



ILLINOIS STATE
BAR ASSOCIATION

THE CATALYST

The newsletter of the ISBA's Standing Committee on Women and the Law

Letter from the Chair

By Meredith E. Ritchie

Thanks to all of you who have participated in our committee events thus far this year! Due to an active, dedicated committee, we have surpassed our expectations (certainly my expectations). As a new approach this year, we have invited a guest speaker to our business meetings. Dan Rosman, Assistant General Counsel for the State's Department of Human Services and a member of the Task Force on Genetics and Human Reproduction, spoke to us last fall on the task force's goals and objectives this year. Michele Latz, Director of the State's Department of Financial and Professional Regulation spoke to us on the Payday Loan Reform Act, which passage will surely assist women throughout the State of Illinois. Last month, Lori Levin, Executive Director of the State's Criminal Justice Information Authority, spoke to us on studies concerning incarcerated women and girls. I extend an invitation to those of you

interested in attending our business meetings.

Last October, ISBA President Elect Irene Bahr, together with Board Member Michele Jochner and Past President Thomas Clancy, participated in a panel discussion at the ISBA on "How to get elected to ISBA Offices." This luncheon seminar at the ISBA CRO was fascinating and we sincerely appreciate the participation of Irene, Michele and Tom.

Our next meeting will take place in Peoria on Saturday, April 22, 2006. Please watch for details on a reception for those in the Peoria area legal community, sponsored by the Women and the Law Committee on Friday, April 21, 2006, in Peoria.



Meredith Ritchie,
Chair of the
Women & the
Law Committee.

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Other areas of contribution by our committee include commenting on proposed and pending legislation, producing high-quality newsletters, proposing a seminar on issues surrounding domestic violence, suggesting cable television programs and more. Please feel free to contact me if you or your colleagues find an area that you would like to see addressed by our committee.

Regards,
Meredith E. Ritchie, Chair

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Supreme Court Justice talks about the "F" word

By Sandra Crawford, Chicago, and Elizabeth L. Jensen, Peoria

On Saturday, December 10, 2005, the Chicago Foundation of Women (CFW) honored U.S. Supreme Court Justice Ruth Bader Ginsburg by inaugurating an award in her name and conducting a discussion with a panel of prominent women, including the Honorable Judge Ann Williams, U.S. Court of Appeals for the 7th Circuit, and Illinois Attorney General Lisa

Justice Ruth Bader Ginsburg, speaking at the inauguration of the Ruth Bader Ginsburg Award by the Chicago Foundation of Women on December 10, 2005



Madigan. Members of the ISBA Women and the Law Committee were fortunate

to have been invited to the event. We attended along with some 500 others, mostly women lawyers and judges, for a conversation with the Justice and the panel. The event was held in the beautiful Winder garden of the Harold Washington Library Center.

As a lawyer, an academic, an activist, and as a Justice, Ruth Bader Ginsburg has created a pioneering body of law establishing women's rights in this country. Justice Ginsburg spoke of her concerns about the suspicion and discomfort that still surrounds feminism, which she refers to as the "F" word, and its credo and agenda. She discussed her long history and involvement with what she called the clear and simple mission of feminism—"equal citizenship status for all." She described the changes that she has observed in the status of women in society during her lifetime as "enormous." She spoke intimately about her entrance into law school in 1950 when she was a new mother of an 18-month-old daughter and the support she received from her family, especially her father-in-law. She described details of her graduation from law school in 1954 in what she called the "sad days" of our country, during the height of the "Red Scare" and "McCarthyism."

Justice Ginsburg shared details about her career, from the rejection of her application to be a Supreme Court Clerk to her 12-year term on the High Court. She talked about her deep friendship with and respect for Justice Sandra Day O'Connor and other members of the Court. When asked about the Court and her relationship with the other justices, she said, "we genuinely care for each other" and "we are all very much a family." She described how she and her family spend the holidays with the Scalias and how all the other Justices helped her throughout her fight with cancer. Justice Ginsburg passed on to us the best advice she received from Justice O'Connor: "Be visible and then put on an impressive show!"

