

Queens

BAR BULLETIN

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Celebrating Black History Month

By Clifford M. Welden



February has become a time when we remember achievements by African Americans and a time for recognizing their central role in U.S. history. Since 1976, every U.S. president has officially designated the month of February as Black History Month. Other countries have since set up their own recognitions to celebrate their own citizens in their countries most notably Canada and the United Kingdom. There are heroes that we are reminded of almost every day this month but there are others who became lost in history and who wait to be rediscovered. I'd like to share a short story of a man that my family knew well.

As did my parents before me, I grew up in the oldest part of Glen Cove (which was part of Queens County once). My parents' Landing neighborhood was filled with people who worked on the local estates, local factories and, being on the coast, the shipbuilding trade. My grandmother on one side was a domestic whose husband left her during the depression to raise two kids and on the other side my mother's dad was a union carpenter who supervised work on the local Gold Coast estates. It was the culturally diverse part of the city where the races

all learned together side by side in the schools (Mom in public and Dad in Catholic) and played together on the school fields.

I would like to share something about an African American man who is unknown to most of you but who should be recognized for his accomplishments. My mother spoke often of an old friend who was the president of her high school senior class of 1940. His father moved to Glen Cove from Virginia to work in the clubhouse of the exclusive Nassau Country Club and while going to school this classmate worked in the laundry there washing towels and members clothes. When war broke out, he served in the Army's Criminal Investigative Division serving in North Africa and Italy during World War II and when he came home, he attended Cornell University, played football and graduated Phi Beta Kappa. His law school roommate was Burton Roberts who later became the Administrative Judge of the Bronx. This man married the daughter of Black Harlem Hospital surgeon who became a doctor herself. He went to work for four years as a Manhattan D.A. then on to the U.S. Attorney's office for two years all while earning his Master's in Tax at

NYU. He then moved to Washington serving in Eisenhower's administration as an aid to the Labor Secretary. The next stop was as the minority counsel to a House antitrust subcommittee before moving back to New York where he settled in Harlem. He was friends with Lionel Hampton and was named to a criminal court judgeship by Nelson Rockefeller at only 36 years of age.

Losing two elections, this man interviewed for several partnerships but was denied because of his race before being the first African American to be a partner in a major New York law firm. At Battle, Fowler, Stokes & Kheel (yes, Ted Kheel – look him up) he spent 20 years in labor and tax law while at the same time was appointed to positions in the city Board of Education, the governing body of the American Stock Exchange and the Boards of General Electric, Prudential Insurance and International Paper. The fact that he was the first African American member of a Fortune 500 company was used by him to raise money for the NAACP and the Urban League and was part of the legal team that defended Rev. Dr. Martin Luther King and the NY Times in the fa-

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Being the official notice of the meetings and programs listed below, which, unless otherwise noted, will be held at the Bar Association Building, 90-35 148th Street, Jamaica, NY. Due to unforeseen events, please note that dates listed in this schedule are subject to change. More information and changes will be made available to members via written notice and brochures. Questions? Please call 718-291-4500.

CLE Seminar & Event listings

FEBRUARY 2021

Tuesday, February 2	CLE: Remote Depositions-Reflections on What Works & What Does Not - 1:00 pm
Wednesday, February 10	Elder Law Committee Mtg - 2:30 pm
Friday, February 12	Lincoln's Birthday - Office Closed
Monday, February 15	President's Day - Office Closed
Tuesday, February 16	Academy of Law Comm Mtg - 1:00 pm

MARCH 2021

Tuesday, March 16	Academy of Law Comm Mtg
Wednesday, March 24	CLE: Discovery

Upcoming Seminars
Guardianship Training

New Members

Christina Anziano
Patrick D. Conway
Luciane S. de Andrade
Alexander Davis
Giuseppe G. LoBrutto
Lionel Lumas
Daniel A. Rudolf
Ahlam Rafita
Johanna Sanders



Celebrating Black History Month

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mous first amendment Supreme Court case of Sullivan v. New York Times arguing the case before that court in 1964. This man then started the first New York State Commercial Bank with a majority of African American officers. By 1970 he became the general counsel of the Treasury Department and by 1973 he was the highest ranking African American in the Nixon Administration. When he returned to his law firm in Manhattan he was invited to join more corporate Boards and became a Trustee at Cornell and Howard University before becoming only the third African-American to serve in a Presidential Cabinet serving as H.U.D. Secretary from 1981 to 1989. He had lived the American dream and reached the height of is legal profession.

I remember that at her 40th high school reunion my parents came home happy. "We saw Sam there. Didn't he look good?" my mother said to my dad. My dad responded, "Yes Rosie, Sam Pierce looked great and he still has that big smile." --True story. I asked who this person was and they told me all about their high school days with this man that few remember and about how their class was not allowed to room in the hotel that they booked on their Senior trip to Mount Vernon because Sam and several other students were black so they had to find other lodgings. I never forgot the name Samuel Pierce and read as much as I could about him in subsequent years. Unfortunately, several on his staff got into trouble late in his tenure and that tarnished his name. But for many of the old timer's in my old town he was remembered as being a good man. A senior citizen housing development is named for him.

