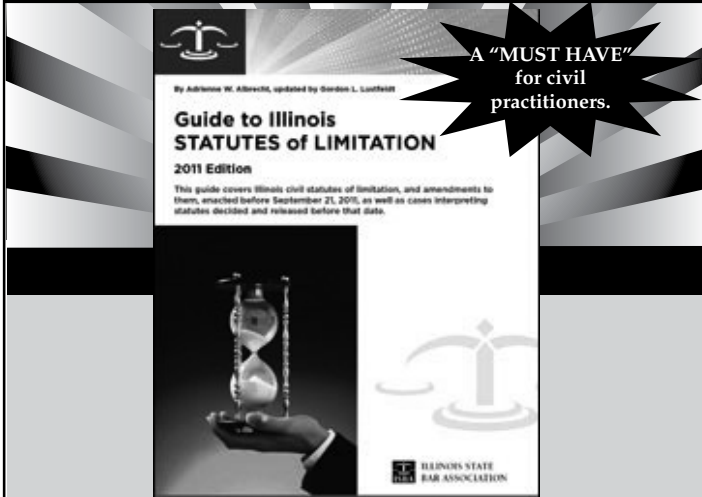
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Book review: *Made to Stick. Why Some Ideas Survive and Others Die*

By Janice L. Boback

I was introduced to this book by a member of a networking group, a salesman, who thought it would be helpful to those of us in other professions. The book was on the New York Times Bestseller list and piqued my interest because, as lawyers, the ability to sell is important. We work as salesmen when we try to retain clients or when we try to encourage a judge to “buy” our argument. Two fundamentally essential elements to the litigator’s practice. If we did not have clients, we would not be in front of a Judge trying to sell our side of the case. If we were unable to convince a judge once in a while that our arguments were correct, then we probably would not have very many clients. Based on this profound analysis, I bought the book and was hopeful that it would have some useful information for me as a lawyer. I was pleasantly surprised.

The book starts out by talking about urban legends and, even though the stories are not factual, they are easily remembered and repeated over and over by so many. I was fascinated to read about the scare during Halloween season in the 70s. It was during that time that every parent had a fear that drugs, needles or razor blades could have been placed in a treat that their child received from a stranger on Halloween night. I vividly remember this as a child. I remember being lectured about this at school, advertisements on local television about our hospital would be offering free X-rays of candy collected by children. Every parent was compelled to sift through their children’s candy collected and throw away anything that was unwrapped or looked suspicious. Apparently, no cases exist where this actually happened. I thought for sure that numerous children had found razor blades in the apples they had been given on Halloween night. The book points out those researchers studied every reported Halloween incident from 1958 and found that two children did die on Halloween but the deaths were not from treats contaminated by a stranger.

How does this happen? How does a story like this become so real to so many people? The use of vivid concrete images that have the ability to stay in our memories are essential when you want to get your point across.

Six principles to making sure your story

sticks:

1. Simplicity. Don’t argue 10 points when you can get results by arguing two.
2. Unexpectedness. Say something to generate interest and curiosity.
3. Concreteness. Stories must be presented to allow the listener to visualize.
4. Credibility. Back up for your argument or Idea with sources
5. Emotions. Make the listener feel anger, disgust, sad, sorrowful, happy.
6. Stories. Story telling

The Book lists several examples of these principles at work and concludes that every story that “sticks” is comprised of these six principles. When you look at the list you might be thinking that most of us already know that in order to communicate effectively we have to be simple and tell a story. The six principles should be easy to implicate and anyone who reads this should have an abundance of, what the book refers to as “brilliantly designed sticky ideas.” However, that is not the case. Even though it appears to be common sense and uncomplicated, the book explores the “Curse of Knowledge” which I found fascinating and especially applicable to us lawyers trying to tell our story or argument to a judge.

The “Curse of Knowledge” is something that we have and blocks our ability to put ourselves in the shoes of the person listening to our story. This “Cures” was studied in 1990 by a Ph.D. in psychology at Stanford by using a simple game called “Tapper and Listener.”

This section of the book was so interesting and very relevant to what we do in the courtroom. I practice in the area of domestic relations and I have argued both sides of a case on the same issue time and time again. I know the Judge has heard the arguments and sometimes I often times assume the Judge knows what I am talking about and will understand my point of view. I don’t want to appear to suggest that the judge needs to be educated so I have to make a strong compelling argument without too much unnecessary legal or statutory detail.

The book details this game, Tapper and Listener” done with two groups. One group were the “tappers” and the other group were

the “listeners.” A tapper was to tap out a well known song on a table while sitting across from a listener. Songs like, Happy Birthday, Twinkle Twinkle Little Star and Star Spangled Banner. The tappers estimated that the listeners would guess 50% of the songs correctly, but in actuality the listeners were only able to guess only 2.5% of the songs. The fundamental lesson is that when tappers are tapping the song, they hear it in their heads. Try it, it is impossible to tap out the tune “Happy Birthday” on the table without hearing the song in your head. The listener, on the other hand, cannot hear the song in their head but only hear the tap - tap - tap. The tappers are shocked when the listener does not guess the song, The tappers reported thinking, “isn’t it obvious what song this is” or “how could you be so stupid.”

Everyone agreed, it is most difficult to be the tapper. The tapper is the one with the knowledge and it is hard to understand what it is like to not have that knowledge. Hence the “Curse of Knowledge.” We as lawyers are “tappers” and the Judge’s are “listeners” both the tapper and the listener know the very popular Happy Birthday Song for sure, but when the lawyer is standing before the bench tapping out their argument they hear the song in their head and it is hard to believe that the Judge is not picking up on what they are saying. But remember, the Judge does not hear the song in their head, all they hear are disconnected taps.

