



# THE CHALLENGE

The newsletter of the Illinois State Bar Association's Standing Committee on Racial and Ethnic Minorities and the Law

## Chair's column

By Daniel R. Saeedi

As many of you have been waiting for patiently, Spring has finally arrived, bringing not only warmer weather and sunnier skies but also the fresh air of a new year. From my ethnic heritage, I can tell you that Spring is so important that for the last 2000-plus years it has been a holiday in Persia: "Nowruz," meaning "The New Day," is celebrated by Persians on the equinox each year (March 21). All around the world, and here in Chicago, Spring is a time that many people look forward to, eager of the coming year's events.

The Committee also undertook another successful cable TV programming on the topic of affordable housing and tenants' rights. The program aired throughout the month of March on the ISBA's time-slot on CAN-TV. We had a strong list of panelists, including the Committee's very own Beverly Yang, who talked about various issues involving tenants' rights.

Spring, in addition to anticipation and hope,

sometimes means change. We are sad to note that the Committee's longtime ISBA staff liaison, Janet Sosin, will no longer be a part of our Committee. After countless years of faithful service to the ISBA, Janet is voluntarily stepping down from her position, which will give her some time to pursue other interests. We as a Committee are fully aware of all of the contributions that Janet has made to the various programs that we have organized. We wish Janet the very best- she will be missed.

The Committee looks forward to a new productive year. On a personal note, while I have had a wonderful time chairing the Committee, I look forward to ending the bar year strong and passing the torch to my distinguished and energetic colleagues Jameika Mangum as the new chair and Beverly Yang as the vice chair.

Best,

Daniel R. Saeedi ■

## Identifying and combating human trafficking

By Ivy O. Suriyopas

Every person should have a fair opportunity to thrive. Human trafficking occurs when a person loses the pursuit of that chance because she operates in a climate of fear in the workplace, making her feel isolated or invisible. Legally, she has to demonstrate that she experiences some type of force, fraud, or coercion that keeps her working against her will. An extremely exploitative employer who abuses her power and severely limits the worker's movements and access to help has crossed the line from merely violating employment law into infringing laws against involuntary servitude, forced labor, pe-

onage, or debt bondage—also known as "modern-day slavery."

Human trafficking is a complex phenomenon. Women, men, and children can be trafficked. Undocumented immigrants, visa and green card holders, and U.S. citizens can be trafficked. The educated, unskilled laborers, seasonal workers, or persons who operate in the informal economy can be trafficked. A person can be trafficked to work on a farm, a restaurant, a hotel, a brothel, or a household as a

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domestic worker. Traffickers can be women, men, corporations, small business owners, smugglers, complex crime syndicates, government contractors, diplomats, or pimps. Traffickers exploit and abuse persons who are in vulnerable situations and who may be unaware of or unable to assert their rights and seek assistance.

Domestic workers, for instance, are already extremely vulnerable to economic exploitation because of their isolation in private households. The federal government's failure to provide them with the same kind of employment law protections as other workers under the Fair Labor Standards Act, such as the lack of overtime pay for live-in workers, increases the likelihood of mistreatment. Domestic workers in diplomat households face even greater challenges because they have limited options to find alternative employment; for many of these workers, if they are experiencing poor working conditions, their essential choice is either to endure or complain and risk being returned to their home countries. In *Baoanan v. Baja*, a former nursing school student alleged that a Philippine permanent representative to the United Nations and his family defrauded her and subjected her to involuntary servitude and debt bondage by making her their domestic worker to satisfy a supposed debt. There have been a host of similar cases in which domestic workers of diplomats and consuls have filed criminal and civil complaints against their employers, such as *Swarna v. Al-Awadi* and *Sabbithi v. Al Saleh*. The Government Accountability Office issued a report, "Human Rights: U.S. Government's Efforts to Address Alleged Abuse of Household Workers by Foreign Diplomats with Immunity Could be Strengthened," on the prevalence of this issue.

Another example of a human trafficking case is *U.S. v. Carreto*. There, the defendants were convicted of smuggling Mexican women into the U.S. and forcing them into prostitution. The defendants operated out of Tenancingo, Tlaxcala, Mexico, a town built on sex trafficking where there is little alternative employment. The Carreto brothers were just one operation out of an estimated 1,000 traffickers in the region. Wealthy men defraud Mexican, Central American, and South American women and girls from poor backgrounds into believing that they are in loving relationships, offering them marriage or work. The State Department issued

a memorandum, "Tenancingo Bulletin #1—The Anatomy of a Trafficking Ring: Origins and Recruitment," that described the typical patterns that these syndicates follow.

