

SPRING 2006 • VOL. 5, NO. 3

# respect

A NEWSLETTER ABOUT LAW AND DIVERSITY

## Holocaust Orphans Take on Big Business

by Dale Frost Stillman

**It is estimated that six million Jewish people and millions of non-Jewish people were killed during the horrors of the Holocaust. A staggering number that begs the question: how was Hitler able to identify those he wanted to target and eliminate?**

According to best-selling author Edwin Black's award-winning book, *IBM and the Holocaust*, Hitler relied heavily on IBM's Hollerith punch card technology. Black has stated in newspaper reports that a trip to the U.S. Holocaust Museum in Washington D.C. inspired him to research IBM's business activities with Nazi Germany during the war. In the museum, an IBM Hollerith D-11 sorting machine was displayed with the explanation that the Nazi regime used the machine in 1933 to conduct a national census, thereby identifying Germany's Jewish population.

IBM's ties to Nazi Germany are well documented. In 1937, according to *The Washington Post*, IBM's founder, Thomas J. Watson, accepted a medal from Adolf Hitler. Watson later returned the medal, but Black, the son of Holocaust survivors, maintains in his book that the connection among Watson, IBM and the colossal number of Holocaust deaths is no coincidence. Black states in his book, which won the American Society of Journalists and Authors General Non-

Fiction Award, that IBM's motivation during the war was not hate, but greed.

"Watson didn't hate the Jews. He didn't hate the Poles. He didn't hate the British, nor did he hate the Americans," Black writes. "It was always about the money."

### How did the punch card system work?

The next best thing to a computer at the time, Black contends that IBM's punch card technology allowed Hitler to automate [>continued on page 2](#)

## Air Force Academy Sets Course for Tolerance

by Barbara Sheehan

**Last year, stories of religious intolerance in the U.S. Air Force Academy (AFA) in Colorado Springs made news headlines and recently sparked a lawsuit.**

A February 2005 *ABC News* report detailed several religious intolerance complaints from Air Force Academy cadets including one from a Jewish cadet who claimed a Christian cadet told him during a class on the Holocaust that "the Holocaust happened because Jews killed Christ."

Religious discrimination was not limited to Jewish cadets at the Academy, according to the *ABC News* report. A recent graduate of the Academy filed a complaint with the Pentagon claiming that the academy is "systematically biased against any cadet that does not overly espouse Christianity." The cadet's complaint cited a letter that Gen. John Weida sent to all cadets, which stated, "You are accountable first to God." The cadet pointed out in the news piece that all [>continued on page 4](#)

This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

Angela C. Scheck  
Executive Editor

Jodi L. Miller  
Editor

## Editorial Advisory Board

Louis H. Miron, Esq.  
Chair

Mary M. Ace

Desha L. Jackson, Esq.  
Lisa H. James-Beavers, Esq.  
William E. McGrath Jr., Esq.  
Margaret Leggett Tarver, Esq.  
Dr. Paul Winkler

## New Jersey State Bar Foundation Board of Trustees

John J. Henschel, Esq.  
President

Ellen O'Connell, Esq.  
First Vice President

Mary Ellen Tully, Esq.  
Second Vice President

Richard J. Badolato, Esq.  
Treasurer

Stuart M. Lederman, Esq.  
Secretary

## Trustees

Mary M. Ace  
William G. Brigiani, Esq.  
Allen A. Etish, Esq.  
Stuart A. Hoberman, Esq.  
Lisa H. James-Beavers, Esq.  
Peggy Sheahan Knee, Esq.  
Ralph J. Lamparello, Esq.  
Edwin J. McCreedy, Esq.  
Louis H. Miron, Esq.  
Carole B. Moore  
Lynn Fontaine Newsome, Esq.  
John H. Ogden, Esq.  
Wayne J. Positan, Esq.  
Steven M. Richman, Esq.  
Richard H. Steen, Esq.  
Margaret Leggett Tarver, Esq.  
Ronald J. Uzdavinis, Esq.  
Leonard R. Wizmur, Esq.

## Holocaust Orphans *continued from page 1*

persecution of the Jews, making it possible to identify and execute millions of people. Herman Hollerith, a German-American engineer, invented the technology, which sorted data on cards. Each hole on the card represented some type of personal information including religion, age, location or education.

