

Queens BAR BULLETIN

Queens County Bar Association | qcba.org | 88-14 Sutphin Blvd., 3rd Floor, Jamaica, NY 11435 | 718-291-4500

May/June 2024 | Volume 91, No. 7



President's Message

By Zenith T. Taylor

I am honored in becoming the first Black woman President of the Queens County Bar Association ("QCBA").

As I embark on this historical journey, I want to express my utmost respect and gratitude to my predecessors, especially Seymour James, Jr., QCBA's first Black President. The path that led me here has been influenced by aspirations and challenges that resonate with many. This milestone signifies a personal accomplishment and an opportunity to advocate for inclusivity and foster a culture that genuinely represents the diverse backgrounds of our membership and the Queens County community.

Queens County is the most diverse county in the world, making it essential for the Queens County Bar Association to embrace this unique

attribute. As President, I commit to promoting diversity, equity, and inclusion—not because it is the "new" necessary phrase, but because it is a necessary process for change.

In the upcoming year, I aim to advocate for diversity and inclusion by working closely with various affinity bar associations to promote diversity, fairness, and inclusivity within the legal profession and the Queens County community. While I respect the autonomy of each affinity bar association, I believe our collective strength lies in our diversity and our shared commitment to justice.

I wish to acknowledge and thank the outgoing President, Michael Abneri, for his mentorship and support. I greatly appreciate his unwavering commitment to QCBA. I look forward to working

closely with him as he continues as Dean of the Academy of Law.

Lastly, QCBA's achievements and day-to-day operations would not have been possible without the steadfast support of our Executive Director, Jonathan Riegel, and our devoted support staff, Sasha Kahn and Janice Ruiz.

Thank you for allowing me to lead QCBA in the 2024-2025 term. I invite each of you to join or renew your membership and actively participate in committees. Your distinct backgrounds, areas of practice, and experiences will contribute significantly to the success of QCBA.

Sincerely,
Zenith T. Taylor



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Being the official notice of the meetings and programs listed below. 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

JUNE 2024

- Tuesday, June 18

Academy of Law Meeting – 1:00 pm
[https://us02web.zoom.us/j/84626724914?](https://us02web.zoom.us/j/84626724914?pwd=Ixiim2KnftYgaDYaPGre41mKtHE33h.1;)
[pwd=Ixiim2KnftYgaDYaPGre41mKtHE33h.1;](#)
Meeting ID: 846 2672 4914, Passcode: 983104
- Tuesday, June 18

EVENT: LGBTQ+ Spring Pride Mixer – 6:00 pm
at Fresco’s Grand Cantina,28-50 31 St, Astoria, NY 11102
Juneteenth – Office Closed
- Wednesday, June 19

CLE: Protecting and Supporting LGBTQ+ Families – 5:30 pm
- Thursday, June 20

Tech Tuesdays with My Legal Software – 1:00 pm
at QCBA, 88-14 Sutphin Blvd, 3 Fl, Jamaica, NY

JULY 2024

- Thursday, July 4

Independence Day – Office Closed

SEPTEMBER 2024

- Monday, September 2

Labor Day - Office Closed

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Queens Bar Bulletin

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Kristine Garcia-Elliott	Ronald S. Nir
Kenneth E. Gilbert	Earla Nyack
Hannah Greenstein	Josephine Pena
Jin Y. Han	Manoranjana Rai
Brett Hausthor	Linda Rampertab
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Abraham Kela	Porsha Scott
Daniel A. Khaldarov	Jeffrey T. Schwartz
Lovashni Khalikapasrad	Genevieve Tahang-Behan
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Editor's Note

Defending the Pax Americana

By Paul E. Kerson

From 1945 to today, we are living in the Pax Americana. In 1941, the Government of Japan attacked Pearl Harbor. In 1942, the Government of Germany sent U-boats (submarines) to the East Coast of the United States, sinking more than 100 trading ships off the East Coast of North America, in the Gulf of Mexico and in the Caribbean Sea. The United States was attacked from both the Atlantic and the Pacific at approximately the same time.

Thereafter, there has been a national consensus to have a Pentagon that could make certain that this kind of double attack could never happen again. The United States Navy has been built up to the extent that it polices the shipping lanes of the world so that free trade is preserved. See Google, Wikipedia, Pearl Harbor, U.S. Air Force fighting U-boats in American waters, U.S. Navy policing sea lanes.

On January 23, 2024, the Pax Americana was seriously attacked. The 6200-ton A.P. Moller Maersk A/S, the giant Danish world-wide shipping company Detroit ship and the 2474-ton Maersk Chesapeake ship were attacked by Houthis missiles in the Red Sea. In the week prior to January 23, 2024, the Houthis attacked ships belonging to the Eagle Bulk Shipping Company and the Genco Shipping and Trading Company. See Google, Paul Peachy, "Maersk ships in U.S. Navy convoy forced to retreat under Houthi missile attack", *Trade Winds – the Global Shipping News Source* January 24, 2024. The U.S. Navy quickly repelled these attacks.

Despite the fact that the U.S. Navy successfully repelled these attacks, Maersk announced that it would no longer send its numerous ships through the Red Sea but would rather reroute them around the Horn of Africa. Maersk is so big and carries so many goods for so many countries around the world that this additional rerouting of ships will cause additional shipping costs and worldwide inflation.

The significance of these January 2024 attacks on Maersk, Eagle Bulk Shipping and Genco Shipping cannot be underestimated.

Where did all this come from? Readers will be shocked to know that these attacks were funded by the Bank Melli Iran located at 767 Fifth Avenue, New York, New York 10153.

How could the Pax Americana be attacked by a bank in New York?

There is a very complicated answer to a seemingly simple question.

After the victory in 1945, the United States led the world in establishing the United Nations headquartered here in New York City. Following the United Nations was an ambassador and an embassy from virtually every country in the world. Following that was a bank branch from nearly every country in the world. New York, already a national banking center, became a major international banking center where all the banks of the world did business with each other. It is essential to every country in the world to have one of its leading banks maintain a branch in New York.

So, Bank Melli Iran has a branch at 767 Fifth Avenue, New York, New York 10153. It does business with all the other major banks of the world.

Our New York State Legislature in Albany reacted to this major development in the history of New York City in 1964. Our New York State Legislature passed New York State Banking Law Section 200-b (1) which provides as follows:

"An action or proceeding against a foreign banking corporation may be maintained by a resident of this state for any cause of action..." (*emphasis added*)

This statute has world-wide ramifications. It places our New York State Courts in charge of any and all wrongful activities by foreign bank branches located in New York.