A final illustration of human trafficking involves workers who enter the U.S. on temporary guestworker visas. An overseas recruiter generally advertises job opportunities in the U.S.; certain promises are made about the working and housing conditions in the U.S.; an attorney connected with the employer arranges for the H-2A or H-2B visas, sometimes for a fee; the employer may test the prospective worker or provide some kind of training, sometimes for a fee; the worker often borrows money in order to pay for the numerous fees and travel expenses; the recruiter, attorney, or employer may advise the worker on how to prepare for the interview at the U.S. embassy or consulate; and the worker arrives in the U.S. and starts working for the employer. However, in a trafficking situation, the worker often faces dramatically different working conditions than initially promised. The pay may be drastically lower or nonexistent; the worker may face deductions in pay for housing, transportation, or other hidden expenses; the number of hours per week may be substantially higher, or the worker may be even expected to be on-call 24 hours a day, seven days a week; the housing conditions may be crowded, unhygienic, or in violation of federal regulations; and the employer may make threats to call the authorities or repatriate the worker for complaining about the conditions. *David v. Signal* and the Equal Employment Opportunity Commission's companion case, *EEOC v. Signal*, are civil actions involving guestworkers from India with claims against a corporation and various other entities for their alleged mistreatment. The suit claims that a class of nearly 500 Indian guestworkers were trafficked into the U.S. through the H-2B guestworker program to work in shipyards in the aftermath of Hurricane Katrina and were subjected to labor camps, fraudulent pay, and threats of physical harm, among other violations. In *U.S. v. Terechina*, the defendant, who admitted to withholding guestworkers' passports and immigration documents, was sentenced to prison and ordered to pay almost \$250,000 in restitution to her guestworker victims who worked in hotels as housekeepers and laundry workers in Columbus, Ohio.

Human trafficking has impacted every facet of the economy – from the workers that

take care of our children to the food we eat. Consider the root causes: poverty, vast unemployment, limited educational or professional opportunities, and demand for cheap products and services, familial conflict or lack of services and support for youth, mentally-challenged persons, and other vulnerable domestic populations; and discrimination against women, rigid immigration policies for migrant workers, and natural disasters or conflicts in origin countries. The federal government has attempted to address some of these factors as part of its efforts to prevent human trafficking. The State Department, for instance, has supported the Web site <[www.slaveryfootprint.org](http://www.slaveryfootprint.org)> in its attempts to educate the public about the supply chains of products they consume. This website will estimate the number of "slaves" or forced labor victims that were used in the production of various goods, such as chocolate, jewelry, or clothing. States such as California, meanwhile, passed the California Transparency Supply Chains Act, which requires retailers and manufacturers to their efforts to eradicate human trafficking from their supply chains for goods offered for sale. Representative Carolyn Maloney (D-NY14) has introduced a similar bill, the Business Transparency on Trafficking and Slavery Act (HR.2759), that would require similar efforts on a federal level.

Another way the federal government has tried to combat trafficking has been to track and rate governments' efforts to end this human rights violation worldwide. The State Department issues an annual Trafficking in Persons (TIP) Report, which was released on Juneteenth, 2012. Less than three weeks after the International Labour Organization issued its report on forced labor estimating trafficking to be 20.9 million worldwide, the State Department's TIP Report estimated 27 million women, men, and children to be trafficked around the world. It ranked countries on six continents on three tiers plus a "watch list," including the U.S. Although the U.S. is ranked on Tier 1, the federal government's efforts have many areas where it can improve, including developing its training of its law enforcement agencies to better identify human trafficking.

Similarly, private professionals and state and local agencies can assist in recognizing human trafficking. Employment attorneys should screen for human trafficking by inquiring about the gap between the worker's expectations of the working conditions and