While initially the technology was used in Germany to collect census data—one in 1933 and one in 1939—according to *IBM and the Holocaust*, the technology would eventually be used in the death camps themselves. The Hollerith machines kept track of all sorts of data by code. Black notes that the code for Jews was 8, for Gypsies 12; general executions were coded as 4 and a death in the gas chamber was coded as 6. Each concentration camp had a code as well, for example, Buchenwald was 2 and Auschwitz was coded as 1. According to Black, the Hollerith machine could count and cross-tabulate 24,000 cards per hour.

### IBM sued

As a result of Black's book, two lawsuits were filed against IBM. One suit, brought by Holocaust survivors living in the U.S. and filed in a Brooklyn district court, alleged that IBM committed "crimes against humanity" with its aid to the Nazis. IBM's participation in a reparation fund, however, protected them from prosecution in that case. The lawyers in the suit eventually dropped the case, fearing it would slow down payments from the German Holocaust Fund, *USA Today* reported.

Stuart Eizenstat, former lead Holocaust negotiator under the Clinton Administration, explained to *USA Today* that by joining the fund, it was agreed that U.S. parent companies could not be sued for the action of one of its subsidiaries, in this case IBM's German subsidiary.

Also motivated by Black's book, a group consisting of four Roma Gypsies and one Polish Gypsy sued IBM in 2002 for its alleged role in the deaths of their ancestors. The plaintiffs are suing IBM for "moral reparation," blaming IBM's

technology for the efficient way the Nazis killed the Gypsies. The suit seeks \$20,000 each in damages, which amounts to \$12 billion in collective damages for the approximately 600,000 Gypsies killed.

Gypsy International Recognition and Compensation Action (GIRCA), an organization that was founded to obtain compensation for the Nazis' killing of the Roma, filed the lawsuit. This time the lawsuit against IBM was filed in a Swiss court. GIRCA filed the lawsuit in Switzerland because IBM's World War II European Headquarters was in Geneva. According to *CNN*, "they (the Gypsies) claim the office was the information technology multinational's hub for trade with the Nazis." GIRCA claims IBM was fully aware of what its machinery was being used for because the details on the punch cards were so specific.

Switzerland does not permit class action lawsuits, so five plaintiffs who were orphaned as a result of the Holocaust, were chosen to file.

### Holding IBM accountable

Henri-Philippe Sambuc, attorney for GIRCA, told *The New York Times* that this is the first Holocaust-related case against IBM in Europe. A lower court in Switzerland had previously refused to hear the case on the grounds that it lacked jurisdiction, calling IBM's presence in Geneva an "antenna." In other words, the court didn't think the company had a significant office in the country.

A Geneva appeals court threw out this earlier decision, paving the way for the Roma to sue IBM. The appeals court ruling said, "IBM's complicity through material or intellectual assistance to the criminal acts of the Nazis during World War II via its Geneva office cannot be ruled out." In addition, the ruling cited "a significant body of evidence indicating that the Geneva office could have been aware that it was assisting these acts."

The appeals court ruling goes so far as to state, "It does not appear inconsistent to

conclude that the respondent (IBM) facilitated the task of the Nazis in their committing of crimes against humanity—acts which were counted and codified by IBM machines.”

According to Sambuc, IBM’s Geneva office “continued to coordinate Europe-wide trade with the Nazis, acting on clear instructions from its world headquarters in New York.”

### IBM defends itself

Deutsche Hollerith Maschinen GmbH or Dehomag was the name of IBM’s German subsidiary based in Geneva. GIRCA claims that IBM’s New York office continued to supply Dehomag with their punch card machinery during the war, and that Dehomag was crucial in helping to automate the Holocaust through punch card technology.

IBM believes GIRCA’s case is groundless and denied allegations of complicity in the Holocaust. In a press release issued in February 2001, IBM said, “IBM and its employees around the world find the atrocities committed by the Nazi regime abhorrent and categorically condemn any actions which aided their unspeakable acts.”