The attack by the Houthis was funded by the Bank Melli Iran. The Bank Melli Iran has also funded Hamas and Hezbollah, terrorist organizations that regularly attack the State of Israel. This is also really an attack on the Pax Americana as attacks on military allies of the United States Government cannot be tolerated.

The United States Government knows all about the terrorist activities of Bank Melli Iran of 767 Fifth Avenue, New York, New York 10153. Our U.S. Treasury Department and U.S. Justice Department tried to bring the Bank Melli Iran to justice in *U.S. v. Assa Co. Ltd.*, 934 F. 3d 185 (2d Cir. 2019) and *In Re 650 Fifth Avenue*, 934 F. 3d 147 (2d Cir. 2019). Generally speaking, the United States Court of Appeals for the Second Circuit would not allow these cases to proceed because of the limited jurisdiction of Federal Courts.

Our New York State Legislature has given our New York State Courts completely unlimited jurisdiction over foreign bank branches "for any cause of action"

the broadest grant of jurisdiction possible all set forth so succinctly in New York State Banking Law Section 200-b (1).

There is no question but that the wrongful activities of Bank Melli Iran of 767 Fifth Avenue, New York, New York 10153 has impacted every international airline and trucking company at Kennedy Airport right here in Queens County, New York that does business with major shipping companies, that would be all of them.

Where the Pax Americana is threatened, we cannot rely totally on the United States Government. In the *Federalist Papers*, number 82, one of our founders, Alexander Hamilton, explained that in matters of this type, the State and Federal Courts were to have concurrent jurisdiction. New York State Banking Law Section 200-b (1) is an echo of Federalist Number 82 reverberating through time.

I propose that we use our home court, the Queens County Supreme Court, to enforce the Pax Americana which has been so beneficial to every resident on this planet. The Pax Americana resulted in the "Green Revolution" doubling the wheat production of wheat plants all over the world and the "computer revolution" providing personal computers and cell phones all around the world in large numbers thus increasing knowledge itself in science, technology, agriculture, health and every subject under the sun. The world has improved so dramatically from 1945 to date because the United States Navy has protected world trade in double barreled wheat plants, cell phones, computers and everything else under the sun. It is worth preserving, even if the Federal Government has trouble doing so.

Printed below is a draft Complaint for all of our members to use if approached by international shipping, airline and trucking companies located at Kennedy Airport in Jamaica, Queens County, New York to bring the Bank Melli Iran to justice.

If the Bank Melli Iran of 767 Fifth Avenue, New York, New York 10153 is hit with enough lawsuits because of all the damage they have caused to the Pax Americana, perhaps they will reconsider their policy of foreign adventurism and cease funding attacks upon the outstanding work of the United States Navy in protecting our world-wide distribution of enhanced wheat plants, cell phones, computers and every other modern device which has made our world a far better place.

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- ELDER LAW
- WILLS AND TRUSTS
- ESTATE PLANNING
- MEDICAID PLANNING
- PROBATE
- ADMINISTRATION OF ESTATES
- SPECIAL NEEDS
- REAL ESTATE

Donna received her law degree from St. John's University of Law. She is currently on the Board of Directors of the Catholic Lawyers Guild of Queens and was past President of the Queens County Women's Bar Association, the Astoria Kiwanis Club, East River Kiwanis Club, and the Catholic Lawyers Guild of Queens. Co-Chair of the Elder Law Section of Queens County Bar Assn. 2012-2019

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We look forward to hearing from you!

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Until We Meet Again...

By Michael D. Abneri, Esq.

It is hard to believe that a year has come and gone and my term as president of the Queens County Bar Association is about to conclude. I would like to thank our staff, Sasha Khan and Janice Ruiz, for all their help. I would also like to thank Jonathan Riegel, our Executive Director, for all his help this year keeping the place running, for the extraordinary efforts that were made in terms of the move from our old building to the new space on Sutphin Boulevard and for the various events that his work was needed to coordinate during the year.

I also thank the QCBA executive committee and Board of Managers for their efforts to ensure the year went smoothly. I thank all the committee chairs for their fabulous work as the lifeblood of this organization who keep doing the day-to-day work of scheduling CLE programs and advocating for attorneys who are members of the various committees. I thank the Academy of Law, of which I am Dean, for their work this year, as they do every year in conjunction with the committees in presenting top-notch CLE programs for Queens County practitioners and those other members who have attended. I also want to thank the Administrative Judges for their cooperation as we have co-sponsored many events in the Supreme Court Civil Term in Jamaica and Criminal Term in Kew Gardens over the past year. I expect that we will continue to do same in the coming years.

Thank you to Past President Paul Kerson, who is the editor of the Queens Bar Bulletin, for his tireless work. I would like to thank all of the past presidents who supported my tenure and gave advice and help when consulted.

As I write this, we near the end of May, a month in which we celebrate the important role that Asian-

Americans, native Hawaiians and Pacific Islanders play in our American history. Certainly, Queens County has more than its fair share of Asian immigrants and Asian-Americans living in the county and contributing to its vibrant economy. We celebrate those of Asian and Asian-American descent who are the lawyers and judges in the Queens legal community.

This year, the Queens County Bar Association acted on a number of items. New QCBA bylaws were approved in June which was a multiyear project. Our building moved from its former location to its current location on Sutphin Boulevard in June and we had the ribbon-cutting grand opening in September. We advocated for the appointment of at least two justices from Queens to the Appellate Division, Second Department, and celebrated the appointments of Hon. Laurence Love and Hon. Lourdes Ventura to those roles; we supported raises for the judiciary which were eventually approved; we supported the Judicial Security Act; and we opposed the raid on the IOLA funds, which we initially thought was successful but it turned out that they were raided anyway.

The highlight of my presidency was the event we had with Supreme Court Justice Sonia Sotomayor in October, where she made a virtual appearance for over 100 members of the Queens legal community. As far as we know, it is the first time a sitting United States Supreme Court justice addressed the QCBA. Special thanks to Appellate Division, Second Department Associate Justice and QCBA member Hon. Valerie Braithwaite Nelson for her tireless work, and that of her staff, securing Justice Sotomayor's appearance and making this historic event so memorable. It was a pleasure working with her on this event as both President and the Dean of the Academy of Law.

Best wishes to incoming president Zenith Taylor, who I have known for many years. I valued the advice, support, and judgment that she gave me during my year as president. And I congratulate her on her new statewide job as the Civics Engagement Coordinator of the New York State Office of Court Administration. I have no doubt that she will do an excellent job as the next Queens County Bar Association President as well as in her new position with OCA.