Although she could not comment on the current confirmation proceedings, she did speak about her own confirmation process and the establishment of what is now called the "Ginsburg Rule." According to Justice Ginsburg, the rule is: "Ask me anything about anything I have written as a judge or law teacher,

but you cannot ask me to preview any case or issue that may come before the Court." She then gave an example and said that, since she had written two articles about *Roe v. Wade* when she was a teacher, questions about what she had written were fair game; however, she refused to answer other specific questions about *Roe v. Wade* that were not covered in the two articles.

Justice Ginsburg credited former President Jimmy Carter for having single-handedly and forever changing the complexion of the U.S. judiciary during his one term in office by appointing many women and minorities to the bench.

Since December 10th was International Human Rights Day, Justice Ginsburg and the other panelists commented on the importance of looking to other countries for guidance on issues before the courts. She mentioned Canada, whose highest constitutional court is headed by a woman. Justice Ginsburg spoke about why she refers to international law and said that cases from other countries provide valuable instruction on issues that we are dealing with for the first time in the U.S., such as terrorism. She spoke passionately of "maintaining liberty in the hearts of the people in times of terror" and the role the Constitution plays in that equation. She told us that she personally carries her copy of the Constitution with her everywhere she goes.

Justice Ginsburg lamented that the U.S. Constitution is the only Constitution in the Western world which does not contain an equal rights provision—even Afghanistan's Constitution includes an equal-rights-under-the-law provision. Ginsburg and the panel members talked about their respective individual experiences with the Equal Rights Amendment and the impact this work had on each of them and their careers. They discussed the history of the ERA and its introduction as a congressional bill every year since 1923. One of the members on the panel, Attorney Tina Tchen, lamented that despite many years of efforts the ERA was not ratified in Illinois. However, Justice Ginsburg opined that, fortunately, the decisions of the Court in the last 40 years have mostly gone the same way that they would have had the ERA passed. She stated that women speak in different voices than men and that the feminist credo, "each

of us should be free to be you and me," is inclusive, not exclusive. She warned that we cannot expect to be listened to if we are not willing to listen in return. Justice Ginsburg and the panel members suggested that putting money into women's projects, lending money to women to start up enterprises, educating women and helping fathers become good, caring parents are the best ways to promote and encourage feminism.

By the end of the afternoon it was difficult to think of Ginsburg as "Justice Ginsburg"—she was so down to earth, intimate, and exhibited such a great sense of humor, that many of us had to fight the urge to call her "Ruth." She complimented the CFW, which is celebrating its 20th year, for being an "altogether engaging organization." For more information regarding CFW and its goal of "strengthening the voice of women and girls" and insuring they are a force for change in metropolitan Chicago, go to www.cfw.org. A video of the conversation with Justice Ginsburg, a list of events throughout their anniversary year, and a list of 20 simple things you can do right now to make life better for women and girls is available through the CFW. As many of our Women and the Law Committee's goals and values are the same as the CFW's mission, we invite you to report back to us on efforts (individual or group) to do any items on the list which either promote listening or strengthening our voices as women, which as suggested by Ruth, should be the focal point of the "F" word.

The Chicago Foundation for Women:

One of the largest women's funds in the world, Chicago Foundation for Women believes that all women and girls should have the opportunity to achieve their potential and live in safe, just and healthy communities. For the last 20 years, the Foundation has influenced social justice through advocacy, leadership development, and public and grantee education. In addition, the organization has awarded more than 2,000 grants totaling \$12 million to hundreds of organizations that make life better for women and girls in the Chicago metropolitan area. The Foundation's core values include gender-specific funding, diversity, accessibility and choice. Its work is rooted in three principles of women's human rights: economic self-sufficiency, freedom from violence, and access to health services and information. For more information on Chicago Foundation for Women, call 312-836-0126 or visit www.cfw.org.

With gratitude to Ms. Parks, and Ms. Vinson, and the fighters yet to come...

By Kaethe Morris Hoffer © 2005

Most Americans realize they owe a debt to Rosa Parks. With enormous personal courage and an inspiring commitment to justice, she helped change the legal and social landscape of our country. Although her bravery was initially self-serving—a demand that she, as an individual, be treated with dignity—the fruits of her labor have benefited every person, of every race, creed or color, who subscribes to the American dream of equality.

There is another woman, also African-American, but less well-known, to whom all equality-loving people owe much. Her name is Michelle Vinson, and she is a rape survivor. She fought for justice and dignity for herself and changed the world for all Americans, especially women.