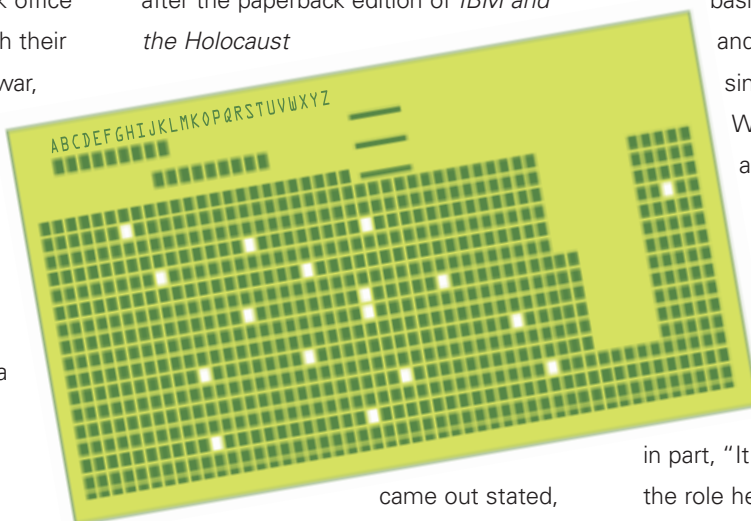
The statement went on to say, “IBM takes the allegations by the author (Black) and the plaintiffs very seriously, and looks forward to and will fully cooperate with appropriate scholarly assessments of the historical record.” IBM did not respond to requests for comment for this article.

### New information comes to light

When the paperback edition of *IBM and the Holocaust* was published it contained new research including evidence that IBM’s New York

headquarters controlled all dealings with the Nazis. As reported in *The London Times*, the most damaging revelation in the book was that in 1942, Harrison Chauncey, IBM’s chief American lawyer, met with a representative in the company’s Czech division. According to Black, the purpose of that meeting was to figure out a way to “sanitize” IBM’s link with the Nazis and arrange for the lease payments on the equipment to be transmitted to New York via Switzerland.

While IBM’s initial press release stated that the company would fully cooperate with the book’s author, a follow-up release after the paperback edition of *IBM and the Holocaust*



came out stated, “another assessment of the book by a well-regarded academic expert calls the original charges “implausible” and the book “deplorable.”

According to *CNN*, IBM claims that before World War II Dehomag was taken over by the Nazis, leaving IBM with no control over how its machines were being used. Black, however, points out in his book that the level of detail needed in the set up of the punch cards would negate that claim.

“Some Nazi client had to consult with his IBM representative to agree that code six would be the extermination of some Jew or Jehovah’s Witness,” Black said in an interview with *The London Times*.

“Those cards were exclusively printed by IBM and the machines maintained by IBM,” Black stated.

In addition, Black notes that the machines were leased from IBM and always remained the company’s property. As evidence of this, Black points out in the newer version of the book that “IBM recovered all its Polish profits and machines” after the Germans surrendered.

An IBM representative told London’s *Guardian* newspaper, “We have seen no proof of that. Facts, which had been known for many years, were used as the basis of allegations in the first book, and they seem to be used in similar fashion in the paperback. We’re not convinced that there are any new findings here.”

### Where the case stands

The Supreme Court of Switzerland rejected IBM’s appeal in the Geneva court of appeals. The decision reads in part, “It was not possible to minimize the role held by the Geneva establishment of IBM as regards the financial flux going through Geneva for the **repatriation** into the United States of the proceeds from its European subsidiaries.”

Even this decision, however, left open the issue of jurisdiction. Sambuc stated in an email, “As for the place of jurisdiction problem, we lost in (the) first instance. But I am confident that we will win also this second preliminary objection.”

In May 2005, the Geneva Court rejected the lawsuit against IBM because it was subject to the statute of limitations, which prevents legal action from being taken decades after the event. Sambuc filed another appeal. If GIRCA loses the appeal, the case may be closed. A decision is expected in 2006. ■

## Air Force Academy *continued from page 1*

Air Force Academy cadets swear an oath to uphold the U.S. Constitution first.

ABC News reported that when the Academy's military equal opportunity officer heard this complaint, the officer informed the cadet that, as a Christian, the officer had a duty to "bring him [the cadet] back to the flock." According to CNN, approximately 90 percent of the Academy's cadets are Christian, with 60 percent listing themselves as Protestant and 30 percent Catholic.

Freehold lawyer Michael L. Detzky, who is a Jewish captain in the U.S. Naval Reserve and has been active with the New Jersey State Bar Association's Military Law and Veteran's Affairs Committee, says that he never experienced any outward discrimination during his 20-plus years of military service, and he does not believe this is a widespread problem within the military as a whole.

"It's an **anomaly**," he says. "That's what makes it newsworthy."