promises that were made and the actual working conditions. They should ask whether the worker felt free to leave; if not, inquire about what kept the worker from leaving (e.g. fear of serious harm to the worker or the worker's loved ones, real or alleged debts with severe consequences for nonpayment, threats to contact law enforcement or immigration authorities). Immigration attorneys should similarly inquire about working conditions for their clients, especially if they arrived in the U.S. through the temporary guestworker program (H-2A or H-2B visas), as personal employees for diplomats and consuls (A-3 or G-5 visas), or through the summer work travel program (J visas). Attorneys that work with domestic violence victims should ask about whether the violent partner made the client perform labor or services. Family law attorneys or lawyer working with juveniles should inquire about the young person's activities outside of school, if she attends school at all. Finally, prosecutors and criminal defense attorneys for persons arrested for prostitution and related crimes should inquire about the age of the defendant; if the defendant is under 18 years old and engaged in commercial sex, that person is a victim of sex trafficking under federal law. If the defendant is an adult, criminal attorneys should ask about whether the defendant was obliged or felt coerced to engage in sexual services. It is helpful and strongly recommended for attorneys, especially those who work with victims who are experiencing trauma, to partner with experienced social providers to address the multiple needs trafficking survivors have. These needs may include medical assistance, counseling, housing, employment, and access to public benefits. The Freedom Network (USA) is a national coalition of experienced attorneys that can be contacted for technical assistance and social service providers with whom attorneys can partner.

The Trafficking Victims Protection Act (TVPA) has been reauthorized with bipartisan support since its inception in 2000 – until last year. Like the Violence Against Women Act (VAWA), which also has provisions that seek to assist victims of crimes including trafficking victims, Congress failed to reauthorize this vital legislation in 2011. Senator Patrick Leahy's (D-VT) S.1301 bill has 46 cosponsors, including 11 Republicans, while Representative Chris Smith's (R-NJ) HR.3589 bill has 16 cosponsors, solely Republican. The Senate's bill preserves the

ability of experienced anti-trafficking advocates and service providers to serve human trafficking survivors, while the House's bill includes changes in victim services funding sources that causes the bill to be partisan. History has shown how effective our government can be when our government's leaders rise above the political fray and focus on what matters most – in this case, the victims of human trafficking and other crimes. As we approach the 150<sup>th</sup> anniversary of the signing of the Emancipation Proclamation, demand that your senators and representatives cosponsor the Senate's bill to reauthorize the TVPA and continue the fight to end the scourge of human trafficking.

### Editorial Note

In February 2013, both the U.S. Senate and House of Representatives passed the Violence Against Women Reauthorization Act (VAWA), which included an amendment that reauthorized the Senate version of the Trafficking Victims Protection Act. On March 7, 2013, President Obama signed VAWA into law. Several other bills regarding human trafficking have been introduced, including the Human Trafficking Reporting Act (HR 906 and S. 413) introduced by Representative John Carter (R-TX31) and Senator John Cornyn (R-TX); a bill to better enable state child welfare agencies to prevent human trafficking (HR 1732), introduced by Representative Karen Bass (D-CA37); and the Border Security, Economic Opportunity, and Immigration Modernization Act also known as the "comprehensive immigration reform" bill (S. 744), introduced by Senators Charles Schumer (D-NY) and John McCain (R-AZ) has provisions that relate to foreign labor contractors. ■

Ivy O. Suriyopas is director of the Asian American Legal Defense and Education Fund's Anti-Trafficking Initiative. She provides legal representation, conducts community education and outreach, and engages in policy advocacy on sex and labor trafficking issues. Ms. Suriyopas serves as a Freedom Network Co-Chair and a steering committee member of the NY Anti-Trafficking Network. She co-authored the third edition of "Identification and Legal Advocacy for Trafficking Survivors" and the first edition of "Immigration Relief for Crime Victims: The U Visa Manual." She received her J.D. from the University of California, Hastings College of the Law and her B.S. in Policy Analysis and Management from Cornell University.

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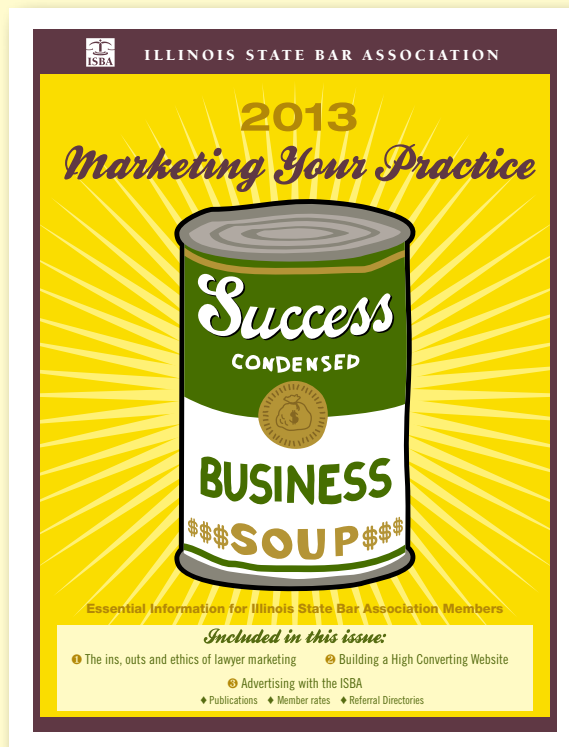