I have served as a member of the Board of Managers under 11 presidents. I have learned a lot and have tried to give back to the Queens County Bar Association. As I got more involved, I realize how important it is to have a vibrant county bar association that can advocate for our members. As I mentioned in my speech at the recent QCBA dinner, I did not come here to reinvent the wheel but to foster and nourish what is here and to keep going forward. I am proud that we continue to diversify the Board of Managers and hopefully our membership. I valued working together with the presidents of the affinity bars in Queens County where our presidencies overlapped, and we were able to work together cosponsoring several events.

As to the future, our past presidents generally serve three more years on the Board of Managers and I expect to carry out that obligation and tradition. Additionally, I will continue to have input as Dean of the Academy of law and as co-chair of the Supreme Court committee. I wholeheartedly wish to thank all those members who expressed support over the last year. I will see you around!

Tri-County Elder Law Dinner

TUESDAY, JUNE 4, 2024



Good Cause Eviction Law

BY RICHARD N. GOLDEN

In 1974 New Jersey was the first state in the nation to pass a “Good Cause legislation” that would bar landlords from unreasonably evicting tenants. Prior to the Covid Pandemic California, New Hampshire, Oregon and Washington passed similar laws protecting tenants. There has been an increasing awareness of Tenant vulnerability during and after the Covid Pandemic. According to the National Low Income Housing Coalition: “thirty one states and 66 localities around the country passed or implemented more than 150 new laws and policies since January, 2021 to protect tenants from eviction and keep them stably housed”. On April 21, 2024, New York joined the list of states enacting legislation designed to protect tenants. However, the extent of protection for tenants can be debated.

The battle lines were formed early with Landlord groups on one side arguing that “good cause” eviction rules will be disastrous to the housing market during a period that already suffered major setbacks during the Pandemic and will slow down desperately needed new housing construction. Tenant groups on the other hand argued that new construction projects would not be affected and that good cause eviction laws will protect tenants’ homes, avoid mounting debt, suicides and insure housing stability.

According to Molly Crabapple, writing for The Nation, there are 1.6 million market rate apartments in New York. Many of these apartments are not Rent Stabilized and the Landlords may evict a tenant after the expiration of the initial lease, for no reason, by means of a “Holdover” eviction proceeding. In 2022 more than 32,000 Holdover proceedings were brought in New York State housing courts. Countless more tenants did not stand to fight; they just moved to another apartment. Those moves were costly and disruptive.

Before the Pandemic, about 100 families were evicted every day in New York State. According to the Household Pulse Survey (August 30, 2021) 53 percent of New York renter households were making less than \$100,000 per years and were not highly confident they could pay next month’s rent and 39 percent of New York renter households are at risk of eviction in the next two months. Rents have been rising rapidly in 2021 with an increase of 9.4 percent nationwide since the start of the pandemic.

It is not surprising that the epicenter of the landlord tenant crisis is in Queens, Kings, New York

and Bronx Counties. These four boroughs represent approximately 61% of all renter-occupied households in New York State.

The good cause eviction policy is designed to protect tenants prohibiting no-fault evictions and requiring landlords to justify rent increases. In 2019 and again in 2021 a bill was introduced in the New York State Senate and Assembly but the bills were not put to a vote. However, the legislation, after some compromise, went into effect on April 21, 2024.

The newly passed legislation provides that rent increases are “presumptively unreasonable” if they exceed a) 10% of the previous rent or b) 5% of the previous rent plus the annual percentage change in the consumer price index for all urban consumers for the region in which the housing accommodation is located published by DHCR on August 1st of each year, whichever is less. Earlier, unsuccessful legislation had proposed 3% to be the reasonable limit.

The legislation ultimately passed in Albany carved out numerous exceptions to the Good Cause Restrictions. (Real Property Law Section 231-c (2) A-N). Previous drafts of the legislation gave an exemption to owners with 5 units. The newly passed legislation exempts owners with 10 units. Therefore, owners with less than 10 units are not restricted by the Good Cause Law. Furthermore, RPL Section 231-c outlines 10 reasons why a landlord may seek to evict a tenant even if he or she has more than 10 units.

The landlord has the right not to renew a lease if:

1. The unit is sublet and the sublessor is seeking, in good faith, to recover possession of the unit for their own use and occupancy.
2. The possession, use or occupancy is solely incident to employment and employment has been lawfully terminated.
3. The tenant has failed to pay rent, provided the rental increase is not unreasonable (see GCE NRPL 231-c (2) (K))
4. The tenant violated a substantial obligation of the lease and failed to cure the violation within 10 days of notice to cure
5. Tenant creating a nuisance
6. Tenant’s occupancy of the unit violates law and Landlord is subject to civil or criminal penalties for continuing to let the tenant occupy the premises.
7. Occupancy is in violation of the law and a vacate

order has been issued. Landlord has no right to evict if landlord caused the issuance of the vacate order.

8. Tenant using the apartment or part of building for an illegal purpose
9. Tenant has unreasonably refused access to the purpose of making repairs or improvements required by law.
10. Tenant refuses to agree to “reasonable” changes to the renewal lease, including rental increase that are not unreasonable, provided these written proposed changes are given at not less than 30 and not more than 90 days prior to the expiration of the current lease. (Note: This notice requirement is in conflict with the present Notice requirement that tenants who have occupied premises for two years or who have a two-year lease must be given “more than 90 days’ notice”. Until this issue is clarified one method would be to serve TWO TIMES. First: serve notice MORE THAN 90 DAYS; Second: serve same Notice BETWEEN 30 AND 90 DAYS.

NOTICE

Real Property Law Section 231-c requires landlords to attach to any lease or renewal lease after April 21, 2024 a notice disclosing whether or not the unit is subject to the provisions of the Good Clause Eviction Law (hereinafter referred to as GCE).

There is also a requirement that a similar notice be attached to Petitions (See RPAPL 741) and Demand Notices in a summary proceeding (RPAPL Section 711). All future leases renewals and notice of nonrenewal require the notice to advise tenants: 1) whether the apartment is exempt from GCE and the basis for the exemption; 2) whether the owner intends to increase the rent above the local rent standard and the basis for the increase; 3) whether the owner is declining to renew the lease, along with the justification of the non-renewal. The Division of Housing and Community Renewal (“DHCR”) is required to provide a “master form” for the notices. However, before DHCR offers the template, it is advisable that landlords prepare a notice consistent with RPL Section 231-c.

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Editor's Note

Defending the Pax Americana

CONTINUED FROM PAGE 4

If approached by a shipping, airline or trucking company at Kennedy Airport, do not hesitate. Bring the Bank Melli Iran of 767 Fifth Avenue, New York, New York 10153 to justice. A draft Complaint is attached. (The Plaintiff ABC is fictitious.)