At the same time, he recognizes the need to protect all service people's right to worship as they wish—or not to worship at all—and to uphold the diversity that he says makes America great.

### Incidents investigated

Americans United for Separation of Church and State, a religious liberty watchdog group that is concerned with safeguarding religious freedom, launched an investigation after it received numerous complaints about the Air Force Academy's religious policies. The organization, which was founded in 1947 and is based in Washington, DC, sent a 14-page report of its findings to Air Force officials and Secretary of Defense Donald Rumsfeld in April 2005.

Americans United cited several incidents of religious intolerance in its report including one concerning Major Warren "Chappy" Watties, a full-time chaplain at the Academy. The report states that during a Protestant worship service led by Major Watties, he encouraged the cadets present to "return to their tents and **proselytize** cadets who had not attended the service, with the declared penalty for failure to accept this proselytization being to 'burn in the fires of hell!'"

Proselytize, in this case, means to attempt to convert someone to your own religion.

The report concluded that the "policies and practices [of the Air Force Academy] constitute **egregious**, systemic and legally actionable violations of the establishment clause of the First Amendment to the U.S. Constitution." The First Amendment's establishment clause prohibits the government from endorsing any one religious belief.

Less than a week after it received Americans United's report, the Air Force Academy announced that it was forming a task force to investigate the allegations. A press release issued by the Air Force stated that among the issues the task force would examine is "academy commanders who may enhance or detract from a climate that respects both the free exercise of religion and the establishment clause of the First Amendment."

### Task Force findings and guidelines issued

The AFA task force assessed the religious climate at the Academy by conducting more than 300 interviews with faculty members and administrators and cadets representing all faiths. The task force issued its report, titled *The Report of the Headquarters Review Group Concerning the Religious Climate at the U.S. Air Force Academy*, in June 2005. The

AFA task force did not investigate specific cases of misconduct, but referred them to the "chain of command for follow-up," according to the report.

In addition to looking at First Amendment issues, the AFA report, among other things, aimed to address its training practices, its mechanisms for addressing complaints, and the relevance of the religious climate to the entire Air Force. According to the report, the AFA did not find any "overt religious discrimination, but did find a failure to fully accommodate all members' needs and a lack of awareness over where the line is drawn between permissible and impermissible expression of beliefs."

At a Pentagon news conference, Lt. Gen. Roger A. Brady, who headed up the task force, announced that his 16-member review team found a "perception of religious bias" and called professors who "used their lecterns to promote specific religious activities... well intended, but wrong."

The AFA outlined eight specific recommendations in the Executive Summary of its report, covering such



areas as developing policy guidelines for Air Force commanders, promoting cultural awareness, addressing religious accommodations when scheduling and preparing operations, and providing opportunities for cadets to discuss and debate issues of religion and spirituality as a component of character development.

“The USAFA, and the Air Force as a whole, must create and nurture a climate founded on respect, the very bedrock of our core values of integrity first, service before self, and excellence in all we do,” the Academy report stated. As a result of this investigation and report, a four-page list of guidelines for Air Force officials and chaplains to follow was issued in August 2005.

### Challenging the guidelines

Christian organizations called the guidelines restrictive. Tom Minnery, vice president of public policy for the Colorado-based Focus on the Family, a conservative Christian group, told *The Washington Post*, “It is the job of an evangelical Christian chaplain to evangelize and it’s protected by the First Amendment’s guarantee of free exercise of religion.”

According to *The Washington Post*, Focus on the Family launched a nationwide petition drive against the Air Force’s guidelines, bombarding the White House and Air Force Secretary Michael W. Wynne’s office with email stating that the guidelines are “an infringement of the Constitution guarantees of free speech and free exercise of religion.” In addition, *The Post* reported that 72 members of Congress signed a letter to President Bush urging him to “issue an executive order guaranteeing the right of military chaplains to pray ‘in Jesus’ name’ rather than offer nonsectarian prayers at public ceremonies.”

In February 2006, the Air Force released revised guidelines, reducing the four-page original to one page. While the new guidelines also warned superior officers to be “sensitive” about their personal faith and how it might be misconstrued as official statements, the revised guidelines added that there are no restrictions “where it is reasonably clear that the discussions are personal, not official, and they can be reasonably free of the potential for, or appearance of, coercion.”