Please join me in remembering those African Americans of our Bar Association who have passed away but who have left a mark on many of our lives and who laid foundations for and who have inspired subsequent generations to follow. The QCBA has changed over the last 20 years and this year we have continued to take steps that are designed to make the association more reflective of the community that we represent and work in. I ask that you ask your friends to consider joining us as we work toward this cause.

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Editor’s Note

The Ultimate Diploma of all Diplomas

We lawyers have lots of diplomas hanging on our office walls – college, law school, bar admissions from New York and other jurisdictions, and awards of all types. They are hanging there to impress our clients. And of course, we all worked hard to get these diplomas, so this is all a matter of personal pride.

Recently, I came to represent the Estates of my first cousins, once removed, Harold and Jeanette Kaplowitz. Kaplowitz had been my late grandmother Ida Kerson’s maiden name. Her late brother Morris Kaplowitz was the father of Harold.

Harold and Jeanette had no children, so I was the only available relative to serve as Executor. The probate petition was finally approved, and the Letters Testamentary issued, so I went to take inventory of

the contents of the apartment.

And there I saw it – the ultimate diploma, the diploma behind every other diploma that has ever been issued by each and every University and Appellate Division since 1945:

Harold had been a U.S. Army foot soldier in the Battle of Normandy.

There was a diploma proudly hanging on his apartment wall from the Battle of Normandy Foundation to prove it, addressed to “T/4 Harold Kaplowitz”. T/4 was a U.S. Army rank in 1944. It means Technician 4th Grade.

D Day. June 6, 1944. 156,115 U.S., British and Canadian troops in 1200 planes and 5000 ships all crossing the English Channel at the same time. By

August 31, 1944 there were 2,052,299 Allied troops in Europe. Harold carried a machine gun to use against the Nazis. His unit pushed them out of the town of Verviers, Belgium.

Knowing Harold all these years, one would never have guessed that he did this. He was a mild-mannered quiet man. He never talked about it. However, we all knew that Harold and Jeanette would return to Belgium every year to be honored by the townspeople of the towns he helped liberate. They would go by ocean liner, on the RMS Queen Mary, a British hotel-ship, perhaps because this reminded Harold of the troop ship he took on this same route in 1944.

Harold’s Ultimate Diploma of All Diplomas reads as follows:

THE BATTLE OF NORMANDY FOUNDATION
Proudly presents this
OFFICIAL CERTIFICATE OF REGISTRATION

To certify that
T/4 HAROLD KAPLOWITZ

Is permanently inscribed on The Wall of Liberty as one of the courageous Americans whose sacrifice and commitment led to the liberation of the continent of Europe during World War II.

s/PIERRE SALINGER
Wall of Liberty Campaign Chairman
U.S.Veteran WWII

s/ANTHONY C. STOUT
President, The Battle of Normandy Foundation and the 50th Anniversary Commission

This diploma came from the top of the Federal Government. Pierre Salinger had been the Press Secretary to Presidents Kennedy and Johnson.

Harold was no professional soldier. He was a 21 year old accountant in the Bronx, NY when he was drafted by the U.S. Army. His fellow soldiers were also mostly draftees from all walks of life.

Our Army that ended the tyranny then engulfing the world were ordinary men called upon to do an extraordinary job.

Without them, our post-1945 University diplomas and Appellate Division bar admissions would have no meaning, had they existed at all. Imagine living in a Nazi dominated world.

We must always remember to thank Harold Kaplowitz; 21 year old Bronx accountant; and his fellow store clerks, factory workers, farmers, auto repairmen, plumbers, carpenters, construction workers and truck drivers who answered the call, and carried and used machine guns one by one to end the Nazi rule of Europe and threatened invasion of America.

Our diplomas can never measure up to theirs. But we can honor the 156,115 U.S., British and Canadian soldiers who took out the Nazis in the Battle of Normandy by using our diplomas today and every day to make our Court system work as best as it can to put more justice in the world.

We must always remember that we only have this opportunity because of what they did at Normandy on June 6, 1944.

BY PAUL E. KERSON, ESQ
EDITOR

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Co-ops Now Included in the Paycheck Protection Program

In the past weeks many Co-Op Board were busy completing Paycheck Protection Program (“PPP”) applications to their Banks. The inclusion of Co-ops in this forgivable loan program was the result of a joint effort of local Co-op advocacy groups and several elected officials representing areas with a large number of Co-ops. The inclusion of Co-ops in the PPP Program will provide much needed relief to many Co-ops who have incurred financial uncertainty during the Covid pandemic. This article will review more details of Co-op eligibility and detail the long fight to include Co-ops in this legislation.

On December 27, 2020, the Covid Stimulus Relief Bill (Consolidated Appropriations Act) was signed into law by the Federal Government. This legislation included relief for many industries (airline, restaurant etc..) and provided direct relief to many Americans in the form of enhanced unemployment benefits and \$600 payments to qualified persons making under \$75,000. Buried away in this 5,000 plus page document was a provision that makes Co-op Corporations specifically eligible for forgivable loans under the Payment Protection Program (“PPP”).