SUPREME COURT OF THE STATE OF
NEW YORK
COUNTY OF QUEENS
-----x
ABC SHIPPING COMPANY, INC.
Plaintiff,
-against-
BANK MELLI IRAN,
Defendant.
-----x

COMPLAINT

Plaintiff, ABC Shipping Company, Inc. (ABC) by its attorney, Paul E. Kerson, Esq. of the Law Offices of Leavitt, Kerson & Sehati, Esqs., as for its Complaint against Defendant states as follows:

PARTIES

- At all times hereinafter mentioned, Plaintiff, ABC is a foreign corporation doing business as an international shipping company in the State of New York pursuant to the laws and Constitution of the State of New York and maintaining its offices for the conduct of its business at John F. Kennedy International Airport, Jamaica, Queens County, New York 11430.
- At all times hereinafter mentioned, Plaintiff ABC is an international shipping company headquartered in the Netherlands that maintains offices in 98 countries around the world with 90,000 employees and numerous ships, airplanes and trucks in its control.
- At all times hereinafter mentioned, Defendant Bank Melli Iran was and is a foreign banking corporation maintaining an office for the conduct of its business at 767 Fifth Avenue, New York, New York 10153. The said Defendant, Bank Melli Iran is 100 percent owned by the Government of Iran. See Google, Bank Melli Iran.

JURISDICTION

- The jurisdiction of this Court is invoked pursuant to New York State Banking Law Section 200-b (1) which provides as follows:
"An action or proceeding against a foreign banking corporation may be maintained by a resident of this state *for any cause of action*. For purposes of subdivision one, the term "resident of this state" shall include any corporation formed under any law of this state." (emphasis added)

FACTS

- In 1941, the Government of Japan sought to disrupt international world trade by bombing

Pearl Harbor, Hawaii, a territory of the United States Government. See Google, Wikipedia, Pearl Harbor

- In 1942, the Government of Germany dispatched submarines called U-boats off the coast of Suffolk County, Long Island, New York and the States of North Carolina and South Carolina to disrupt international world shipping. More than 100 ships were sunk by German U-boats off the east coast of North America, in the Gulf of Mexico and in the Caribbean Sea. See Google, National Museum of the U.S. Air Force, Fighting U-Boats in American Waters.
- In 1935-1945, the Government of Germany instituted death camps throughout Europe seeking to exterminate those they regarded as inferior: Jews, Gypsies, homosexuals, physically and mentally disabled people, and political dissidents. This horrific activity is commonly called the Holocaust. See Google, Holocaust.
- World War II occurred. The United States Government was victorious. Thereafter, the United States Navy commenced policing the shipping lanes of the Earth to ensure that world trade could carry on uninterrupted.
- Commencing in 1945 when the United States Navy started to police the sea lanes of the world, and up to and including today, there has been trade in the world at an unprecedented level, resulting in great advances in science and technology, agriculture, health, and prosperity of the world. This period of time, since 1945 is known by historians as "The Pax Americana". See Google, Pax Americana.
- Among the outstanding achievements of The Pax Americana was and is the work of the late Prof. Norman Borlaug (1914-2009), Professor of International Agriculture at Texas A & M University. Professor Borlaug invented "high yield disease resistant wheat variations" which doubled the yield of wheat plants all over the world thanks to the free trade protections of the United States Navy. Prof. Borlaug's work became known as "the Green Revolution" for which he was awarded the Nobel Peace Prize, the Presidential Medal of Freedom and the Congressional Gold Medal. Prof. Borlaug is known in history as the "man who saved a billion lives." See Google, Wikipedia, Norman Borlaug.
- Among the technological achievements of the Pax Americana is the invention and world-wide distribution of the personal computer and cell phone bringing new information about everything and anything to individuals all around the planet, again thanks to the free trade protections of the United States Navy. This part of The Pax Americana is known as "The Computer Revolution". See Google, Computer Revolution, Encyclopedia.com.
- On or about 2023, the Defendant Bank Melli Iran began funding the Houthis of Yemen and encouraged them to militarily attack commercial ships in the Red Sea, requiring a response from the United States Navy. The leading worldwide shipping company, A.P. Moller Maersk A/S

(Maersk) of Denmark then announced that it would no longer use the Red Sea for international commercial shipping, and would instead route its ships around the Horn of Africa, thus increasing the cost of virtually everything that is shipped by ocean freighter all over the world, disrupting the world economy. This attack on commercial shipping in the Red Sea was a direct attack on The Pax Americana.

- On or about January 23, 2024, the 6200-ton Maersk Detroit and 2474-ton Maersk Chesapeake ships were attacked by Houthis missiles financed by Defendant Bank Melli Iran. Both the Maersk Detroit and the Maersk Chesapeake were turned around and retreated to the Gulf of Aden. There was an explosion 100 meters away from the Maersk Detroit. The United States Central Command fired three anti-ship ballistic missiles in response. The United States Navy itself is a major Maersk customer. Maersk is enrolled in the United States Maritime Administration (MARAD) Maritime Security Program providing for United States Navy Protection for international shipping.
- In the week prior to this January 23, 2024 act of war, the Houthis attacked ships belonging to Eagle Bulk Shipping Company and Genco Shipping and Trading Company. In response, United States and British forces launched airstrikes against Houthis storage, missile and surveillance sites. See Google, Paul Peachey, "Maersk Ships in U.S. Navy Convoy Forced to Retreat under Houthis Missile Attack." *Trade Winds--the Global Shipping News* Source, January 24, 2024.
- The Defendant Bank Melli Iran also imposed a terrorist government on the Palestinian people of Gaza such that they have not been permitted to vote for the past 18 years and live under the thumb of a gang of murderers called Hamas. On October 7, 2023, Defendant funded a Hamas attack upon the State of Israel which cost 1143 lives and the Defendant-funded Hamas took 252 hostages, many of whom still remain in captivity. See Google, Wikipedia Hamas.
- This caused a response by the Israel Defense Forces (IDF) resulting in numerous Gazan casualties, all provoked by this Defendant's funding of Hamas. See Google, Wikipedia, 2023 Hamas-led attack on Israel.
- This Defendant has also funded Hezbollah, a terrorist group in Lebanon, to attack Northern Israel repeatedly. See Google, Wikipedia, Hezbollah.
- This Defendant also funded the Iranian air attack of April 13, 2024 upon the Palestinian residents of the State of Israel and the Jewish residents of the State of Israel who are integrated into one prosperous economy. Without any regard for the lives of the Palestinian citizens of the State of Israel for whom they claim to speak, this Defendant financed an air attack so fierce that it included 320 drones, 30 cruise missiles and 120 ballistic missiles. and required the joint efforts of the Air Forces of Saudi Arabia, Jordan, France, Britain, Israel and the United States in order to repel.