“Reasonably clear from whose perspective, the superior’s or the subordinate’s?” Michael L. Weinstein, a 1977 Air Force graduate and White House counsel for the Reagan Administration, said in a *Washington Post* article. “When a senior member of your chain of command wants to speak to you ‘reasonably’ about religion, saying ‘Get out of my face, sir!’ is not an option,” Weinstein said.

Fred Klepp, a former U.S. Attorney who now practices in Cherry Hill and retired from the U.S. Army as a colonel, said that while cadets do have the right to advocate their faith, officers do not. “Officers should not force their beliefs about any subject on subordinates,” said Klepp, a former chair of the NJSBA’s Military Law and Veteran’s Affairs Committee. “It is not appropriate and it is an abuse of rank.”

### Lawsuit filed

Weinstein filed a federal lawsuit against the Air Force Academy in October 2005, claiming it is “violating the First Amendment’s establishment clause by fostering evangelical Christianity over all other faiths.” The suit claims that other religious groups are only allowed on the campus under strict supervision. A letter that Weinstein made public to the press, indicates that the Air Force Academy

approved the full-time assignment of two Christian ministers.

*The Washington Post* reported that the letter, written by Darren and Gina Lindblom, Christian ministers from a private missionary group to their donors, stated, “Praise God that we have been allowed access by the Academy into the cadet areas to minister among the cadets. We have recently been given an unused classroom to meet with cadets at any time during the day.”

Weinstein was joined in his original lawsuit by four other Air Force Academy alumni including his son who is currently an Air Force officer. In March 2006, the lawsuit was amended to include Master Sgt. Phillip Burleigh, a 24-year veteran and an Air Force recruiter at Holoman Air Force Base. According to court papers, Master Sgt. Burleigh and other recruiters were told “they needed to accept Jesus Christ in order to perform their job duties” and “to use faith in Jesus Christ while recruiting.”

The lawsuit seeks to propose that the Air Force adopt the following policy: No member of the USAF, including a chaplain, is permitted to evangelize, proselytize, or in any related way attempt to involuntarily convert, pressure, exhort or persuade a fellow member of the USAF to accept their own religious beliefs while on duty.

In November 2005, attorneys from the Alliance Defense Fund, a conservative Christian group co-founded by Focus on the Family’s James Dobson, filed a motion to intervene in *Weinstein v. United States Air Force* on behalf of Major James Glass, a chaplain, and Captain Karl Palmberg, an F-16 fighter pilot. “Their ability to share their faith and to candidly discuss religion as they put their lives on the line for this country will be in jeopardy,” the motion to intervene >continued on page 8



# Learning a Lesson in Religious Exclusion

by Cheryl Baisden

**In the United States, most people don't give a second thought to their right to practice their religion. Last year a group of New Jersey students from Torah Academy in Teaneck learned a tough lesson when they were temporarily denied the chance to take part in a national competition. Essentially, the students were asked to choose between competing and their religious beliefs.**

After winning the state title in the New Jersey State Bar Foundation's Vincent J. Apruzzese High School Mock Trial Competition, the Orthodox Jewish team was scheduled to compete on the national level in North Carolina. Participation in the National High School Mock Trial Competition would have required them to compete during their day of worship, or Sabbath, which is from sundown Friday to sunset Saturday. Although the New Jersey State Bar Foundation (NJSBF) requested some scheduling changes to accommodate the team's religious concerns, the national board refused to make them.

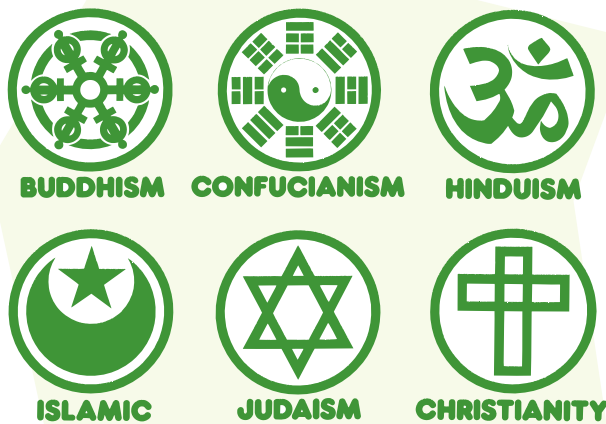
"We could not believe that this was happening," says Arthur Poleyeff, the principal at Torah Academy. "In this day and age it seemed impossible that an organization would exclude people from participating in something because of their religion."

The NJSBF fought against the National Competition's refusal.