A quarter of a century ago, Ms. Vinson was simply trying to make a living as a bank teller. Tragically, her supervisor exploited the power of his position and subjected her to abuse and harassment, and on a number of occasions, he raped her. As with most rape victims, Ms. Vinson did not trust the criminal justice system to provide her with justice, but she did think—perhaps because of Rosa Parks and the Civil Rights Movement—that civil law could provide her with some relief. And so, with assistance from civil attorneys and a newly developed legal theory which said sexual abuse in the workplace constituted unlawful sex discrimination, Ms. Vinson sued her employer.

Ms. Vinson did not have legal history or law on her side when she started her fight. But she believed that what was done to her was wrong, that it should be regarded as unlawful, and that she was entitled to justice and compensation. And in 1986, the Supreme Court of the United States agreed with her. When the Court issued its decision in *Vinson v. Meritor Savings Bank*, the law in America was transformed from a place in which

sexual abuse in the workplace could be regarded as the personal problem of its victims into illegal discrimination that courts, and employers, had obligations to prevent and to respond to with justice.

It took another five years, and another brave African-American woman—Anita Hill—before the American public really became aware that the law prohibits sexual abuse in the workplace. But since 1986, employers have become increasingly attentive to the legal rights of women workers. And rape and other forms of sexual abuse have become more unusual in the workplace. In fact, the transformation of the American workplace has been so profound that attitudes which flourished when Ms. Vinson was raped seem inconceivable now. It used to be common to regard a boss groping his secretary as a trivial matter, confirmation that sexual “relations” were the natural by-product of men and women working together, or evidence that the subordinate woman was using sex to get ahead. Nowadays, a boss groping his secretary is seen to be enacting sex discrimination, and he is frequently viewed as a liability, whose actions merit severe financial punishment.

When Rosa Parks refused to give up her seat, she was living in a culture where most people could not imagine that segregation would ever be regarded as a shameful vestige of slavery. Perhaps even she had trouble imagining a day when the legalized subordination of black Americans would be almost universally regarded as obscene. But somehow, whatever she foresaw, she found the courage to oppose an unjust act committed against her. In refusing to move to the back of the bus, she engaged in one act of civil legal disobedience, and galvanized a whole movement of people, which transformed our country for the better.

Today, thanks in large part to Ms.

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Vinson, the workplace is much safer for women. But sexual assault outside of the workplace occurs with a frequency that is astonishing and offensive. According to the United States Department of Justice, more than one in 10 American women are raped. And most rape victims never report being raped to the criminal justice system, believing (rightly, I think) that rape is almost never taken seriously or dealt with effectively. These facts suggest that our culture regards rape as inevitable, or that we have a social inability to imagine a world in which men are reliably—not rarely—held accountable for sexually violating others.

Whether or not someone like Rosa Parks or Michelle Vinson leads the way, we must re-imagine and re-shape our society into a place where rape is not regarded as inevitable any more than

it is tolerated or left un-remedied. In Illinois, a new law can help us do this. Under the Illinois Gender Violence Act, sexual violation is unlawful sex discrimination, and survivors can sue their rapists in civil court—whether or not the criminal justice system ever charged or prosecuted the assault. In the hands of survivors, this is a tool that can make an individual difference, with potentially global implications.

I have difficulty imagining what the world will feel like when rape becomes a truly rare event, rather than a common occurrence. But as a student of the Civil Rights movement, an admirer of Michelle Vinson, and an attorney devoted to representing survivors of sexual assault and domestic violence, I have no difficulty imagining what it will take to make that happen. It will take civil lawsuits which prove that rapists can

be taken to task for what they've done. And those lawsuits will be brought by ordinary women (or girls, or boys or men perhaps) who take a stand for themselves, and in refusing to tolerate their own sexual violation, improve our collective ability to prevent, respond to, and ultimately eradicate, sexual violation.

Kaethe Morris Hoffer is the founder of K. Morris Hoffer, P.C., a law firm devoted to legal and political advocacy for survivors of sexual assault and other forms of sex discrimination. She can be reached via email at kmh@morrishoffer.com.