The PPP Program works as follows: a small business completes a loan application to their Bank and/or Lender, who then submits it to the Small Business Association. Although Co-ops are now considered an eligible entity, there are further eligibility requirements the Co-op must meet in order to obtain this forgivable loan. In order to be eligible, the Co-op will have the certify that they are experiencing current economic uncertainty due to the Covid pandemic. In addition, they must certify that the loan necessary to support their on-going operations.

Obviously, this threshold is vague at best and there is no clear standard or clarification from the Small Business Administration as to what this means. Although many Co-ops have suffered reduced maintenance in-

come, reduced commercial tenant income, increased water/sewer charges due to the residents being home all day; increased expenses for sanitizing and personal protective equipment; overtime and other administrative expenses.

Some features of the PPP loan are: the loan can be forgiven if at least sixty (60) per cent of the proceeds are used for payroll expenses and the remaining forty (40) per per cent used for qualified expenses such as utilities; cleaning supplies; personal protective equipment and mortgage interest. You must be aware that there are time parameters in which the money must be spent and then an application must be made to the SBA to have the loan forgiven. Any loan proceeds that are not forgiven must be repaid over a five-year period, at an interest rate of 1%. The formula for the amount of the loan is 2.5 times the Co-ops payroll, capped at a maximum loan amount of \$2,000,000.

Clearly, the PPP loans will provide tremendous financial benefits to many Co-ops. It is for this reason that Co-op advocacy groups fought long and hard to ensure that Co-ops are included in the PPP Program. The PPP program was created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March, 2020. At this point in time the Covid pandemic was taking hold of the economy and Congress passed this measure to keep as many people employed as possible. Many Co-ops were getting ready to submit their PPP applications and receive much needed financial relief from this program.

Unfortunately for the Co-op community, the SBA issued interim regulations on April 2, 2020. These regulations specifically excluded “passive entities” from the PPP Program. According to the SBA, a business is considered “passive” if it is not engaged in a regular and continuous business operation. The receipt of payments such as rents and lease payments is not considered a regular and continuous business operation according

to SBA guidelines. Clearly Co-ops would fall under the definition of a passive entity and therefore excluded from the PPP Program. This was a devastating blow to the New York City Co-op community, who at that point in time was experiencing an explosion in Covid cases and was the hardest hit part of the Country.

Many local Co-op advocacy groups, including the President’s Co-op & Condo Council and the New York Council of Cooperatives & Condominiums engaged elected officials to see what could be done to amend the CARES Act to include their constituents in this program. Many elected officials realized this injustice and acted swiftly to see what could be done. On the New York City level, Councilman Paul Vallone introduced a resolution to the New York City Council calling on the Federal Government to include Co-ops in the PPP Program. This resolution had over two dozen sponsors from fellow NY Council Members.

In addition, over a dozen members of the US House of Representatives were contacted by Co-op groups and actively lobbied for their inclusion in this program. In May, 2020, as a result of the support of these Members, the House of Representatives passed the Heroes Act, which included explicit language that would qualify Co-ops for PPP. Congress Members Grace Meng and Nydia Velasquez were instrumental in its’ passage.

The Heroes Act languished in the United States Senate from May, 2020 until the end of the year. US Senator and Minority Leader Chuck Schumer (a resident of a Co-op) championed this cause and as a result of his efforts he announced on December 21, 2020 that Co-ops would finally be eligible for PPP loans.

The results of the efforts of many people have netted a great benefit to the Co-op community. A benefit that will not come a moment too soon.

**BY GEOFFREY MAZEL, ESQ.,
FOUNDING MEMBER, HANKIN & MAZEL, PLLC**

Bertram Herman (1931 - 2020)

I read with sadness the passing of many of our colleagues in the recent January issue of the bar journal. Listed therein was the name of Bertram “Bert” Herman. I am glad and proud to say I knew Bert and I know there are scores of New York personal injury, no-fault and insurance litigant attorneys, on both sides (and judges) who looked to Bert for answers on complex issues and for a hint as to the direction the law was heading in his areas of expertise. Everyone listened when he spoke. He was brilliant, approachable and would help any attorney - you just had to call him on the phone and whether he knew you or not, he would take 5 or 10 or 30 minutes to give you his take on any insurance or negligence issue. And could he cite cases - right off the top of his head. And when he rattled off the citations, the attorneys in his audience would look at each other and wonder, “How was this possible.”