There is a very important lesson here. We have to make sure that we lawyers, as tappers, are not cursed by the knowledge, by what we hear in our heads as we are laying out our arguments. The listener can only hear and understand our words, not what we think we are saying or trying to say but what we actually are able to articulate. To make the story or argument we are articulating memorable, as we learned above, we implement the six principles. The book discusses other barriers to our ability to implement the six principles and I have only discussed the “Curse of Knowledge” but I would encourage anyone interested in obtaining a great strategy for making your ideas and argument’s stick with someone, to pick up the book titled *Made to Stick. Why Some Ideas Survive and Others Die* written by Chip & Dan Heath. ■

Photos

The Women and the Law Committee, along with the Racial and Ethnic Minority Committee and other sponsors, hosted a program and reception on April 26, 2012 at the 5th Appellate District in Mt. Vernon. The program highlighted women in the Illinois Judiciary and featured a keynote address by Michele M. Jochner on the history of women lawyers and judges in Illinois, as well as the Illinois Supreme Court Historic Preservation Commission's exhibit titled "Early Illinois Women Lawyers." Below are some photos from the event. ■



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Monday, 7/9/12- Webinar—Introduction to Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary to ISBA Members. 9-10.

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Wednesday, 7/11/12- Webinar—Advanced Tips for Enhanced Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary to ISBA Members. 9-10.

Thursday, 7/12/12- Teleseminar—Ethics and Dishonest Clients. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 7/17/12- Teleseminar—Practical Issues in Trust Administration. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 7/17/12- Live Studio Web-cast—Admitting Facebook Pages Into Evidence. Presented by the ISBA Committee on Legal Technology. 12-1.

Thursday, 7/19/12- Teleseminar—Employee Separation Agreements: Reducing Risk and Liability When Employees are Discharged or Leave. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 7/24/12- Teleseminar—Commercial Real Estate Workouts: Making Broken Deals Work Again, Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 7/25/12- Teleseminar—Commercial Real Estate Workouts: Making Broken Deals Work Again, Part 2. Presented by the Illinois State Bar Association. 12-1.

Monday, 7/30/12- Webinar—Boolean (Keyword) Search for Lawyers. Presented by

the Illinois State Bar Association- Complimentary to ISBA Members. 9-10.

Tuesday, 7/31/12- Teleseminar—Special Needs Trusts. Presented by the Illinois State Bar Association. 12-1.

August

Thursday, 8/2/12- Teleseminar—Estate Planning for Pets. Presented by the Illinois State Bar Association. 12-1.

Monday, 8/6/12- Webinar—Introduction to Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary to ISBA Members. 12-1.

Tuesday, 8/7/12- Teleseminar—Ethics in Employment Law and Practice. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/8/12- Webinar—Advanced Tips for Enhanced Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary to ISBA Members. 12-1.

Thursday, 8/9/12- Teleseminar—Structuring Tax Free Mergers and Acquisitions. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 8/14/12- Teleseminar—Understanding Fiduciary Income Taxation for Estate Planners, Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/15/12- Teleseminar—Understanding Fiduciary Income Taxation for Estate Planners, Part 2. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 8/21/12- Teleseminar—Innocent Spouse Defense. Presented by the Illinois State Bar Association. 12-1.

Monday, 8/27/12- Webinar—Boolean (Keyword) Search for Lawyers. Presented by the Illinois State Bar Association- Complimentary to ISBA Members. 12-1.

Tuesday, 8/28/12- Teleseminar—Essential Due Diligence in Business Transactions.

Presented by the Illinois State Bar Association. 12-1.

September

Friday, 9/7/12- Chicago, ISBA Chicago Regional Office—Child Custody and the Military Family. Presented by the ISBA Family Law Section and the ISBA Military Affairs Committee. All day, exact time TBD (lunch and reception included).

Friday, 9/7/12- Teleseminar—Valuing Closing Held Interests and Effective Planning without Discounts. Presented by the Illinois State Bar Association. 12-1.

Monday, 9/10/12- Webinar—Introduction to Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary to ISBA Members. 2:30-3:30.

Wednesday, 9/12/12- Webinar—Advanced Tips for Enhanced Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary to ISBA Members. 2:30-3:30.

Thursday, 9/13/12-Saturday, 9/15/12- Itasca, Westin Hotel—8th Annual Solo and Small Firm Conference. Presented by the Illinois State Bar Association. Time TBD.

Tuesday, 9/18/12- Teleseminar—Ethics in Pre-Trial Investigations. Presented by the Illinois State Bar Association. 12-1.

Thursday, 9/20/12- Teleseminar—Tax Planning for the Entrepreneur. Presented by the Illinois State Bar Association. 12-1.

Thursday, 9/20/12- Chicago, ISBA Chicago Regional Office (DNP)—Introduction to Improvisation for Lawyers: Basic Communication Skills for Public Speaking, Teaching and Presenting. Complimentary for ISBA Law Ed Faculty. 9-11; 12-2; 2:30-4:30.

Thursday, 9/20/12- Chicago, ISBA Chicago Regional Office—Introduction to Improvisation for Lawyers: Basic Communication Skills for Attorneys. Presented by the Illinois State Bar Association. 9-11; 12-2; 2:30-4:30. ■