



## Terrible and Terrifying: Marriage Interviews Become Another Cog in the Deportation Machine

by Benjamin Johnson, Executive Director of the American Immigration Lawyers Association

### Immigration Questions

By Allen E. Kaye and Joseph DeFelice

See p. 7



In a growing number of cases around the country, U.S. Immigration and Customs Enforcement (ICE) has adopted a novel and reprehensible approach to apprehending potentially deportable immigrants: seizing them during the marriage interview component of their immigration application process. In other words, when they are seated in front of an examiner with U.S. Citizenship and Immigration Services (USCIS), demonstrating that their marriage to a U.S. citizen is valid and thereby qualifying them for legal status, ICE agents take them into custody. Rather than reserving this heavy handed tactic for dangerous people who pose some risk to the community, thus far the agency has used this strategy to lock up people who, if the interview were to continue, would be approved for a green card, but who – at that moment – were without legal status, despite the fact that they were trying to acquire said legal status in the interview.

The fact that this new ICE policy is directly at odds with USCIS policies — even though both agencies belong to the Department of Homeland Security (DHS) — is evidence of

a growing dysfunction within the agency and disturbingly high level of tolerance of cruelty for the immigrants being ensnared by ICE. In fact, this catch-22 arrangement motivated the American Civil Liberties Union (ACLU) to file a class-action lawsuit in April against President Trump and various DHS and ICE officials demanding that immigrants be protected from detention and deportation when they are following the rules set forth by USCIS to apply for legal status. After all, showing up for the marriage interview is required!

This new practice is part of an ongoing disregard for longstanding ICE policy limiting enforcement actions in certain “sensitive locations,” such as schools, churches, and hospitals, as well as “any organization assisting children, pregnant women, victims of crime or abuse, or individuals with significant mental or physical disabilities.” This policy notwithstanding, ICE agents have conducted arrests outside of churches and in front of schools. They have also declared courthouses to be fair game as well, even when the arrestee is there seeking a restraining order against

an abuser. If cases such as these do not qualify as “sensitive” in the estimation of ICE agents, it should come as no surprise that ICE has now chosen to target the offices of USCIS, a fellow agency within DHS.

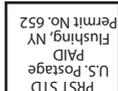
At the broadest level, ICE has simply stopped prioritizing who it pursues, and how it allocates its resources. Rather than trying to focus resources primarily on those who may be actual threats to public safety, ICE agents are simply apprehending any possibly-deportable immigrants in their line of sight. This is not just ineffective law enforcement, it is needlessly inhumane. It is also ludicrous to be arrested by a federal agency for following the rules of another federal agency.

Every American should denounce this obscene manipulation, and urge Congress to follow suit.

Allen E. Kaye and Joseph DeFelice are Co-Chairs of the Immigration and Nationality Committee of the Queens County Bar Association.



Terrible and Terrifying: Marriage Interviews Become Another Cog in the Deportation Machine .....	1
Docket, QCBA Board, New Members and Necrology.....	2
President's Message.....	4
Editor's Note .....	5
Unlawful Presence and Bars to Admissibility .....	7
Holiday Party 12-6-18.....	10,11
The Black Hole of Administrative Possessing.....	17
New State and City Sexual Harassment Laws Go Into Effect .....	19
Application for Membership.....	22



# The Docket

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

### January 2018

Tuesday, January 1                      New Year's Day - Office Closed  
Monday, January 21                      Martin Luther King, Jr. Day - Office Closed

### February 2019

Tuesday, February 5                      CLE: Criminal Law Comm & Brandeis Assn Seminar  
Tuesday, February 12                      Lincoln's Birthday - Office Closed  
Monday, February 18                      President's Day - Office Closed  
Wednesday, February 27                      Ethics Update

### March 2019

Thursday, March 7                      CLE: Real Estate Transactions – Rescheduled Date  
Tuesday, March 12                      Judiciary, Past Presidents & Golden Jubilarian Night

## New Members

Maricella Tenorio Bocangel  
Michael Calcagni  
Mul K. Kim  
Yuriy Korol  
Liran Messinger  
Lexis Mollica  
Gina M. Nicasio  
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# *President's Message*

## **New Beginnings during the Seasons of Lights and Holidays**

What a wonderful time of year to become Acting President of the Queens County Bar Association. We are currently in the midst of a multitude of celebrations of light and holidays in the most ethnically diverse urban area of the world.

I extend heartfelt congratulations to my predecessor, QCBA's Immediate Past President Judge Hilary Gingold on her recent induction to serve as Judge of the Civil Court of the City of New York. It is my honor to follow as Judge Gingold's successor. I thank Judge Gingold for all of her hard work and dedicated service to the Bar Association, and also for facilitating a smooth transition for me to become Acting President. I wish Judge Gingold all the best in her new role and position.