He lectured repeatedly for our association and many

others on insurance law, arbitrations and straight negligence issues. He handled trials, appellate work and took cases to the Court of Appeals. He had a distinctive, halting speech pattern and if you gave him the time, he would flesh out any point and then approach it from ten other directions - complete with annotations to the NY Insurance Law in the same breath without looking at a written note. When no-fault became the law, many attorneys “freaked out” - how could this work, how could the attorneys push now for better results based on the new way of dealing with car accident injuries? Well, there was a way and Bert, among other peers, made that new system work for the benefit of the injured - and, for the insurance companies too when (on occasion) they were right. When computers were first making an appearance some 30 years or so ago,



it was Bert who, in the basement of the Bar building, set up his SONY word processor and introduced many of us to the scary electronic future. When I came to practice in Queens County in 1978, I became a partner with my now departed father-in-law Harold C. Harrison, a noted criminal and civil attorney. Through Harold I got to know Bert. From 1978 and up to only a few years ago, when Bert was ailing, I took advantage of EVERY opportunity to get him on the phone and run case fact patterns past him for his unique analysis. His was a brilliant mind coupled with a generous and giving personality that made you proud to be in the same profession. His passing is a loss and his memory is a blessing.

**ALAN T. ROTHBARD, ESQ.,
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President Biden's Proposed Immigration Bill!

As part of his commitment to tackle our immigration system President Biden has sent a bill to Congress on day one of his presidency. The Proposed Bill is Titled "U.S. Citizenship Act of 2021!" The bill is expected to stimulate the economy. The bill creates an earned path to citizenship for our immigrant neighbors, colleagues, parishioners, community leaders, friends, and loved ones—including Dreamers and the essential workers who have risked their lives to serve and protect American communities.

Some important highlights of the bill are:
PROVIDE PATHWAYS TO CITIZENSHIP & STRENGTHEN LABOR PROTECTIONS

- **Create an earned roadmap to citizenship for undocumented individuals.**

The bill allows undocumented individuals to apply for temporary legal status, with the ability to apply for green cards after five years if they pass criminal and national security background checks and pay their taxes. Dreamers, TPS holders, and immigrant farmworkers who meet specific requirements are eligible for green cards immediately under the legislation. After three years, all green card holders who pass additional background checks and demonstrate knowledge of English and U.S. civics can apply to become citizens. Applicants must be physically present in the United States on or before January 1, 2021.

- **Keep families together.** The bill reforms the family-based immigration system by clearing backlogs, recapturing unused visas, eliminating lengthy wait times, and increasing per-country visa caps. Lastly, the

bill allows immigrants with approved family-sponsorship petitions to join family in the United States on a temporary basis while they wait for green cards to become available.

- **Embrace diversity.** The bill also increases Diversity Visas to 80,000 from 55,000.

- **Grow our economy and boost the employment based sector.** This bill clears employment-based visa backlogs, recaptures unused visas, reduces lengthy wait times, and eliminates per-country visa caps. The bill makes it easier for graduates of U.S. universities with advanced STEM degrees to stay in the United States; improves access to green cards for workers in lower-wage sectors; and eliminates other unnecessary hurdles for employment-based green cards. The bill provides dependents of H-1B visa holders work authorization, and children are prevented from "aging out" of the system.

PRIORITIZE SMART BORDER CONTROLS

- Supplement existing border resources with technology and infrastructure. The legislation builds on record budget allocations for immigration enforcement by authorizing additional funding for the Secretary of DHS to develop and implement a plan to deploy technology to expedite screening and enhance the ability to identify narcotics and other contraband at every land, air, and sea port of entry. To protect privacy, the DHS Inspector General is authorized to conduct oversight to ensure that employed technology effectively serves legitimate agency purposes.

- **Manage the border and protect border commu-**

nities. The bill directs the Government Accountability Office (GAO) to study the impact of DHS's authority to waive environmental and state and federal laws to expedite the construction of barriers and roads near U.S. borders and provides for additional rescue beacons to prevent needless deaths along the border. The bill authorizes and provides funding for DHS, in coordination with the Department of Health and Human Services (HHS) and nongovernmental experts, to develop guidelines and protocols for standards of care for individuals, families, and children in CBP custody.

ADDRESS OTHER ISSUES

- **Improve the immigration courts and protect vulnerable individuals.** The bill expands family case management programs, reduces immigration court backlogs, expands training for immigration judges, and improves technology for immigration courts. The bill also restores fairness and balance to our immigration system by providing judges and adjudicators with discretion to review cases and grant relief to deserving individuals.

- **Support vulnerable populations.** It also increases protections for U visa, T visa, and VAWA applicants, including by raising the cap on U visas from 10,000 to 30,000.

For more information please contact a knowledge immigration attorney or your senator or local congressman.

AND DEV B. VISWANATH, ESQ.

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The Practice Page

Departments Split On Naming Municipal Employees In Notices Of Claim

Must a claimant's Notice of Claim served under General Municipal Law (GML) 50-e identify the names of the allegedly negligent individual officers, agents, or employees to be adequate? Must a later action be dismissed against those individual employees if they are not identified by name in the Notice of Claim? The answer varies depending on geography, as the law differs by judicial department.

The well-recognized purpose of a GML 50-e notice is to enable the target municipality to promptly investigate a claim, and perhaps then settle it, to avoid expensive taxpayer-funded litigations and delays. Compliance with the statute is a condition precedent to an action (*Brown v City of New York*, 95 NY2d 389, 393).