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## ISBA presents cable programs on affordable housing and tenants' rights

***Tenant Rights in Subsidized Housing***, a half-hour program presented by "Illinois Law," a cable production of the Illinois State Bar Association (ISBA), aired on Chicago Access Network Television, Channel 21 in Chicago, on Tuesdays, March 12 and 26, 2013.

Appearing on the shows were (from left) Jeremy P. Bergstrom, staff attorney/Housing Justice, Sargent Shriver National Center on Poverty Law, in Chicago; Beverly Yang, Land of Lincoln Legal Assistance Foundation, Inc., in Alton; program moderator Nancy K. McKenna, of Provena Health, in Chicago; and J. Damian Ortiz, a clinical professor for the Housing Clinic at The John Marshall Law School, in Chicago.

The 32,000-member ISBA ([isba.org](http://isba.org)), with offices in Springfield and Chicago, provides professional services to Illinois lawyers, and education and services to the public through a [website](http://illinoislawyerfinder.com) ([illinoislawyerfinder.com](http://illinoislawyerfinder.com)), a cable television program ("Illinois Law"), consumer brochures, and distribution of legal information. ■



(From left) Jeremy P. Bergstrom, staff attorney/Housing Justice, Sargent Shriver National Center on Poverty Law, in Chicago; Beverly Yang, Land of Lincoln Legal Assistance Foundation, Inc., in Alton; program moderator Nancy K. McKenna, of Provena Health, in Chicago; and J. Damian Ortiz, a clinical professor for the Housing Clinic at The John Marshall Law School, in Chicago.

***Affordable Housing Development and Management***, a half-hour program presented by "Illinois Law," a cable production of the Illinois State Bar Association (ISBA), aired on Chicago Access Network Television, Channel 21 in Chicago, on Tuesdays, March 5 and 19, 2013.

Appearing on the shows were (from left) Dilia Camacho-Saeedi, vice president of property management, Hispanic Housing Development Corporation, in Chicago; program moderator Nancy K. McKenna, of Provena Health, in Chicago; and Britt Shawver, chief executive officer, Housing Opportunities for Women, in Chicago.

The 32,000-member ISBA ([isba.org](http://isba.org)), with offices in Springfield and Chicago, provides professional services to Illinois lawyers, and education and services to the public through a [website](http://illinoislawyerfinder.com) ([illinoislawyerfinder.com](http://illinoislawyerfinder.com)), a cable television program ("Illinois Law"), consumer brochures, and distribution of legal information. ■



(From left) Dilia Camacho-Saeedi, vice president of property management, Hispanic Housing Development Corporation, in Chicago; program moderator Nancy K. McKenna, of Provena Health, in Chicago; and Britt Shawver, chief executive officer, Housing Opportunities for Women, in Chicago.

## Upcoming CLE programs

To register, go to [www.isba.org/cle](http://www.isba.org/cle) or call the ISBA registrar at 800-252-8908 or 217-525-1760.

### June

**Monday, 6/3/13- Teleseminar**—Asset Purchase Deals- Securing Value & Limiting Liability, Part 1- Live Replay from 2/11/13. Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 6/4/13- Teleseminar**—Asset Purchase Deals- Securing Value & Limiting Liability, Part 2- Live Replay from 2/11/13. Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 6/4/13 - Webinar**—Introduction to Legal Research on Fastcase. Presented by the Illinois State Bar Association - Complimentary to ISBA Members Only. 10:00 - 11:00 a.m. CST.

**Wednesday, 6/5/13- Teleseminar**—Life Insurance and Estate Planning. Presented by the Illinois State Bar Association. 12-1.

**Thursday, 6/6/13 - Chicago, ISBA Regional Office**—Introduction to Public Private Partnerships (P3s). Presented by the ISBA Construction Law Section, Co-sponsored by the ISBA Local Government Section. 8:30 am - 12:30 pm.

**Thursday, 6/6/13- Live Studio Webcast (Studio only)**—The Style Manual: A Webcast on Writing in the Illinois Courts. Presented by the ISBA Bench and Bar Section. 1:55-3:00.