"With Gratitude to Ms. Parks and Ms. Vinson, and the Fighters Yet to Come..." was first published in *Coalition Commentary*, a publication of the Illinois Coalition Against Sexual Assault.

Choosing the child care option that is right for you

By Annemarie E. Kill, Avery Camerlingo Kill, LLC, Chicago

When my partners and I began our firm in 2000, we were three women who were just starting our families. We jokingly thought we would time our pregnancies so only one of us was on maternity leave each year. Ironically, it actually worked out that way. Once we got past the notion that we could use a spare office as a nursery, we each needed to consider our real alternatives. How could we best take care of our own children while continuing to develop our new firm? The following is how we each dealt with the issue and what factors led us to our different decisions.

The nanny. Only 5 percent of preschool age children in the U.S. are cared for by a non-relative in the child's home.¹ These include babysitters, nannies and au pairs. This option is chosen more frequently as the educational level of the mother increases. My partner, Mary, and her husband (also an attorney) have always had a nanny for their two children. Mary chose to do this rather than day care because she wanted her kids to be in their own

home with one person with whom they would develop a one-on-one relationship. Her son has asthma and allergies, and exposure to many other children in a day care facility could have been problematic when he was younger. She also wanted the flexibility of not being bound by a day-care schedule. Also, if the kids were sick, the nanny would still be there, unlike a day-care facility which would not allow them to attend for the day. The biggest drawback to Mary was the cost. Generally, in the Chicago area live-out nannies can cost \$9-\$12 an hour, but the price varies with the number of children and the experience of the nanny. The average annual cost of a live-in nanny in 2004 was \$27,664, according to the International Nanny Association.²

Many people begin researching prospective nannies by contacting a local agency which will pre-screen candidates. Mary also did so and quickly found the right nanny for her family. Her nanny does not live-in but rather works four days a week. Mary then stays at home with the kids one day a week. However, she also pays the price

for having that precious day at home—her e-mails and documents are often time-stamped as being created at 3:30 a.m., proof positive that having a day out of the office forces you to squeeze the same amount of work into your week, no matter when you do it.

The au pair. My other partner, Pepi, and her husband (also an attorney) decided to get a live-in au pair through a state department program that places foreign students with American families. She thought it would be a great way to expose her son to a different culture. She also felt it would be a very flexible arrangement since the au pair was a live-in. The program limits the au pair to working 45 hours a week and no more than 10 hours a day. However, the hours are flexible, so if there is a special event on an evening or weekend, Pepi just saves up her hours. The au pair can generally only spend one year with a family. The cost is \$140 per week regardless of the number of children in the family, in addition to providing room and board to the au pair.

Like Mary, Pepi took comfort in knowing that her son was being cared

for in his own home. She also did not have the stress of getting him up and out the door to get to day care at 7 a.m. There are, of course, privacy issues that come up when you have another person living with you, but Pepi felt the benefit of the flexibility far outweighed that concern. The biggest drawback was Pepi's concern that her son was not having as much social interaction with other children as he would in day care. Because of this, Pepi recently decided to enroll her son in formal day care one day a week.

Day Care. Almost 25 percent of all preschoolers are cared for in organized day-care facilities. In 2001, the last year for which there is information, the cost of formal day care averaged 6.1 percent of household income for those with a household income greater than \$4,500 per month. Pepi thought that day care would give her son the chance to get to know other children and to learn to adapt to a different environment. In selecting a day-care facility, Safer Child, Inc., a not-for-profit organization, advises that you should find out the ratio of caregivers to children, the staff turnover rate, the licensing requirements for the facility, the extent of background checks done on staff, and the training provided for first aid and CPR.³ After checking these criteria and visiting several centers, Pepi decided on a downtown day-care center which, for one flat daily or weekly fee, will care for your children from 7:30 a.m. to 7:00 p.m. each day. Many centers tax a hefty penalty for failing to pick up your child at 5:00 p.m., which can prove to be difficult in our profession. In downtown Chicago, one can expect to pay \$185-\$225 a week for full-time care from a reputable day-care center. Although the first few

weeks were difficult—tears were shed more by mom than child—her son now gets excited as they enter the room full of children he has come to know. He doesn't get the one-on-one contact with his caregiver, but, as Pepi says, sometimes it's important for a child to know that he is not the center of the universe, and day care gives him that perspective.