And so now, Dear Members, let us take pause and consider the abundance of festivals of lights and holidays. The demographics of Queens, the second-most populous borough in New York City, are highly diverse. No racial or ethnic group holds a 50% majority in the borough. There is so much to celebrate within all of this diversity. Several weeks ago, on November 7th, Diwali, Deepavali or Dipavali, the Hindu festival of lights was celebrated. One of the most popular festivals of Hinduism, Diwali symbolizes the spiritual "victory of light over darkness, good over evil and knowledge over ignorance." Light is a metaphor for knowledge and consciousness.

As we approach December, the upcoming celebrations of light and the holidays include Hanukah, Winter Solstice, Christmas and Kwanzaa. Hanukah is a Jewish Holiday that celebrates the rededication of the Holy Temple in Jerusalem, where the Temple was purified and for eight miraculous days the wicks of the menorah burned, even though there was only sufficient sacred oil for one day's lighting. The Winter Solstice Festival is a Pagan Festival that celebrates when the dark half of the year

turns over to the light half of the year. Christmas is a Christian holiday celebrating the birth of a baby boy who brought light into the darkness of the earth, bringing peace on earth; God's gift of good will to all. Kwanzaa is a secular festival observed by many African Americans from December 26 to January 1 as a celebration of cultural heritage and traditional values, and is celebrated with a candle-lighting ceremony each evening for seven evenings.

Let us remember in our work as members of the Bar, in our work as attorneys and judges, that no matter how challenging our work becomes, that there will always be light, and that justice will prevail. I encourage you all to use the Bar Association as resource, and I welcome any suggestions and ideas that would help better serve the membership, [mfirst@firstlawnyc.com](mailto:mfirst@firstlawnyc.com). It is my Honor to serve as Acting President of the Queens County Bar Association.

Marie-Eleana First  
Acting President, QCBA



## Editor's Note

# Mission Statement: To Put More Justice in the World

By Paul E. Kerson

For more than thirty years, nearly every term my office, Leavitt & Kerson, hosts a Queens College pre-law student as an intern. We give them the kind of legal education not available in most law schools. We send them out to interview witnesses, photograph crime scenes, search City and County offices for lost records and find reluctant bureaucrats to answer questions.

Their Internship Supervisor requires an exit interview at the end of the term. This term's intern asked me a very good question: What is our Mission Statement?

Marc Leavitt and I have had this law firm for 36 years. We formed it to be different than most law firms. The idea is to put more justice in the world. Fourteen people work for us or with us. We are small for New York City but large for Queens County.

In 1994-2008, this Mission Statement led us to successfully pursue the Dresdner Bank of 75 Wall Street, New York, NY for financing World War II against the United States with our client's stolen industrial empire of hotels, breweries, restaurants and malt factories. This case, *Nacher v. Dresdner Bank*, inspired 56 other similar cases. See *Nacher v. Dresdner Bank*, *In re Nazi Era Cases*, *Mandowsky/Nacher v. Dresdner Bank* 198 F.R.D. 429 (D.N.J. 2000), 213 F.Supp. 2d 439 (D.N.J. 2002), 236 F.R.D. 231 (D.N.J. 2006), 240 Fed. Appx. 980 (3d Cir. 2007), cert. den. 552 U.S. 1098 (2008). After our own Justice Joseph Golia declined to grant the Bank's effort to dismiss the Complaint, the U.S. Treasury Department took over all 57 cases and settled them all for \$5 billion, ultimately awarding every Holocaust survivor in the world \$7,000. Our European co-counsel later recovered some of our client's substantial property in European litigation.

This Mission Statement led us to pursue the New York State Corrections Commissioner for running an unconstitutional, physically dangerous state prison system. Our client, Don Britt was repeatedly stabbed and nearly died because Corrections put him in a cell with an inmate who made death threats against him. We won a \$7.65 million jury verdict against Corrections in the U.S. District Court in Manhattan in 2004, later reduced to a sum not to be disclosed. See *Britt v. Garcia*, 457 F. 3d 264 (2d Cir. 2006)



This Mission Statement led me to 19 years of service on the Assigned Counsel Plan where I achieved five acquittals in homicide or attempted homicide jury trials. I believe this to be a state record. It is thoroughly unconscionable for anyone to be housed in a correctional system that is physically dangerous to its inmates.

This Mission Statement has led to the representation of countless tenants facing eviction and to countless homeowners facing foreclosure, and a few small landlords with zany tenants. No one loses his or her home on our watch if we can help it. Losing one's home is not justice. We make settlements that keep people in their homes, no matter which side we represent.