The First Department has consistently held that when a tort claim involves acts or omissions of municipal employees, the individuals must be named on the Notice of Claim for there to later be a viable action against them, in addition to the municipality itself (*Alvarez v City of New York*, 134 AD3d 599, 606; see also *Cleghorne v City of New York*, 99 AD3d 443, 446; *Tannenbaum v City of New York*, 30 AD3d 357, 358). Its reasoning is that a municipality cannot be expected to adequately and timely investigate a claim against municipal employees if those employees are not named in the notice.

The Fourth Department's view on the issue was

originally the same as that of the First Department, that municipal employees accused of tortious conduct be identified in the Notice of Claim if they were to be named defendants in any later suit against the municipality (*Cropsey v County of Orleans Indus. Dev. Agency*, 66 AD3d 1362, 1362). The Fourth Department backtracked from that position somewhat in *Rew v County of Niagara*, 73 AD3d 1464, 1465, where its affirmation of a trial order meant that there was no requirement to name individual employees in notices alleging intentional torts, as municipalities are not required to indemnify their employees for intentional torts. The Fourth Department broke with the First Department entirely with its 2013 decision in *Goodwin v Pretorius*, 105 AD3d 207. There, while recognizing the earlier statewide precedents on the issue including its own, the court looked strictly at the language of GML 50-e in determining that the identification of individual employees was not required by the statute. Instead, according to *Goodwin*, the test of the sufficiency of a Notice of Claim is whether it includes information sufficient to enable the municipality to investigate, and that nothing further is required. The Fourth Department concluded that in examining compliance with GML 50-e, courts should focus on whether the claimant's descriptives enable municipal authorities to locate the place, fix the time, and understand the nature of the occurrence (*Goodwin v Pretorius*, 105 AD3d at 216, citing *Brown*

v City of New York, 95 NY2d at 393).

Not long after *Goodwin* was decided at the Fourth Department, the Third Department expressly adopted its reasoning (*Pierce v Hickey*, 129 AD3d 1287, 1289).

The Second Department recognized the split in authority on this issue between the other departments in the 2017 case of *Blake v City of New York*, 148 AD3d 1101. In *Blake*, as in *Goodwin*, the court looked at what GML 50-e(2) expressly requires of claimants — namely, 1) the name and postal address of each claimant and attorney, 2) the nature of the claim, 3) the time, place, and manner in which the claim arose, and 4) the items of damage or injuries claimed to have been sustained so far as then practicable. Listing the names of the individuals allegedly engaged in tortious wrongdoing is not mentioned in the statute, and therefore, not required for the adequacy of the notice (*Id.*, at 1106). The Second Department repeated this view more recently in *Williams v City of New York*, 153 AD3d 1301, 1304-05.

Although this legal issue has undergone some evolution over the years, the First Department has become the outlier. Beware of the geography on this one if preparing GML 50-e notices in the counties of the First Department.

BY HON. MARK C. DILLON
APPELLATE DIVISION, 2ND DEPT.



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Allen E. Kaye

Immigration Questions

AILA Welcomes Biden Plans to Reimagine America's Immigration System



Joseph DeFelice

Washington, DC - The American Immigration Lawyers Association (AILA) welcomed details shared in recent news articles about the planned reimagining of America's immigration laws and policies by the incoming Biden-Harris administration. While much will be in the hands of Congress to accomplish, this reasoned framework lays out the guideposts of smart and necessary immigration reform, something our country has desperately needed for decades.

AILA President Jennifer Minear highlighted several key provisions of the proposed Biden legislation, including changes to strengthen the legal immigration system, reunify families, and provide a path to citizenship for undocumented people residing in the United States. She stated, "The Biden-Harris administration is offering creative solutions that will increase America's prosperity by reuniting families separated by visa backlogs, addressing the root causes of migration from Central America, and creating a path to legal status and citizenship for Dreamers and so many others. Since the elections, AILA has been urging the new administration to implement these and many other reforms as set forth in AILA's Vision for a Welcoming Nation. I am eager to stand with my colleagues and offer expertise and insights to ensure this vision becomes a reality."

AILA Executive Director Benjamin Johnson added, "It is so important that this new administration not just fix what Trump has broken, but make things better than they were four years ago. It is heartening to see that President Biden plans to have his agencies offer Temporary Protected Status to foreign nationals whose countries need protection from disaster and conflict but were deprived of that protection by the current president. Rescinding the bans, reducing the backlogs both for adjudications and for immigration court hearings, and reforming our asylum process are all crucial to restoring the integrity of our immigration system. However, deep, lasting change will require Congress to take action, particularly on the need to regularize the status of millions who work shoulder to shoulder with others in their communities, contributing their hard work and desire to belong to the fabric of our nation. With the roll out of these plans and proposals, President-elect Biden has begun a new conversation and shared a new vision on immigration, one full of possibility and purpose."