There are also day-care providers who provide care in their homes for a group of children. These are sometimes referred to as "family day care." These are usually less expensive than day-care centers. In 2001, the cost of family day care averaged 4.4 percent of household income for those with a household income greater than \$4,500 per month, rather than the 6.1 percent for day-care centers.

The Stay-at-Home Dad. In two-parent homes where the mother is employed, more than 105,000 fathers have chosen to leave the labor force in order to be the primary caregiver for their children—in other words, "Stay-at-Home Dads." This is a 54 percent increase since 1986. My husband left his dream job at a Chicago blues and jazz store so he could join these numbers. Our decision gives me the flexibility and peace of mind to enable me to focus on work. Sure, it took some time for my husband to feel comfortable in his new role. For instance, there was the time that he was responding to questions to fill out paperwork at a doctor's office. The nurse routinely asked him for the name of his employer. He said "I'm a stay-at-home dad," to which the nurse sarcastically replied "you mean unemployed." Like Pepi, I also want to ensure that our son has opportunities to socialize with other children, so there are a lot of playgroups and classes.

However, at these events my husband is often the only dad. Our choice requires the loss of a spouse's income, but considering the cost of child care, the net effect was something we decided we could manage.

There are also relative caregiver options. Grandparents, siblings, or other non-spouse relatives care for approximately 25 percent of children of college-educated working mothers.⁴ One has the confidence that you know the person caring for your child, and the cost is much lower (if not free). The cost of a relative caregiver, if he or she is paid, averaged 4.5 percent of household income for those with a household income greater than \$4,500 per month.

One must honestly evaluate the needs of one's family when considering child care options. Explore your alternatives and choose a situation that enables you to focus on work while you are at work. That, hopefully, will let you enjoy something that every parent wants—more time to personally spend with your children.

1. Overturf Johnson, Julia. "Who's Minding the Kids? Child Care Arrangements: Winter, 2002." U.S. Census Bureau, Washington, D.C., October, 2005. [Unless otherwise noted, statistics provided are from this source.]

2. Shellenbarger, Sue. "You Think College Costs A lot? Try Day Care." *Chicago Sun Times*. Oct. 24, 2004.

3. For a great child care checklist see the Iowa State University's "Child Care Checklist for Parents" at <www.extension.iastate.edu/Publications/PM1805.pdf>.

4. Boushey, Heather and Wright, Joseph. "Working Moms and Child Care." Center for Economic and Policy Research, May 5, 2004 (analyzing U.S. Census Bureau "Survey of Income and Program Participation," 2002).

Celebrating the past, fighting for the future

By Patrice Ball-Reed

Past Success, Present Challenges and Future Hopes for the Voting Rights Act

The Women's Bar Association of Illinois (WBAI), Black Women Lawyers Association of Greater Chicago (BWLAW), Cook County Bar

Association (CCBA), National Council of Negro Women-Chicago Midwest Section (NCNW-CMS) and 19 other organizations co-hosted a Midwest Voting Rights Act (VRA) Leadership Summit on January 20, 2006. At the request of the Roger Baldwin Foundation of the American Civil

Liberties Union (ACLU) of Illinois, our organization invited members to participate in the Summit. The ACLU, American Bar Association (ABA) and Leadership Conference on Civil Rights Educational Fund (LCCRF) were the sponsors of the event. Each attendee received a notebook containing the

agenda, information about the VRA and a CD-ROM and DVD from LCCR titled, "Protect Voting Rights: Renew the VRA."

The day began with a Welcome from Robert Stein, the Executive Director of the ABA. He emphasized the importance of bar associations becoming actively involved in the effort to extend the Voting Rights Act. Mr. Stein also had the honor of introducing the keynote speaker, Judge Ruben Castillo. In 1994, Judge Castillo became the first Latino judge to serve in the Northern District of Illinois. During his work as the Executive Director of the Mexican-American Legal Defense and Educational Fund's (MALDEF) Regional Office in Chicago, Judge Castillo developed his advocacy skills concerning the relevance of the VRA. He focused his speech on the biggest fallacy that exists concerning the VRA: that the VRA is all about increasing minority representation. The reality is that the VRA allows each voter's vote to count. He provided anecdotal evidence and statistics to emphasize this reality. Judge Castillo ended his speech with a quote from Fred Gray, a long time Civil Rights Attorney, "The Voting Right is the most important element of Civil Rights in America."