When brother goes against sister in the Surrogate's Court and when business partners or spouses go after each other in the State Supreme Court, we try as best we can to make peace between the warring parties. We schedule the EBTs on the same day so the parties can scream at each other long enough to realize that this kind of anger is not productive and needs to be cooled and settled.

We try to persuade the Law Secretary, Court Attorney or professional Mediator to bring the parties together. We do not bill people for every procedural device in the CPLR just to be "thorough".

When banks, insurance carriers and/or government agencies go after our clients, we

litigate with an intensity they rarely see. No large financial institution or government agency takes advantage of our clients without a substantial struggle from us.

This is all summed up in an ancient text that is the fundamental basis of Judaism, Christianity, and the very idea of the legal profession:

"Justice, justice thou shalt pursue"  
Deuteronomy 16:20

When I finished telling our Queens College intern all this last month, he thanked me. He said that before he came to work in our law office he thought law was all about the money.

I explained to him that New York was not set up like that. In New York's first college, King's College (now Columbia University) set up in 1754, there were only three professional programs – Theology, Medicine, and Law. All three studied every subject under the sun together. There were no graduate schools. Upon graduation, King's College graduates were apprenticed in law, medical, and ministerial offices to complete their professional training. In 1754, King's college met at Trinity Church on Broadway at Wall Street.

Theology dealt with humanity's relationship with God. Medicine dealt with humanity's relationship with nature. Law dealt with humanity's relationship with each other. In this sense, all existing knowledge was necessary for all three professions and taught at King's College. See: Robert A. McCaughey, *Stand, Columbia: A History of Columbia University in the City of New York, 1754-2004*, Columbia University Press, New York 2004, pages 1-49; and Ron Chernow, *Alexander Hamilton*, The Penguin Press, New York 2004, pages 41-62. In these three Callings, fees were secondary. Everything else was a business where profits were primary. This is what King's College professional education meant in 1754.

Law Offices were not a business in New York in 1754. The practice of law was, is, and remains a Calling from Upstairs – a Calling to put more Justice in the world. Anyone who thinks otherwise has the whole wrong idea.

And here is the irony of it all: if the clients sense your Calling, they will not hesitate to pay you what you ask.

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# Unlawful Presence and Bars to Admissibility

By Allen E. Kaye and Joseph DeFelice

Unlawful presence is the period of time when you are in the United States without being admitted or paroled or when you are not in a “period of stay authorized by the Secretary.” You may be barred from reentering the United States for:

3 years, if you depart the United States after having accrued more than 180 days but less than 1 year of unlawful presence during a single stay and before the commencement of removal proceedings; 10 years, if you depart the United States after having accrued one year or more of unlawful presence during a single stay, regardless of whether you leave before, during, or after removal proceedings; or Permanently, if you reenter or try to reenter the United States without being admitted or paroled after having accrued more than one year of unlawful presence in the aggregate during one or more stays in the United States.

You can find these bars in the Immigration and Nationality Act (INA) section 212(a)(9)(B)(i)(I) and (II) (the 3-year and 10-year unlawful presence bars) and INA 212(a)(9)(C)(i)(I) (the permanent unlawful presence bar).

Determining if an unlawful presence bar applies to you can be complex. If you need help or legal advice on immigration matters, make sure the person helping you is authorized to give legal advice.

## Accruing Unlawful Presence

According to section 212(a)(9)(B)(ii) of the INA, you accrue unlawful presence if:

You are present in the United States without being admitted or paroled; or

You have remained in the United States after the expiration of the period of stay authorized by the Secretary of Homeland Security (the Secretary).

If you are in the United States without



having been admitted to or paroled into the country by an immigration officer, then you started accruing unlawful presence on the day you entered the country without admission or parole.

In general, if you were admitted or paroled into the United States by an immigration officer, you were issued or received a Form I-94, Arrival-Departure Record, that shows a specific date when you are required to leave. Typically, you start accruing unlawful presence if you remain in the United States after the date noted on the Form I-94. However, if you are admitted for duration of status (D/S) and your Form I-94 is marked D/S, then you may stay in the United States for the duration of your program, course of study, or temporary work assignment to the United States, plus any additional grace periods

that may be authorized afterwards. Read the Policy Changes to Unlawful Presence for Nonimmigrants in Academic Student (F), Exchange Visitor (J), and Vocational Student (M) Status section below to learn how unlawful presence is counted for academic and vocational students and exchange visitors as of Aug. 9, 2018.