**Thursday, 6/6/13 - Webinar**—Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association - Complimentary to ISBA Members Only. 10:00 - 11:00 a.m. CST.

**Friday, 6/7/2013 - Chicago, ISBA Chicago Regional Office**—5th Annual Animal Law Conference. Presented by the ISBA Animal Law Section. 8:30 a.m. - 4:45 p.m.

**Friday, 6/7/2013 - Live Webcast**—5th Annual Animal Law Conference. Presented by the ISBA Animal Law Section. 8:30 a.m. - 4:45 p.m.

**Friday, 6/7/13 - Bloomington, Double-Tree by Hilton**—Criminal Law Back to Basics.

Presented by the ISBA Criminal Justice Section. 8:30 - 4:00.

**Monday, 6/10/2013 - Live Studio Webcast (STUDIO only)**—Getting Paid in Commercial Cases - Fee Arrangements from A to Z. Presented by the ISBA Commercial Banking, Collections and Banking Section. Noon - 1:00 pm.

**Monday, 6/10/13- Teleseminar**—Liquidity Planning in Estates and Trusts- Live Replay from 2/8/13. Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 6/11/13- Teleseminar**—2013 Estate & Trust Planning Update, Part 1. Presented by the Illinois State Bar Association. 12-1.

**Wednesday, 6/12/13- Teleseminar**—2013 Estate & Trust Planning Update, Part 2. Presented by the Illinois State Bar Association. 12-1.

**Thursday, 6/13/13- Teleseminar**—Drafting Confidentiality and Non-disclosure Agreements- Live Replay from 3/14/13. Presented by the Illinois State Bar Association. 12-1.

**Thursday, 6/13-14/12- Chicago, Sofitel Chicago Water Tower**—Great Lakes Benefits Conference. Presented by the ASPPA and the IRS; co-sponsored by the ISBA Employee Benefits Section.

**Thursday, 6/13/13- Live Studio Webcast**—Medicare and its Impact on Tort Practitioners. Presented by the ISBA Tort Law Section. 9:30-11:30.

**Friday, 6/14/2013 - Chicago, ISBA Regional Office**—Ethics of Persuasion. Master Series Presented by the Illinois State Bar Association. 9:00 - 3:00

**Tuesday, 6/18/13- Teleseminar**—Planning & Drafting LLC Operating Agreements, Part 1. Presented by the Illinois State Bar Association. 12-1.

**Wednesday, 6/19/13- Teleseminar**—Planning & Drafting LLC Operating Agree-

ments, Part 2. Presented by the Illinois State Bar Association. 12-1.

**Wednesday, 6/19/13 - Webinar**—Introduction to Boolean (Keyword) Search. Presented by the Illinois State Bar Association - Complimentary to ISBA Members Only. 10:00 - 11:00 a.m. CST.

**Friday, 6/21/13- Lake Geneva, Grand Geneva Resort and Spa (Annual Meeting)**—Legal Ethics and Social Media. Presented by the ISBA Standing Committee on Law Office Management and Economics.

**Friday, 6/21/13- Lake Geneva, Grand Geneva Resort and Spa (Annual Meeting)**—Deliver Knockout Presentations Your Audience Won't Forget. ISBA's Law Ed Faculty Development Series: The Art of Effective Communication. Exclusively for ISBA Law Ed Faculty (and for those who want to become Law Ed Faculty). 8:30am-11:45am.

**Friday, 6/21/13- Lake Geneva, Grand Geneva Resort and Spa (Annual Meeting)**—Introduction to Legal Research. Presented by the Illinois State Bar Association- Complimentary to ISBA Members Only. 9:00-10:00am.

**Friday, 6/21/13- Lake Geneva, Grand Geneva Resort and Spa (Annual Meeting)**—Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association- Complimentary to ISBA Members Only. 10:15-11:15am.

**Friday, 6/21/13- Lake Geneva, Grand Geneva Resort and Spa (Annual Meeting)**—ISBA's Reel MCLE Series: Flight- How Many Ethical Dilemmas Can You Spot? Master Series Presented by the Illinois State Bar Association. 1:00-5:15pm.

**Monday, 6/24/13- Teleseminar**—Structuring Preferred Stock and Preferred Returns in Business- Live Replay from 4/16/13. Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 6/25/13- Teleseminar**—Subleasing and Assignments, Part 1. Presented by the Illinois State Bar Association. 12-1. ■

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