"They are telling Orthodox Jewish, Islamic, Seventh-Day Adventist and other schools who have [weekend] religious obligations that they can never participate in the national competition,"

Lisa James-Beavers, who was president of the NJSBF at the time of the conflict, said in a press statement. "That is deeply troubling. Their contention that our statewide champions either violate their religious beliefs or forfeit the competition is insensitive and offensive."

With the help of the North Carolina Academy of Trial Lawyers, the host of



last year's national competition, the scheduling changes were made, allowing the Torah Academy team to compete. After the competition was completed, however, the National High School Mock Trial Competition announced that they would not make similar accommodations in the future.

After several failed attempts to persuade the National Competition to reverse its position, the NJSBF voted to withdraw from future National High School Mock Trial competitions in protest. North Carolina joined New Jersey and pulled out of the national competition as well.

## What is Religious Discrimination and Exclusion?

"When we talk about discrimination, it is usually defined as comments or actions

that are negative and based on someone [the victim] being in a legally protected group," explained Brian Cige, a Somerville lawyer who handles discrimination cases. "Someone could be discriminated against for their race, their sexual preference, a handicap or religious beliefs. Exclusion is when you are denied the right to access because of those same things."

In other words, exclusion is the action or conduct of being discriminatory. As an example Cige explains that if a landlord refused to rent to a lawyer, that act would not be illegal because lawyers are not in a protected group. However, if a landlord refused to rent to a woman, that action would be illegal because women are in a protected group. Cige notes that because the National Competition is a private organization and does not receive government funding, it did not break the law by its actions against the Torah Academy team.

"From the National Competition's perspective, the issue was about scheduling," Cige said. "From the Foundation's perspective, the National Competition was sending a discriminatory message to the Torah Academy team."

The federal Civil Rights Act prohibits discrimination and exclusion. Each state also has its own laws protecting the rights of minorities. New Jersey's law against discrimination and exclusion is called the New Jersey Civil Rights Act. While the types of protections covered by state laws are different from state to state, according to Cige, all states provide religious protections.

The penalties for violating these laws depends on the level of discrimination or exclusion, says Cige. Small violations that do not cause actual harm to a person or organization are often punished with a

nominal fine, while violations that cause severe financial, physical or emotional harm can result in heavy fines.

“When it comes to religious discrimination and exclusion, there are not a lot of lawsuits filed these days,” says Cige. “Basically people have come to accept and understand these differences more in recent years.”

### Meadowlands learns religious lesson

One exception to this atmosphere of acceptance is recent discrimination surrounding Islamic practices and people, which has increased since the terrorist attacks of September 11, says Cige. Last

year, the Meadowlands Sports Complex was charged with discrimination and exclusion when officials refused to allow Islamic football spectators to gather in a public spot to pray.

“They pray several times each day,” Cige explained, “so in order to meet their religious requirements they gathered around a heating vent during a game. This created concern, so they were forced to move. In the end, the Meadowlands resolved the problem for the future by establishing a special praying area for Islamic fans.”

In the case of Torah Academy, the exclusion issue remains unsettled, since

the national organization has said it will not make accommodations in the future.

“It’s unfortunate that our students had to learn this kind of a real world lesson,” says Poleyeff. “After this happened, our mock trial coach took the time to discuss things with the students, focusing on the idea of tolerance. From this experience the students clearly learned a lesson. They unanimously said they would never do to someone else what was being done to them. They recognize something some people may not — that in this day and age, where different types of people need to be able to live together, it is tolerance and inclusion that will bring us peace.” ■

## What Does Six Million Look Like?

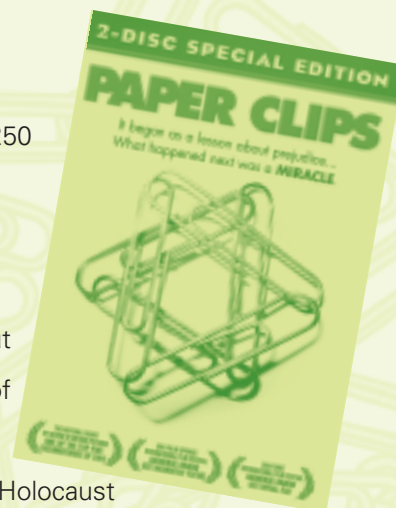
The New Jersey State Bar Foundation’s free Video Loan Library stocks more than 250 videos on a variety of law-related topics. The Library’s newest acquisition is the DVD, *Paper Clips*, an 84-minute documentary about a 2001 experiment to understand the Holocaust.