After Judge Castillo's speech, a panel of experts, who happened to be women, presented information about renewing and reforming the VRA in the current climate. Each of them discussed the expiring sections of the Act. Those are Section 5, Preclearance, and Section 203, Language Minority Assistance. The panelists suggested the strategies that are needed to insure the extension of these sections of the Act in the currently difficult political climate. Each of the speakers was dynamic and informative.

A luncheon was provided during the Summit. The luncheon speaker was Reverend Jesse L. Jackson, Sr., of the Rainbow PUSH (People United to Save Humanity) Coalition. His speech provided motivation, as well as a challenge, to the audience. There were three points that were most significant. The first point was the importance of Dr. Martin Luther King Jr.'s "I Have A Dream Speech" in August of 1963. Reverend Jackson pointed out that the media focused on the dream aspect of the speech. The more important aspect of the speech was the failure of the United States to fulfill the promises of

the Emancipation Proclamation from 1863. Dr. King was indicating that one hundred years later the Negro is still languishing. He had come to the Nation's Capital to cash a check. Dr. King knew that America had defaulted on a promissory note insofar as her citizens of color were concerned. Reverend Jackson surmised that the Emancipation Proclamation was a legal contract that required enforcement whereas the dream was not legally enforceable. The second point was that the candle power of the enlightened minority can change the world. He explained the concept in the context of a darkened room where a single candle will shed light and direction. Reverend Jackson considered the ignorant and shortsighted majority as the darkened room and the enlightened minority as a candle in that darkness which advocates change, fairness and justice. The third point was the importance of student power. He discussed the large populations of students who are eligible to vote. If students in large numbers registered and voted in the elections where they attended school, the issues that the elected officials addressed would be defined by those students. The current student population is not taking advantage of that power. At the end of his speech, the audience gave Reverend Jackson a standing ovation.

The session after lunch was titled, "Can You Hear Me Now? Talking about the VRA in the Public and in the Media." Bruce Cook, President of the CCBA, was prepared as a spokesperson on the VRA by Renee Ferguson of NBC Channel 5 Chicago and Kate Stewart of Belden, Russonello & Stewart. The final three segments of the day were "Turning Up the Heat," "Getting Down to Work," and a concluding session. At the end of the program, a reception was held where one of the expected guests was United States Senator Richard Durbin.

The written materials provided the historical context and frequently asked questions concerning the VRA. In order to understand the importance of the VRA, we must understand its historical background. The VRA was promulgated to guarantee access and opportunity for the ballot box. The Constitution of the United States abolished slavery by the 13th Amendment in 1865, granted the rights of citizenship by the 14th Amendment in 1866, and granted the

right to vote by the 15th Amendment in 1869. Although these rights existed by law, the citizens of African ancestry were consistently denied the right to vote either by physical intimidation or local laws which denied access to the polls, particularly in the South. The first VRA was signed into law on August 6, 1965, by President Lyndon Johnson. Some parts of the Act are permanent while others are set to expire. Two sections which are set to expire in 2007 are Section 5 and Section 203. Section 5 was extended three times. It was extended in 1970 for five years, 1975 for seven years, and 1982 for 25 years. Section 203 and Section 4(f)(4) were adopted and extended in 1975 and extended and amended in 1982 and again in 1992. These particular sections are important because they are legally enforceable and clearly identify the required conduct. Hearings have begun before the House Judiciary Committee to examine the need for the Act.

When the Act was passed, the time limits were determined with the belief and hope that the "bad actors" would come to their senses and allow access to all people. Unfortunately, the bad conduct continues to occur even in this day and age. Due to the importance of the VRA, the ACLU and LCCR have developed coalitions to provide education to communities, speakers and access to information to insure the reauthorization of the VRA. There is up to the minute information at www.renewtheVRA.org. You can also contact the LCCR at grassroots@civilrights.org. The activists who are promoting and advocating for the reauthorization of the VRA believe, as we should, in the words of Dr. King on August 28, 1963: "This is not the time to engage in the luxury of cooling off or to take the tranquilizer drug of gradualism. Now is the time to make real the promise of democracy."

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