CONTINUED ON PAGE 23



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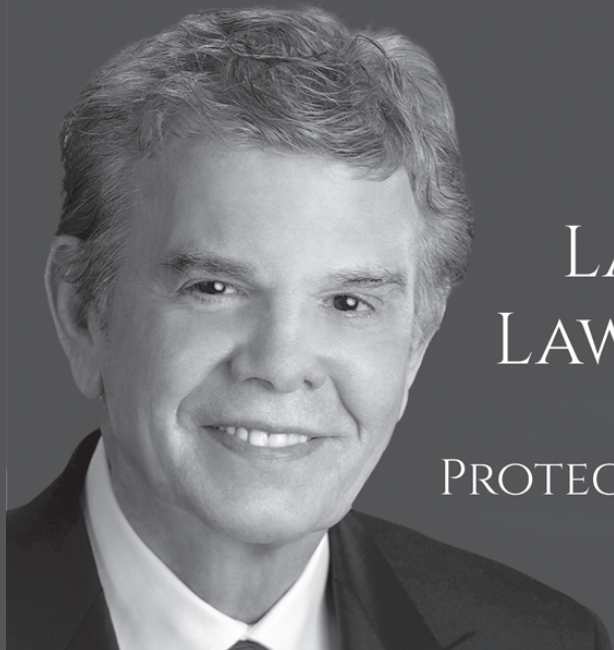
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Live In The Magic Of Your Own Imagination

BY FRANK BRUNO, JR.

"To believe in the things you can see and touch is no belief at all - but to believe in the unseen is a triumph and a blessing." – Abraham Lincoln

A *Washington Post* social experiment showed that "the remarkable" need a proper environment to shine. It involved a violinist named Joshua Bell, a world class violinist, one of the greats. He teamed up with the *Washington Post* in 2007 for this social experiment. The premise, what if we took this extraordinary world class musician and put him in the most ordinary of places? Busking in the Washington DC subways, dressed in unassuming clothes, a baseball cap with a 3.5-million-dollar violin; he started playing. He put a little tip jar and played Bach for 45 minutes. The expectation, the thought was it would be a concert scene. What happened was even more incredible. Busk to bust. Nearly no one cared. A thousand people went by, only seven stopped to listen to him; of the seven who stopped to listen, only one recognized him as one of the greatest violinists of all time. He made \$54 dollars in tips. \$20 of that came from the one person who recognized him. You could expect to pay hundreds, thousands of dollars a seat to listen to this man play, but in that subway, he faded into white noise. Two days before, he sold out The Boston Theatre with an average ticket price of \$100. In the subway, no one cared, but here's the point. No matter how wonderful you are, if you are in the wrong environment, you will be treated as invisible, even disposable, and you cannot let that environment and the way people react to you, affect the way you see yourself. Go where you are appreciated and valued.

King Solomon had a special ring, several special rings, he loved his rings. Heaven made or given by Angels? Did it permit him to control demons or genies? Did the ring assist him in building the Temple? Well, this is the story of another one of his rings, an Earthly ring. King Solomon tasked his assistant "I want a ring that will make me laugh when I look at it in hard times; that makes me smile. And I want a ring that is going to make me frown and sober when I am in happy times." The assistant looked at him and said, "I will search for a ring like this." A gala was being held in three months and King Solomon wanted the ring for that date. The assistant only had three months to find this magical ring. The assistant searched far and wide, he went everywhere to locate this prize. He could not find a ring with these properties. He went to a notable jeweler and ring maker and said, "I need a ring that when I look at it when happy, I will frown. And when I look at it, when frowning, I will smile." The ring maker looked at him, asked for a day and went to work. The next day, the assistant went to the shop of the master craftsman and a ring was presented. The assistant looked at the

ring proclaiming "exactly". The assistant hurried back to King Solomon as the Gala and accompanying pageantry had started. As Solomon is entertaining at this event, laughing and joking, the assistant comes in screaming, "King Solomon, King Solomon, I have your ring." Everybody looks and stops. King Solomon starts laughing, says, "let me see the ring."

He looks at the outside and appreciates its elegant simplicity, he looks at the inside and reads an inscription. King Solomon smiles. He frowns. Everybody wonders, what did the ring say? **"This too shall pass."** Whether in hard times, there is hope. Whether in good times, **this too shall pass.** All things good or bad are temporary; we can have faith that difficulties or uncertainty shall end and to appreciate/cherish beauty and goodness.

"Gather ye rosebuds while ye may" Carpe diem or Seize the day. The actual translation of carpe diem is more beautiful than we give it credit. As Horace intended, it actually means pluck the day. The quote is "Pluck the day for it is ripe, trusting as little as possible in tomorrow." What he actually was referring to is that each day is delicate. When you pluck a flower, you do not rip it from its stem. You pluck it very gently. You know it's fragile, so you take your time doing it. Horace meant, pluck the day gently, approach it softly. Explore the possibility. Try something, do something new, do not get lost in the past or anxiety about the future. Do not bulldoze over the day. Approach it softly, and you will get the benefits from that. Enjoy your life while you can, trust as little as possible in tomorrow because you don't know that it is guaranteed.

"There is no end to education. It is not that you read a book, pass an examination, and finish with education. The whole of life, from the moment you are born to the moment you die, is a process of learning." – Jiddu Krishnamurti.

Every year at this time, people graduate from all levels of education, from step up ceremonies to university graduations, excited to begin the next chapter of their lives. Many are relieved to be finished with formal classroom learning, never to open a book again. Yet, their education in the real world is just beginning. As lawyers, I figure we are proponents of formal education, we place a premium on the importance of education. Formal education can help avoid the high price we pay for experience – the patient teacher gently forcing knowledge as we make the same mistake two or three times.

Ignorance is more expensive than formal education. Look, listen and learn. I believe education is a cornerstone for success, both personally and

professionally. Formal schooling, but also about the continuous pursuit of knowledge and skills throughout one's life. Education equips us with the tools to think critically, solve problems and adapt to change. In the words of Nelson Mandela, "Education is the most powerful weapon which you can use to change the world."

Education is an investment and never an expense. Consider education a capital improvement. Self-improvement is an area to increase your spending, not decrease it, particularly to replenish your professional inventory. Lifelong learning is vital in personal and professional development. Business and technology are constantly evolving, the pursuit of knowledge cannot stop at graduation. If you had stopped educating yourself, start again. Continuous learning is the key to staying relevant and competitive. Self-education demonstrates a strong personal initiative with a commitment to personal excellence. You can become adaptable with the ability to pivot in response to changes in the law or Court system.