Whitwell Middle School in rural Tennessee is the setting for this documentary about an extraordinary experiment in Holocaust education. Struggling to grasp the concept of six million Holocaust victims, the students decide to collect six million paper clips to better understand the enormity of the tragedy. The film details how the students met Holocaust survivors from around the world and how the experience transformed them and their community. Bonus features of the DVD include extended scenes and interviews with Holocaust survivors.

**Please note that *Paper Clips* is only available in DVD format**, however the same directions to borrow apply.

Videos/DVDs are loaned for a period of two weeks. There is no charge to borrow, but a **\$50 refundable security deposit check** for each video/DVD, made payable to the New Jersey State Bar Foundation is required. Requests must be made in writing and videos/DVDs must be returned via insured U.S. mail, certified mail or UPS so that shipments may be tracked.

For more information or a complete list of available videos, visit our Web site at [www.njsbf.org](http://www.njsbf.org) or call 1-800 FREE LAW. Send your written request along with your deposit check to: New Jersey State Bar Foundation, Video Loan Library, One Constitution Square, New Brunswick, NJ 08901-1520.



# Bring a Little Drama to Your Class to Promote Tolerance and Drug Awareness

Teachers looking for an innovative way to promote tolerance might consider having the George Street Playhouse's Touring Theatre perform one of its tolerance-based or drug awareness stage productions at their school.

The plays address such timely issues as school violence, tolerance, prejudice, drug abuse and peer pressure. All the performances are followed by a discussion with the audience facilitated by the actors. In addition, every student receives a student guide or "playbill," which mirrors the traditional theatrical playbill, preserving the theater experience for students. Printing of the "playbills" is sponsored by the New Jersey State Bar Foundation.

For a brochure and/or booking information call the George Street Playhouse at 732-846-2895 ext. 115. George Street is currently accepting bookings for the 2006–2007 school year.



## Glossary

**anomaly** — an irregularity.  
**to convert to Christianity.**  
**nonsectarian** — not aligned with any religion.  
**opinion or political party.**  
**egregious** — unusually or obviously bad.  
**nonpartisan** — not adhering to any established political group or party.  
**repatriation** — in this case, the act of sending back money to the country of origin.  
**proselytize** — to try to convert someone to one's own religion.

## Air Force Academy *continued from page 5*

states. "They seek to intervene to protect their interests."

In a press release issued by the Alliance Defense Fund, Senior Legal Counsel Joel Oster said, "The First Amendment applies to everyone, including America's fighting men and women who are on duty 24/7. Our clients wish to intervene in this lawsuit because the outcome could significantly impair their constitutional rights."

Captain Palmberg was also quoted in the release, "After over five years of service and over 500 F-16 flying hours both overseas and at home, I consider my constitutional right to discuss my faith without censorship or fear of retribution as valuable to the military and the future of our nation as the aircraft, bombs and bullets I am trained to employ."

Responding to the motion to intervene in the lawsuit, Weinstein said, "It's hard to believe someone could object to having the Air Force follow the First Amendment. The idea that we are somehow infringing on someone's freedom of speech is ridiculous."

### A First Amendment issue

No matter what side of this issue you're on, it comes down to a First Amendment argument. The

free exercise of religion and the right to free speech are contained in the First Amendment, and so is the establishment clause.

In the case of free speech, David French, of the Foundation for Individual Rights in Education, a **nonpartisan** watchdog group that monitors free speech on college campuses, told *ABC News* that, "A cadet can constitutionally approach another cadet and even say, 'I believe that my beliefs are the truth and the only way to go to heaven, and yours are sending you to hell,' and that's constitutionally protected."

Brian M. Cige, a constitutional lawyer in Somerville, explains that typically, in determining whether speech is protected, the courts look at whether the person who is objecting to the unwanted speech has the means or opportunity to walk away. As an example, Cige notes that religious speech is not permitted in public schools because students do not have a choice but to be there. In the case of the Air Force Academy, the area is a little greyer. Cige pointed out that when someone enters the military, they give up certain rights, but not their constitutional right to freedom of speech or freedom of religion.

"It's a pendulum," Cige said. "Where the legal median is would be for the courts to decide." ■