

November 16, 2023

Dear Shearith Israel family,

***Our Year of Hope.*** Our Congregation's ***Year of Hope*** has been temporarily transformed into a communal reaction to the tragedy in Israel on and after October 7 and the disquieting antisemitic provocations in the US and elsewhere since. Our communal postings this week:

- Barbara Reiss reports from the rally in Washington, D.C. on Tuesday, November 14: "We could not have been blessed with a more perfect day to rally in DC. We were an almost 300k strong show of support and unity, and shared pride in our Jewish, Israel, and US affiliations. CSlers were sprinkled throughout the mall."



- Alan Zwiebel's comment, that our **Phrase of the Year**, 'It will be good', "could be the worst possible slogan for the Jews since the world began", continues to bring counter-reactions that to me seem fair and even inspiring.
  - Claude Nadaf responds:

*Uncertainty invests the present with immense significance, and we can focus all our energies into it rather than assuming that past will automatically continue into present.*

Claude quotes the ice hockey great, Wayne Gretzky:

*'I skate to where the puck is going not to where it has been'*

- Trustee David Sable adds two points. First, he sends in the statement by the head of the United Negro College Fund, [here](#), unqualifiedly condemning the October 7 terrorism. The comment is uplifting – though one might wonder why we need to describe as heroic a comment containing the simple truth that the premeditated and gruesome murder of civilians including infants is evil.
- David also echoes the comment that David Broza had a hit song *Yihye Tov*. Beth and I saw Broza perform at the City Winery. Next time he comes, let's have a Shearith Israel field trip – maybe he will play the song, which is [here](#).
- People in Israel are connecting with each other in ways both many and profound. Barbara Reiss sends [this wonderful video](#) by Rabbi Daniel Bouskila of the Sephardic Educational Center "showing how Israelis use their hearts and energies while their brothers and sisters fight the war." See our Naomi Neustadter (who sadly this week is mourning the loss of her sister)





- And where would be without photos and quotation pick-me-ups from Barbara:



***Our 1654 Project, 369 Years and Going.*** Many people liked the suggestion that we as a Congregation have much to teach others who are willing to learn about the persistent, powerful, and positive role that Jews have played in America since long before its founding. I therefore want to thank Karen Daar, Adam Hurwich, David Nathan, Barbara Reiss, Bruce Roberts, Ari Sherizen, Stan Towne, Henry Wollman, and Beth Goldman for the interesting discussion pointing the way to my articulation (though they take none of the blame).

Steve Beispiel, who really should have the title of Congregational Historian, reacted to my comment on our Congregation's openness to others in adding extra rows in in our Sanctuary after WWII. Says Steve, beautifully:

*Members of my family were recipients of seats in the extra rows (i.e. first rows of the men's sections) that were added to accommodate the European refugees in the 1930s and 40s. My grandfather Semah Franco obtained his first row seat, just north of the bimah, upon his arrival to New York from Nazi occupied Europe, in December of 1940. We have been sitting there ever since. When I'm asked about our choice seats I am happy to tell them it's not because my family were "big shots", but because they were refugees, who were fortunate enough to take their place among the generations of the remnants of Israel, that comprise our beloved congregation.*

Steve adds another point based on my observation concerning the Jews who were at the forefront of the Civil Rights Movement:

*The two young Jewish murdered civil rights workers, Goodman and Schwerner, were from the Upper West Side. My mother was friendly with members of the Schwerner family, who were her neighbors on West End Avenue. James Chaney was African American from Mississippi, where the murders took place. I remember, when during the 1960s, the short street west of Lincoln Towers was named Freedom Place, in memory of these three men.*

Here's a current photo of the plaque commemorating these men (thank you to Bonnie Barest for the photo):



Please, send in more stories about us. Our Congregation has spoken and acted Truth, Justice, and Charity for centuries. We have every right to be and act as Jews and want to continue as full participants in the American story.

And, if you have the time and talent to help update our 1654 Website, please step up. We have a message that should be read by others.

**Phavorite Parasha Pasuk:** I'm announcing a new challenge as an excuse to share a short, simple, and sublime sentence from the Parasha we are in this week, Hayeh Sarah. Abraham meets his maker, and we are told:

*וַיִּקְבְּרוּ אֹתוֹ יִצְחָק וְיִשְׁמַעֵאל בְּנָיו אֶל-מְעַרַת הַמַּכְפֵּלָה אֶל-שְׂדֵה עֶפְרָן בֶּן-צֹחַר הַחִתִּי אֲשֶׁר עַל-פְּנֵי מַמְרָא:*

*His sons Isaac and Ishmael buried him in the cave of Machpelah, in the field of Ephron son of Zohar the Hittite, facing Mamre.*

One breezes over the five Hebrew/seven English words. But wait a minute, wasn't Ishmael gone a long time earlier? Wasn't there a serious disagreement that led to the departure? Didn't Ishmael go off to found Islam? How is he back? How are he and Isaac doing this final act of kindness together, peaceably, as brothers?

The commentators do discuss this, and please send in any explanations that you particularly like. For all of us, these few simple words show us a future that is possible, even though it is not feeling like that just now. Three thousand years before *The Once and Future King*, T.H. White's masterful fantasies about King Arthur – every child should have either this fat tome read by or to them, and if no one will do that for you, I volunteer – the Torah showed us how a once and future peace can be a reality – and will be, and will be.

***Baba Kama Chapter 1 – Tort Sorting.*** This week’s learning, as part of the worldwide Daf Yomi cycle, covers Tractate Baba Kama pages 10-16. The topics and treatment are not as fun as my torts class in law school but feel more like cramming for the torts sections of the Bar Exam. What is the structure of the Talmud’s presentation?

The brilliant Rabbi Shalom Rosner put in words what appears to anyone learning these pages: The Talmud gives lots and lots of scenarios in an almost random-seeming order. However, brick by brick, they fill out the various categories of ways to think about tort/damages. You see different “moving parts” in the different scenarios (in law school we called them hypotheticals). The coherency can be found most easily only *after* many of the scenarios are on the table.

It’s not a bad way to teach. Last week, I suggested the following five over-arching categories that most of the scenarios try to explain the limits of:

- ***Who or what is doing the damage/committing the tort?***
- ***What is being damaged?***
- ***What is the level of intent of the damager?***
- ***What is the type and level of compensation available for the damage?***
- ***How damages should be allocated among tortfeasors including the injured party?***

No one has improved on these categories (though, as we move through the Tractate, I can think of other categories). Anyway, even if these are incomplete, a lot of examples are going to be needed to fill out the matrix (a very large factorial, no. Give me the right number for 2 points?).

This week’s pages start to fill in the cells of the matrix. As examples, we learn:

- If ten different people beat the same person to death with clubs, what is the rule? First, two points for the name of the Twentieth Century mystery writer and book telling that same story, though with knives. The Talmud, notably, expresses one opinion that no one is liable to be killed for the murder (10b). How so?
- Committing a tort in a usual way leads to liability; committing a tort in an unusual way does not, even though there is damage (15a/b).
- In almost all instances, men and women are treated the same in the law of tort/damages (15b).
- One opinion holds that, if each of two actors is negligent and, as such, contributes to harming the other, but the harm by one is vastly greater than the harm of the other, neither collects from the other (14b). Another opinion holds that each must pay the loss caused on a comparative or apportioned basis. The difference in approach is *so* modern; most states did not permit any recovery in the face of contributory negligence. Indeed, most states did not adopt a comparative negligence standard for apportioning liability until late in the Twentieth Century.



Louis Solomon, Parnas