

In An Effort to Win High-Profile Case, Lawyer Becomes History Detective

Earlier this year, Steven E. Snow won a case that will have a lasting impact on Newport's Jewish history and ensure a Jewish congregation's survival into the future.

What began as a property dispute between Newport's oldest Jewish congregation and an even older one in New York over a set of religious bells turned into a detective story dating back to colonial times.

The history Snow unearthed was full of intrigue, including exile, a revolution, sectarian rifts, a sit-in protest, and at the heart of the mystery, a struggle for ownership of the oldest synagogue building in the United States: the Touro Synagogue in Newport.

Snow's client, Newport congregation Jeshuat Israel, was founded by Jews fleeing the Inquisitions in Spain and Portugal during the 17th century. The New York congregation, Shearith Israel, claimed it gained ownership of the Touro Synagogue when the Newport congregation fled to New York after British forces occupied Newport during the American Revolution.

To prove that the earliest immigrants put the synagogue in trust and that the Newport congregation owned the pair of sterling silver Torah ornaments now valued at \$7.4 million, Snow scoured Jewish archives around the country to piece together a complex narrative.

In May, U.S. District Court Judge John J. McConnell Jr. agreed with Snow's interpretation, concluding that the Touro Synagogue was held as a charitable trust since its founding and rejecting the New York congregation's ownership claim.

Although the New York congregation acted as a trustee when Newport's Jewish population dwindled to nothing, it "never did, nor could it, convert its role as trustee into an equitable title to the Synagogue," McConnell wrote in his 106-page ruling.

McConnell also held that the ceremonial bells, known as rimonim, were owned by the Newport congregation, giving it the right to sell them or use them as the congregation sees fit.

In finding that the New York group's attempt to disavow the trust and evict the Newport congregation made it unfit to serve, McConnell further decided to remove the New York congregation as a trustee, and appointed the Newport congregation as the new trustee.

The case has been appealed to the 1st Circuit.

Snow recently sat down with reporter Sylvia Hsieh to reflect on his experience in the case.

Q. Did you have any idea what you were getting into when you took this case?

A. I'd have to say no, I didn't know what I was getting into. Initially we were arguing over whether the rimonim could be sold. The Newport congregation had two pairs, and they were looking to improve their endowment because their congregation was getting smaller and they were concerned it would close.

But the congregation knew for many years that, for a period of 60 years, there were no Jews in Newport, so the New York congregation took over as a trustee. When the Jews returned to Newport in the 1880s, the New York congregation reopened the building and the Newport congregation has occupied it continuously since the

1880s.

So as far as the Newporters were concerned, the New York congregation had legal title but only in the capacity as a trustee of a charitable trust. The New York congregation argued they were not a trustee but owned the building in its own name. So it became about not only who owned the rimonim, but who owned the synagogue building itself — and this is a building which is priceless.

Q. This was a unique case. How did you go about researching it and preparing for trial?

A. What was unusual was the evidence in the case. Obviously there were no live witnesses; we were arguing about 18th and 19th century facts, so it was totally document-dependent, and the documents were in some cases hard to come by. There were 1,200 exhibits at trial.

We searched through various archives, Jewish museums in various parts of the country, and were able to piece together a pretty complete record. However, there were still some pieces missing. For example, the original deed when the land for the synagogue was purchased goes back to 1759, but that deed no longer existed because in 1776 the British occupied Newport and burned everything.

Q. What was the most persuasive evidence in your favor?

A. I think there were two really critical pieces. First was Jacob Rodrigues Rivera's will. [He was] one of three gentlemen who purchased the land for the synagogue. When he died, his will stated that the three of [them] didn't purchase the synagogue building for [them]selves; instead [they] purchased it in trust for the Jewish society in Newport as a public place for Jewish worship forever. He quitclaimed any personal interest he had.

The other key piece of evidence was the tripartite agreement between the New York congregation, the Newport congregation and the U.S. government when the synagogue was designated as a national historic society. The language of that agreement adopted the language out of Rivera's will that it was to be held in trust to be preserved for a place of public worship forever for the benefit of the Jewish society in Newport.

Q. What was the most difficult aspect of putting the historical narrative together?

A. It took a couple of years to compile. The hardest part was reading a lot of old documents that were handwritten and used language that's considered archaic. Some were on microfiche, some were photocopies of documents, a few were original documents. Trying to decipher them took a lot of time, and we did not use experts. We determined early on that it would be inappropriate to use experts because all an expert can do is give an opinion as to their conclusion. The only expert we needed was the judge.

Q. The judge ruled in your favor on all of the arguments. What was the defendant's strongest evidence you had to overcome?

A. It was not an easy case. We certainly felt confident in our case, but we were never sanguine about how it could turn out because the documents were mixed. Their strongest evidence was what happened in 1902-03. There was a split between what I'll call the more liberal people and the more traditional people. One group broke into the synagogue on the eve of Passover and had a physical sit-in, holding continuous religious services for over a year. As part of the settlement to resolve the conflict, they agreed that the New York congregation would lease the synagogue to the Newport congregation for five years.

It's unclear what happened to the personal property, because the settlement listed property that was turned over, but nobody could find that list. The New York congregation argued that because the lease covered "appurtenances and paraphernalia of the building," it included the rimonim. We argued the rimonim were not attached to the building and that "paraphernalia" meant fixtures. The judge agreed.

Q. What impact will this case have on modern case law?

A. You're not going to have a lot of cases like this come up. On the other hand, while every 10-year-old will cite

the phrase “possession is nine-tenths of the law,” you have to go back to Blackstone to find a case that actually says that. This one does.

The judge concluded that the fact that the Newport congregation possessed the rimonim continuously for over 100 years to the present, and the New York congregation never did anything to try to get them back, a presumption of ownership arose from that. The judge also ruled on the equitable theory of laches: If you think you own something, you can’t allow someone else to claim ownership and never say boo about it.

Q. What did you learn from trying this case?

A. One thing I learned is that the history of colonial Newport and Jewish immigration to America is a really interesting history. That’s stuff I’ll never forget. The weekend before Thanksgiving, my wife and I visited Philadelphia’s National Museum of American Jewish History, which happened to have an exhibit on the colonial era, including Spanish and Portuguese immigrants. There was a big portrait of Jacob Rodrigues Rivera and the original letters between George Washington and [then-leader of the Newport congregation] Moses Seixas. I thought, I know this history; I feel like I’ve lived it.

Steven E. Snow

Age: 66

Education: American University Law School (1976); Johns Hopkins University, master’s degree in international studies (1974); Johns Hopkins University (1972)

Year of bar admission: 1976, Rhode Island; 1988, Massachusetts

Professional experience: Tillinghast, Collins & Graham, associate (1976-1981), partner (1981-1988); Partridge, Snow & Hahn, partner (1988-present)

Some final thoughts ...

His most memorable moment at law school: “I started law school in September 1973 when the Watergate hearings were ongoing and my conlaw and civil procedure professors both represented Judge John Sirica, who ordered the tapes to be produced. It was a really interesting time to be in law school when your professors represented the federal judge who was taking on the president of the United States.”

One thing about him that might surprise people: “I’m a pilot and an active sailor. I do not currently have a plane, but I did have a Beechcraft Bonanza, and I do have a Freedom sailboat that I sail out of Portsmouth.”

What has kept him in the practice of law: “I still really enjoy a challenge and always try to avoid over specializing. I get bored easily and enjoy having a whole mix of cases.”

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