Lifelong learning is crucial for enhancing existing skills and acquiring new ones. It allows you to stay young in mind and spirit by exposing you to new ideas and perspectives. As Henry Ford said, "Anyone who stops learning is old, whether at twenty or eighty. Anyone who keeps learning stays young." Stay curious and never stop learning. Listen to books, attend workshops, listen to podcasts, ask questions; attend Committee meetings; engage in networking to exchange knowledge.

Today, probably yesterday and certainly tomorrow, it is important to have several skill sets. People who can roll with the times, be prepared to respond to changing occupational requirements as needs demand.

Education is beyond school or the law. Can you talk about music or fishing or cars with clients and colleagues? We are in the legal and the people business. Conversational skills build rapport, garners trust and sets one apart.

"Intellectual growth should commence at birth and cease only at death." Albert Einstein. I heard that a mother once asked Albert Einstein how to raise a child to become a genius. Einstein's advice was to read fairy tales to the child. "And after that?" the mother asked. "Read the child more fairy tales," Einstein replied, adding that what a scientist most needs is a curious imagination.

Stay curious my friends. Live in the magic of your own wonderful creative imagination.

Frank Bruno, Jr. is Past President of the QCBA, a Member of the Board of Managers, a regular contributor to the Bar Bulletin and a practicing attorney for more than 26 years.

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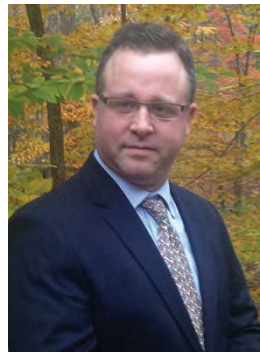
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Strict Liability “Vicious Propensities” Rule For Injuries Caused By Domestic Animals Upheld

BY HON. GEORGE M. HEYMANN

In *Cantore v. Costantine*, (2023 NY Slip Op 05708), the Appellate Division, Second Department, had the opportunity to review the background of the “vicious propensities” rule as the standard by which an individual can be sued for injuries caused by domesticated animals over which they have full (own) or partial control (harboring the animal for someone else). More specifically, the court focused on the recent Court of Appeals’ decision in *Hewitt v. Palmer Veterinary Clinic*, (35 NY3d 541[2020]) which deviated from the strict liability norm.

“VICIOUS PROPENSITIES”

Two years after the Court of Appeals rendered its decision in *Collier v. Zambito*, (1NY3d 444 [2004]), discussed below, the long-standing jurisprudence of allowing an injured person to sue under the theory of strict liability or negligence changed as a result of the Court’s opinion in *Bard v. Jahnke*, (6 New York 3d 592, 599[2006]), which reaffirmed the holding in *Collier*. At the time, strict liability – requiring a showing that the owner “knows or has reason to know” the animal has “dangerous propensities abnormal to its class” became *the only viable claim*, (*Id.* at 603, n.2 [citation omitted]). (Emphasis added)

Pre-*Bard*, the strict liability cause of action coexisted with a cause of action founded in negligence (see, e.g., *Benoit v. Troy & LR Co.*, (154 NY 223 at 225-227), but it now stands alone as the injured victim’s soul route to recovery. (see, Heymann & Kaiser, *Should the “Vicious Propensities” Rule Allow a Property Owner to Escape Liability for Injuries by a Domestic Animal Owned by a Third Party* (NYLJ, 5/8/2019 [cited by Hewitt in her brief to the Court of Appeals and in the amicus brief from the NYSATL])

Seven years after this change in the law, it appeared that the Court of Appeals was making a shift back to allow for recovery in negligence, but limited its scope to situations where a “farm animal has been allowed to stray from the property where it is kept period” (*Hastings v. Suave*, (21 NY3d 122, 124 [2013])). Here, the court held that a contrary rule would “immunize defendants who take little or no care to keep their livestock out of the roadway or off other people’s property (*Id.* at 125). The question of whether this exception would be applicable to “dogs, cats or other household pets was not determined at that time. (see also, Heymann, *Is the “Vicious Propensities” Rule Losing its Bite?* (NYLJ, 2/18/2015)

In *Collier v. Zambito*, (*supra*), a young boy was injured when bitten on the face by the defendant’s dog. The dog was leashed and defendant encouraged the boy to approach. The dog lunged and bit him. Finding that there was no evidence that the owner was aware of prior vicious propensities of the dog, the Court of

Appeals concluded that there was no basis to allow for recovery on the theory of negligence. Notwithstanding that this incident would not have occurred but for the defendant’s actions, the court found that barking and running around is normal canine behavior unless it was proven to be threatening or menacing.

The first attempt to distinguish between negligence and vicious propensities was brought to the fore by Judge G. B. Smith in his dissent by stating that a jury could find that the defendant’s conduct enticing the boy to approach the dog was “ill considered in light of the attendant risk of injury (*Id.* at 451). (see, Heymann on “vicious propensities”, *supra*)

The second attempt to change the court’s position was a vigorous dissent by Judge R. S. Smith in *Bard* (*supra*). “Under the Restatement (Second) of Torts, the owner of a domestic animal who does not know or have reason to know that the animal is more dangerous than others of its class may still be liable for negligently failing to prevent the animal from inflicting an injury. This Court today becomes the first state court of last resort to reject the Restatement rule. I think that is a mistake. It leaves New York with an archaic rigid rule, contrary to fairness and common sense, that will probably be eroded by ad hoc exceptions.”

HEWITT v. PALMER VETERINARY CLINIC

The most recent opinion by the Court of Appeals regarding an exception to the vicious propensities rule is *Hewitt v. Palmer Veterinary Clinic*, (35 NY3d 541 [2020]). Like the decision in *Hastings v. Suave* (*supra*), it is strictly fact-specific and each subsequent attempt to extend the ruling has failed.

Following a medical procedure, the dog in question was returned to her owner by a veterinarian in the waiting room. Seated near the owner was the plaintiff Hewitt with a cat in its carrier. The dog, who was not properly sedated at the time, slipped out of her collar in an effort to reach the cat. In the process, she ended up behind the plaintiff grabbing her ponytail, thus causing her injury. Instead of suing the owner of the dog, plaintiff sued the clinic on the basis that it was negligent in its duty of care to those on its property. The defendant moved for summary judgment of dismissal claiming that it had no prior knowledge of vicious propensities. The plaintiff opposed the motion and cross moved for summary judgment averring that “the defendant should be held liable under a theory of ordinary negligence.” Defendant’s motion was granted by the Supreme Court, which then dismissed plaintiff’s cross motion. The Appellate Division, Third Department, affirmed. The Court of Appeals modified by denying defendant’s motion for summary judgment.