New 100 Day Pause on Certain Removals

MEMORANDUM FOR:

Troy Miller

Senior Official Performing the Duties of the Commissioner

U.S. Customs and Border Protection

Tae Johnson

Acting Director

U.S. Immigration and Customs Enforcement

Tracey Renaud

Senior Official Performing the Duties of the Director

U.S. Citizenship and Immigration Services

CC: Karen Olick

Chief of Staff

FROM: David Pekoske

Acting Secretary

SUBJECT: Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities

DATE: January 20, 2021

This memorandum directs Department of Homeland Security components to conduct a review of policies and practices concerning immigration enforcement. It also sets interim policies during the course of that review, including a 100-day pause on certain removals to enable focusing the Department's resources where they are most needed. The United States faces significant operational challenges at the southwest border as it is confronting the most serious global public health crisis in a century. In light of those unique circumstances, the Department must surge resources to the border in order to ensure safe, legal and orderly processing, to rebuild fair and effective asylum procedures that respect human rights and due process, to adopt appropriate public health guidelines and protocols, and to prioritize responding to threats to national security, public safety, and border security.

This memorandum should be considered Department-wide guidance, applicable to the activities of U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS).

A. Comprehensive Review of Enforcement Policies and Priorities

The Chief of Staff shall coordinate a Department-wide review of policies and practices concerning immigration enforcement. Pursuant to the review, each component shall develop recommendations to address aspects of immigration enforcement, including policies for prioritizing the use of enforcement personnel, detention space, and removal assets; policies governing the exercise of prosecutorial discretion; policies governing detention; and policies regarding interaction with state and local law enforcement. These recommendations shall ensure that the Department carries out our duties to enforce the law and serve the Department's mission in line with our values. The Chief of Staff shall provide recommendations for the issuance of revised policies at any point during this review and no later than 100 days from the date of this memo.

The memoranda in the attached appendix are hereby rescinded and superseded.

B. Interim Civil Enforcement Guidelines

Due to limited resources, DHS cannot respond to all immigration violations or remove all persons unlawfully in the United States. Rather, DHS must implement civil immigration enforcement based on sensible priorities and changing circumstances. DHS's civil immigration enforcement priorities are protecting national security, border security, and public safety. The review directed in section A will enable the development, issuance, and implementation of detailed revised enforcement priorities. In the interim and pending completion of that review, the Department's priorities shall be:

1. National security. Individuals who have engaged in or are suspected of terrorism or espionage, or whose apprehension, arrest and/or custody is otherwise necessary to protect the national security of the United States.

CONTINUED ON PAGE 11



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Immigration Questions

AILA Welcomes Biden Plans to Reimagine America's Immigration System

CONTINUED FROM PAGE 10

2. Border security. Individuals apprehended at the border or ports of entry while attempting to unlawfully enter the United States on or after November 1, 2020, or who were not physically present in the United States before November 1, 2020.

3. Public safety. Individuals incarcerated within federal, state, and local prisons and jails released on or after the issuance of this memorandum who have been convicted of an "aggravated felony," as that term is defined in section 101(a) (43) of the Immigration and Nationality Act at the time of conviction, and are determined to pose a threat to public safety.

These priorities shall apply not only to the decision to issue, serve, file, or cancel a Notice to Appear, but also to a broad range of other discretionary enforcement decisions, including deciding: whom to stop, question, and arrest; whom to detain or release; whether to settle, dismiss, appeal, or join in a motion on a case; and whether to grant deferred action or parole. In addition, all enforcement and detention decisions shall be guided by DHS's ability to conduct operations and maintain custody consistent with applicable COVID-19 protocols.

While resources should be allocated to the priorities enumerated above, nothing in this memorandum prohibits the apprehension or detention of individuals unlawfully in the United States who are not identified as priorities herein. In order to ensure appropriate allocation of resources and exercise of prosecutorial discretion, the Acting Director of ICE shall issue operational guidance on the implementation of these priorities. This guidance shall contain a protocol for the Acting Secretary to conduct a periodic review of enforcement actions to ensure consistency with the priorities set forth in this memorandum. This guidance shall also include a process for the Director of ICE to review and approve of any civil immigration enforcement actions against individuals outside of federal, state or local prisons or jails.

These interim enforcement priorities shall go into effect on February 1, 2021 and remain in effect until superseded by revised priorities developed in connection with the review directed in section A.

C. Immediate 100-Day Pause on Removals

In light of the unique circumstances described above, DHS's limited resources must be prioritized to: (1) provide sufficient staff and resources to enhance

border security and conduct immigration and asylum processing at the southwest border fairly and efficiently; and (2) comply with COVID-19 protocols to protect the health and safety of DHS personnel and those members of the public with whom DHS personnel interact. In addition, we must ensure that our removal resources are directed to the Department's highest enforcement priorities. Accordingly, and pending the completion of the review set forth in section A, I am directing an immediate pause on removals of any noncitizen with a final order of removal (except as noted below) for 100 days to go into effect as soon as practical and no later than January 22, 2021.

The pause on removals applies to any noncitizen present in the United States when this directive takes effect with a final order of removal except one who:

According to a written finding by the Director of ICE, has engaged in or is suspected of terrorism or espionage, or otherwise poses a danger to the national security of the United States; or

Was not physically present in the United States before November 1, 2020; or

Has voluntarily agreed to waive any rights to remain in the United States, provided that he or she has been made fully aware of the consequences of waiver

and has been given a meaningful opportunity to access counsel prior to signing the waiver; or

For whom the Acting Director of ICE, following consultation with the General

Counsel, makes an individualized determination that removal is required by law.

No later than February 1, 2021, the Acting Director of ICE shall issue written instructions with additional operational guidance on the further implementation of this removal pause. The guidance shall include a process for individualized review and consideration of the appropriate disposition for individuals who have been ordered removed for 90 days or more, to the extent necessary to implement this pause. The process shall provide for assessments of alternatives to removal including, but not limited to, staying or reopening cases, alternative forms of detention, custodial detention, whether to grant temporary deferred action, or other appropriate action.

D. No Private Right Statement

These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by

any party in any administrative, civil, or criminal matter.

Texas Court Blocks Biden's Deportation Freeze

On Tuesday January 26 A Texas federal judge granted a temporary restraining order barring the U.S. Department of Homeland Security from pausing most deportations nationwide while it conducts an internal review, finding that the department may have violated immigration statutes.

Menendez to Lead Biden-Harris Immigration Legislation in the Senate

WASHINGTON, D.C. – U.S. Senator Bob Menendez (D-N.J.), who has spent decades fighting for immigrant rights and reforms to our nation's broken immigration system, announced today that he will lead the legislative effort in the United States Senate and introduce the Biden-Harris Administration's bold immigration bill to build a fair, humane and functional immigration system.

"The past four years have been traumatic for immigrant communities who have endured relentless attacks from the Trump Administration. Today, we turn the page on this dark chapter of our history and begin the hard work of repairing the damage and rebuilding a better union that reflects the values of our nation. As the son of Cuban immigrants and someone who has spent my adult life fighting for immigration reform, I am filled with hope to have President Biden and Vice President Harris as strong partners to advance a bold vision for immigration reform," said Senator Menendez.

"This plan is not only about fixing our broken immigration system, but building a better one that reunites families, brings the undocumented community out of the shadows and on a path to citizenship, stands up for human rights, addresses root causes of migration, and includes a smart border security strategy. As I prepare this bill for introduction, I know all too well from my work with the 'Gang of Eight' that passing immigration reform through the United States Congress will be a challenging task. However, there is a moral and economic imperative to get this done."

Menendez added, "History shows our nation is stronger and more prosperous when we embrace immigration and treat immigrants with the dignity and respect every human deserves. Immigrants will always be our country's greatest believers in the American Dream."

CONTINUED ON PAGE 12

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AILA Welcomes Biden Plans to Reimagine America’s Immigration System

CONTINUED FROM PAGE 11

I have lived that dream – just as Vice President Harris has – and I look forward to working with her, President Biden, and their administration to build a 21st century immigration system that keeps the promise of this dream alive for generations to come.”

Sen. Menendez has been a life-long advocate for Latinos and immigrant families in New Jersey and across the nation, consistently calling immigration reform one of the few unresolved civil rights issues of our time. In 2018, he led the effort to protect displaced Venezuelans fleeing the dire conditions in their home country and to provide support to migration systems in the countries surrounding Venezuela. Sen. Menendez was also a member of the so-called “Gang of Six” that crafted a bipartisan DACA bill to provide Dreamers with a pathway to citizenship that garnered 54 votes in the Senate, after the President refused to support it.

In 2013, Sen. Menendez was also a member of the so-called “Gang of Eight” that passed bipartisan, comprehensive immigration reform in 2013 by an overwhelming majority in the U.S. Senate, only to be blocked by Republican leaders from ever coming to a vote in the House of Representatives.

Sánchez to Lead Biden-Harris Immigration Legislation in the House
‘The Closers’ will shepherd House efforts to pass immigration overhaul

WASHINGTON—Congresswoman Linda T. Sánchez (D-CA) today announced that she will proudly lead the U.S. House of Representatives’ legislative efforts on immigration reform by introducing the Biden-Harris bill.

“We have waited entirely too long for meaningful reform to the broken immigration system that has prevented so many people and families from fully contributing to the nation they call home,” said Congresswoman Linda T. Sánchez (D-CA). “On Day One of the Biden administration, we’re wasting no time. We are getting to work and we will get this done.”

In order to finally enact meaningful immigration measures that strengthen our country, our values, and our humanity, Congresswoman Sánchez also announces that she will work with a group of distinguished colleagues to shepherd immigration reform through the legislative process.

Congresswoman Sánchez continued: “When a team needs to finish strong to win a game, the manager sends in their closers. And when President Biden and Speaker Pelosi want to finally deliver on immigration reform for the American people, they’re sending in their closers. The Closers are a sisterhood of Members who have dedicated their careers to reforming our immigration system, and who will see this through until we win.”