The Court opined that “it was satisfied that, under the circumstances presented here, a negligence claim may lie despite [the defendant] Palmer’s lack of notice of [the dog’s] vicious propensities” (*Id.* at 549 [emphasis added]). The Court determined that it was “undisputed” that the clinic owed a duty of care to the plaintiff as its agents “have specialized knowledge relating to animal behavior...” Palmer’s veterinarians, equipped with “specialized knowledge” ... “may be aware of, or may create, stressors giving rise to a substantial risk of aggressive behavior” (*Id.* at 548-549). *Hewitt* is unique because it “applied an ordinary negligence standard, without the vicious propensities notice requirement, [thereby making it] specific to the facts therein, namely, where the defendant retains specialized knowledge relating to animal behavior.”

The Court noted that in some instances a person who does not own the animal that causes injury may still be liable and held to a strict liability standard. This is often the case with landlords who rent to tenants with knowledge that the dog has vicious propensities. (see, e.g., *Strunk v. Zotlanski*, (62 NY2d 572), where “there was evidence that the landlord knew of the vicious dog when she leased the property.”)

CANTORE v. COSTANTINE

In the case at bar there are three defendants: Warren Costantine, owner of the dog who bit the infant plaintiff; Tal Daikers, owner of the restaurant where injury occurred; and Daikers Restaurant, Inc.

On July 5, 2019, the infant plaintiff was bitten by Costantine’s dog inside of Daiker’s restaurant. The restaurant is “dog friendly” and there are signs posted that let patrons know that their dogs must be on a leash at all times. Plaintiff commenced this proceeding on November 1, 2020 on behalf of herself and as the natural guardian of the injured infant. She alleged that the Daikers defendants had knowledge of the dog’s vicious propensities and allowed it to “wander freely” throughout the premises. The next day, November 2, 2020, the restaurant defendants filed a notice of motion seeking dismissal of the complaint and any cross claims. “Citing Hewitt, the restaurant defendants acknowledged that a plaintiff commence a negligence action against a non-dog-owning defendant in certain circumstances. However, they argued that a restaurant owner cannot be held liable for a dog bite without knowledge of the dog’s vicious propensities. [They] maintained that they have no specialized knowledge of dog behavior and that the bite was unforeseeable.” In opposition, the plaintiff asserts that pursuant to Hewitt, a standard negligence analysis based on knowledge of vicious

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Strict Liability “Vicious Propensities” Rule For Injuries Caused By Domestic Animals Upheld

BY HON. GEORGE M. HEYMANN

CONTINUED FROM PAGE 20

propensities applies in considering the liability of the non-pet-owning premises owners for injuries caused by animals on such premises.” Thus, the restaurant defendants owed a duty of care to its customers. On December 29, 2021, the trial court denied the motion to dismiss the complaint and cross motions. Although the restaurant defendants proved, as a matter of law, that they had no knowledge of the dog’s vicious propensities, the court determined that there were triable issues of fact as to the restaurant defendants’ “duty to their patrons and the foreseeability of the injury which mandated denying the motion.”

The Court of Appeals stated in its opinion “that plaintiff’s reading of *Hewitt* is expansive and overreaching [and] reject[ed] such an overbroad application of *Hewitt*.”

The court in *Hewitt*, similar to *Hastings*, discussed above, held that in specific circumstances, applicable to that particular case, the vicious propensities requirement was not applicable. However, *Hewitt*, contrary to plaintiff’s contentions, “by no means stands for the proposition that the vicious propensities notice requirement no longer applies in negligence actions against landlords or property owners where an injury was caused by a domesticated animal.”

Here, the Supreme Court erred in denying defendants’ summary judgment motion for dismissal as there was no evidence that they had knowledge of the dog’s vicious propensities. In contrast to *Hewitt* and *Hastings*, the circumstances in *Cantore* do not lend themselves to the elimination of the vicious propensities notice requirement.

CONCLUSION

This decision now brings the Appellate Division, Second Department, in line with the other three departments. Clearly, their desire to expand the boundaries of those set forth in *Hewitt* is virtually non-existent. As stated above by R. S. Smith in his dissent in *Bard*, ad hoc exceptions may eventually erode this archaic and unfair standard.

Judge George M. Heymann, Chair of the Queens County Bar Association’s Animal Law Committee, served with distinction for over two decades as a Judge of the New York City Civil Court/Housing Part. Known for his exemplary writing skills, Judge Heymann has over 85 published decisions to his credit, of which more than a third were selected by the State Reporter for publication in the Official Miscellaneous Reports. He is a well-known author of more than fifty (50) articles that frequently appear in the New York Law Journal and various bar bulletins and journals and is the recipient of numerous awards for his professional and community service.

Judge Heymann is a former adjunct professor at Hofstra Law School and a member of the Committee on Character and Fitness, for the second, tenth, eleventh and thirteenth judicial districts (AD, 2nd Dept).



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Preserving Your Legacy: A Guide to Protecting Assets & Inheritance

An elder law estate plan revolves around crucial questions that shape your choices. Firstly, it addresses the fate of your assets after you pass away. Secondly, it anticipates the scenario of needing long-term care and how it might impact your assets. A well-rounded plan seamlessly addresses both issues, ensuring not only the smooth transfer of assets to your beneficiaries but also safeguarding them from being depleted by long-term care expenses.

Securing long-term care insurance stands as the most effective defense against the financial challenges associated with extended care needs. When contemplating this insurance option, critical considerations involve defining an appropriate daily benefit amount and incorporating an inflation rider to match the escalating costs of nursing home care. Notably, long-term care insurance goes beyond by covering the expenses of home health aides, empowering individuals to gracefully age within the familiarity and comfort of their own homes, steering clear of the need for relocation to a facility. In case you’re unable to obtain long-term care insurance, there’s a backup plan called Medicaid Asset Protection (MAPT). Assets held in MAPT for at least five years are shielded from nursing home expenses, and upcoming laws may extend protection to two and a half years for home care.

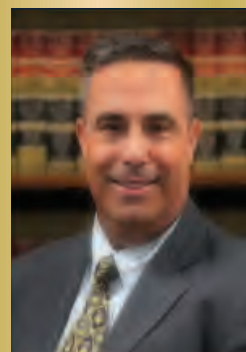
Explore the option of using trusts instead of wills to bypass probate, which is a legal process initiated when you pass away with assets solely in your name. Trusts are harder to challenge than wills, especially if you’re disinherit a child. In general, trusts streamline the estate settlement process, saving both time and money.

Opt for Inheritance Protection Trusts when leaving assets to your children instead of direct distributions. These trusts serve as a protective measure during your children’s divorces, ensuring that in the unfortunate event of your child’s passing, the inheritance is preserved for your grandchildren rather than being vulnerable to claims from your children’s spouses.

Elder law estate planning is a comprehensive approach tailored to address the unique legal and financial concerns that individuals face as they age. Moreover, elder law estate planning aims to mitigate potential tax liabilities, ensuring that as much of the estate as possible goes to the intended heirs rather than being depleted by taxes or other financial burdens.

In essence, an elder law estate plan does three main things: (1) safeguards your assets from long-term care expenses, (2) passes assets to your heirs while minimizing taxes and legal fees, and (3) ensures your grandchildren inherit while shielding the legacy from your children’s divorces.

Elder law estate planning offers a holistic approach to secure the well-being of seniors, protect their assets, and provide a clear roadmap for the distribution of their estate according to their wishes. By taking a proactive stance, individuals can steer the complexities of aging with confidence and ensure a legacy that aligns with their values and goals.



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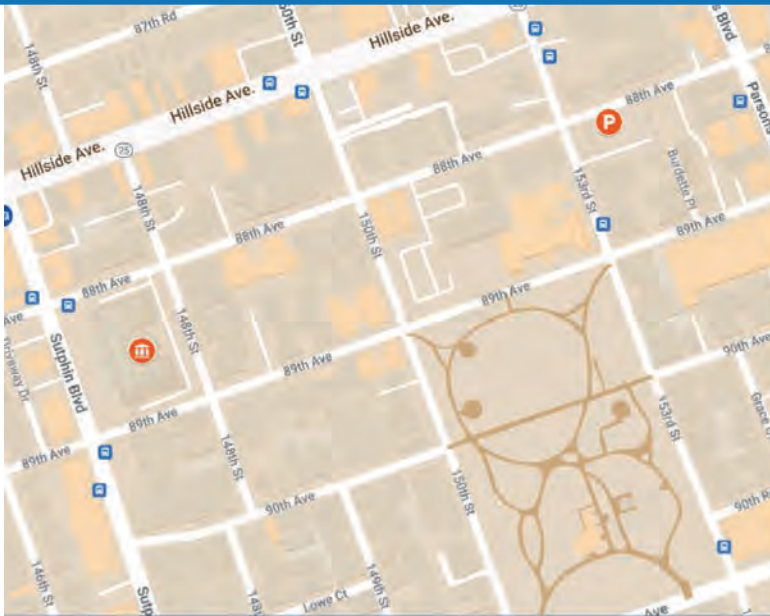


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Editor's Note

Defending the Pax Americana

CONTINUED FROM PAGE 10

Had any of these bombs and missiles landed, it would have been Holocaust II. This April 13, 2024 attack was a direct military attack on The Pax Americana. See Google, Wikipedia, 2024 Iranian Strikes against Israel.

19. Following the attack of the Houthis of Yemen on commercial ships in the Red Sea, several of Maersk's ships were damaged despite protection from the United States Navy. Thereafter, Maersk decided it could no longer sail its numerous ships in the Red Sea and had to resort to an alternate much longer route around the Horn of Africa, causing the Plaintiff many millions of dollars in damages for extra fuel supplies, extra days pay for its employees, and loss of business due to longer shipping times and additional shipping delays.
20. The United States Treasury Department and the United States Justice Department tried to limit the activities of this Defendant in extensive litigation, but the United States Government's efforts in this regard were denied. See *U.S. v. Assa Co. Ltd.*, 934 F.3d 185(2d Cir. 2019) and *In Re 650 Fifth Avenue*, 934 F. 3d 147 (2d Cir. 2019).

**AS AND FOR A FIRST CAUSE
OF ACTION FOR THE BUSINESS
TORT OF INTERFERENCE
WITH BUSINESS RELATIONSHIPS**

21. Plaintiff repeats, reiterates and realleges paragraphs 1 through 20 as if more fully set forth herein.
22. The above-listed acts of the Defendant Bank Melli Iran constitute the business tort of interference with the business relationships of the Plaintiff ABC and all of its customers seeking shipping through the Red Sea, and all of ABC's related and interconnected airplanes and trucks located at John F. Kennedy International Airport in Jamaica, Queens County, New York all to Plaintiff's damage in a sum in excess of the jurisdictional limits of all courts which might otherwise exercise jurisdiction in this matter.

**AS AND FOR A SECOND CAUSE
OF ACTION FOR
PRIVATE AND PUBLIC NUISANCE**

23. Plaintiff repeats, reiterates and realleges paragraphs 1 through 22 of the Complaint as if more fully set forth herein.

24. The above-listed wrongful acts of the Defendant Bank Melli Iran constitute both a private and public nuisance. The wrongful arming of the Houthis, Hezbollah and Hamas caused the interference with Plaintiff ABC's customers shipping goods in the Red Sea constituted a private nuisance as to ABC and its customers.
25. The above-listed acts of the Defendant Bank Melli Iran constituted a public nuisance affecting the public health, safety and welfare of all of ABC's customers shipping and seeking to ship goods of all descriptions on ABC's ships through the Red Sea and all of the ABC's related and interconnected airplanes and trucks located at John F. Kennedy International Airport in Jamaica, Queens County, New York.
26. This creation of a private and public nuisance by the Defendant Bank Melli Iran caused the above-listed damages to the Plaintiff ABC in a sum in excess of the jurisdictional limits of all lower courts which might otherwise exercise jurisdiction in this matter.

WHEREFORE, Plaintiff demands Judgment:

- a) For a Temporary Restraining Order, Preliminary Injunction and Permanent Injunction pursuant to New York Civil Practice Law and Rules (CPLR) Article 63, Sections 6301 and 6311 closing the New York Branch of the Defendant Bank Melli Iran until such time as the said Defendant agrees to cease funding the Houthis, Hezbollah, and Hamas, and any and all terrorist organizations attacking The Pax Americana, and
- b) For a money Judgment on the First Cause of Action in a sum exceeding the jurisdictional limits of all lower courts which might otherwise exercise jurisdiction in this matter for the business tort of interfering with Plaintiff ABC's relationships with its customers shipping goods and seeking to ship goods in the Red Sea, and all of ABC's related and interconnected airplanes and trucks located at John F. Kennedy International Airport located in Jamaica, Queens County, New York.
- c) For a money Judgment in a sum exceeding the jurisdictional limits of all lower courts which might otherwise exercise jurisdiction in this matter on the second cause of action for the wrongful creation of both a private and public nuisance, thus damaging the Plaintiff ABC and
- d) For the cost, interest, disbursements and attorneys' fees in this action, and
- e) For such other and further relief as to the Court may seem just and proper.

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