The Closers include:

- Chairwoman Zoe Lofgren
- Chairwoman Lucille Roybal-Allard
- Chairwoman Nydia M. Velázquez
- Chairwoman Judy Chu
- Congresswoman Yvette D. Clarke
- Congresswoman Karen Bass

“In working with President Biden, The Closers and I will: prioritize a path to citizenship for the millions of people seeking home and refuge in this country, treat our undocumented population humanely, restore family unity, and work to mitigate the root causes of migration,” said Congresswoman Sánchez. “From our Dreamers, to the service workers and farmers pulling us through this pandemic, there are too many relying on this reform for us to fail. I look forward to working with President Biden as well as my House colleagues to finally make our immigration system more functional, fair, and humane.”

For the past two years as Chair of the CHC Immigration Task Force, Congresswoman Sánchez has led the process of developing immigration legislation that preserves our values, strengthens our economy and provides robust and fair protections for immigrant communities.

Now in her tenth term in Congress, Congresswoman Sánchez has spent her career working for working people and advocating for reforms that would benefit the lives of all Americans including immigrants.

BY ALLEN E. KAYE AND JOSEPH DEFELICE
Allen E. Kaye and Joseph DeFelice are Co-Chairs on the Immigration and Naturalization Committee on the Queens County Bar Association.

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Attorney Dev Banad Viswanath will be working out of the India Offices during the second half of February into the 1st week of March 2021. For anyone interested in setting up a personal in-person consultation or same time zone consultation through Skype/Zoom or phone, may contact our offices or email Info@Banadlaw.com, listing the city they wish to have the consultation and their contact details. The attorney will be in Bangalore, Mumbai, and New Delhi. The exact dates are as follows:

- Bangalore/Bengaluru: February 18th through February 23rd and again March 2nd through March 4th
- Mumbai/Bombay: February 24th through February 27th
- Delhi: February 28th and March 1st

For anyone wishing to schedule an appointment, please contact our offices.

In addition, the U.S. Citizenship and Immigration Services announced that the Agency is extending the flexibilities it announced on March 30, 2020, to assist applicants, petitioners, and requestors who are responding to certain:

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- B) We made that decision anytime from March 1, 2020, through March 31, 2021.

Notice/Request/Decision Issuance Date: This flexibility applies to the above documents if the issuance date listed on the request, notice, or decision is between March 1, 2020, and March 31, 2021, inclusive.

Response Due Date: USCIS will consider a response to the above requests and notices received within 60 calendar days from the response due date set in the request or notice before taking any action. Additionally, the Agency will consider a Form N-336 or Form I-290B received up to 60 calendar days from the date of the decision before any action is taken.

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REPORT OF THE NOMINATING COMMITTEE

The Nominating Committee of the Queens County Bar Association, after due and timely notice, in accordance with the provisions of the By-Laws of the Queens County Bar Association, have nominated the following list of members for the positions to be filed at the coming election at the Annual Meeting of the Association on March 5, 2021.

TO THE QUEENS COUNTY BAR ASSOCIATION:

We, the undersigned, members of the Nominating Committee do hereby respectfully report that pursuant to the provisions of Article VI, Section 3, of the By-Laws of the Queens County Bar Association, we have nominated for the respective offices the following named members:

OFFICERS 2021-2022

For President	FRANK BRUNO, JR.
For President-Elect	ADAM M. ORLOW
For Vice President	MICHAEL D. ABNERI
For Secretary	ZENITH T. TAYLOR
For Treasurer	DEBORAH MARIE GARIBALDI

FOR FOUR MEMBERS OF THE BOARD OF MANAGERS FOR A TERM OF THREE YEARS (expiring May 31, 2024)

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SANDRA M. MUNOZ
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FOR ONE MEMBER OF THE BOARD OF MANAGERS FOR A TERM OF THREE YEARS AS IMMEDIATE PAST PRESIDENT (expiring May 31, 2024)

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NOMINATING COMMITTEE

Joseph Carola, III	Lucille S. Di Girolomo	Gregory J. Brown
Chanwoo Lee	Seymour W. James, Jr.	David Louis Cohen
Guy R. Vitacco, Jr.	Paul E. Kerson	Elisabeth A. Vreeburg

The following members have been designated by petition, pursuant to the By-Laws of the Association, as candidates for election to the office of members of the Nominating Committee to serve for a period of three years (expiring May 31, 2024)

JOSEPH F. DEFELICE GREGORY J. NEWMAN PAULA PAVLIDES

THE ANNUAL MEETING of the Queens County Bar Association will be held in the Bar Headquarters Building, 90-35 148th Street, Jamaica, New York on FRIDAY, MARCH 5, 2021, at 4:00 P.M.

The election of officers will take place at that time, together with such other business as may regularly come before the meeting. **SINCE NO INDEPENDENT NOMINATIONS HAVE BEEN FILED WITHIN THE TIME LIMITED BY THE BY-LAWS, THE ELECTION WILL BE PRO FORMA.**

Dated: Jamaica, N.Y.
February 15, 2021

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