In the Adjudicator’s Field Manual (AFM) Chapter 40.9.2, USCIS outlines when you are considered to be in a “period of stay authorized.” If you are in the United States maintaining lawful status, meet the requirements for an exception, or are otherwise considered to be in a period of stay authorized by the Secretary, then you do not accrue unlawful presence.

The law also provides exceptions for accrual of unlawful presence to the following individuals:

**Asylees:** Time while a nonfrivolous asylum application is pending is not counted as unlawful presence.

**Minors:** Children do not accrue unlawful presence while they are under age 18.

**Family Unity Beneficiaries:** Individuals with protection under the Family Unity program, as provided under section 301 of the Immigration Act of 1990, do not accrue unlawful presence while that protection is in effect.

**Battered Spouses and Children:** Self-petitioners under the Violence Against Women Act (VAWA) do not accrue unlawful presence if they can show a connection between the status violation and the abuse.

**Victims of Severe Forms of Trafficking:** Trafficking victims who can show that a severe form of trafficking was at least one central reason why they were unlawfully present in the United States will not be considered inadmissible due to unlawful presence.

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These exceptions apply only to the 3-year and 10-year unlawful presence bars found in INA 212(a)(9)(B)(i)(I) and (II). They do not apply to the permanent unlawful presence bar found in INA 212(a)(9)(C)(i)(I).

In addition to these exceptions provided by law, there are also some special circumstances when your lawful status may have expired or you may have entered without admission or parole, but for purposes of counting your unlawful presence towards the 3-year, 10-year, and permanent unlawful presence bars, you are considered to be in a period of stay authorized by the Secretary. When any of these circumstances described in the [Adjudicator's Field Manual, Chapter 40.9.2](#) apply, you generally are not accruing unlawful presence.

### The 3 – year Unlawful presence

If you are a foreign national and you are not a lawful permanent resident of the United States, you may be inadmissible for 3 years if:

- You accrued more than 180 days but less than 1 year of unlawful presence during a single stay in the United States on or after April 1, 1997; and
- You voluntarily departed the United States before DHS initiated either expedited removal proceedings under INA 235(b)(1) or removal proceedings before an immigration judge under INA 240.

This 3-year inadmissibility period starts when you depart or are removed from the United States.

During this 3-year inadmissibility period, you are not eligible to:

- Receive an immigrant (per-

manent) visa or a nonimmigrant (temporary) visa to come to the United States;

- Adjust your status in the United States to that of a lawful permanent resident (Green Card holder); or
- Be admitted to the United States at a port of entry.

This bar does not apply to you if you accrued more than 180 days but less than 1 year of unlawful presence and left the United States after the commencement of removal proceedings, but before the 1-year mark. Even if you are not subject to the 3-year bar in this instance, you could be inadmissible for other reasons (for example, the underlying reasons for your removal, such as criminal activity). You could also be inadmissible for failure to attend the removal proceedings and/or if the immigration judge orders you removed in absentia (even though you did not attend the proceeding due to your departure). If you leave the United States after the commencement of removal proceedings, it is your responsibility to inform the [Executive Office for Immigration Review](#).

### The 10-year Unlawful Presence Bar

If you are a foreign national and are not a lawful permanent resident of the United States, you may be inadmissible for 10 years if:

- You accrued 1 year or more of unlawful presence during a single stay in the United States on or after April 1, 1997; and
- You voluntarily departed the United States or were removed from the United States

under any provision of law.

The 10-year unlawful presence bar applies whether you leave before, during, or after removal proceedings.

This 10-year inadmissibility period starts when you depart or are removed from the United States. During this 10-year inadmissibility period you are not eligible to:

- Receive an immigrant or a nonimmigrant visa to come to the United States;
- Adjust your status in the United States to that of a lawful permanent resident (Green Card holder); or
- Be admitted to the United States at a port of entry.

If you are subject to the 3-year or the 10-year unlawful presence bars, you may receive a visa and/or be admitted to the United States if you apply for and receive a waiver of inadmissibility. The legal requirements and procedures for applying for the waiver depend on the immigration benefit you seek.

### The Permanent Unlawful Presence Bar

If you are a foreign national and you are not a lawful permanent resident of the United States, you may be inadmissible forever under INA 212(a)(9)(C)(i)(I) if:

- You accrued an aggregate period of more than 1 year of unlawful presence in the United States on or after April 1, 1997, and then departed the United States or were removed from the United States; and



# Holiday Party 12.6.18

Photos by Walter Karling



Steve Hans, Greg Newman and Mike Serres



Attendees getting down on the dance floor.



Caren Samplin, Hon. Bernice Siegal and Hon. Jodi Orlow



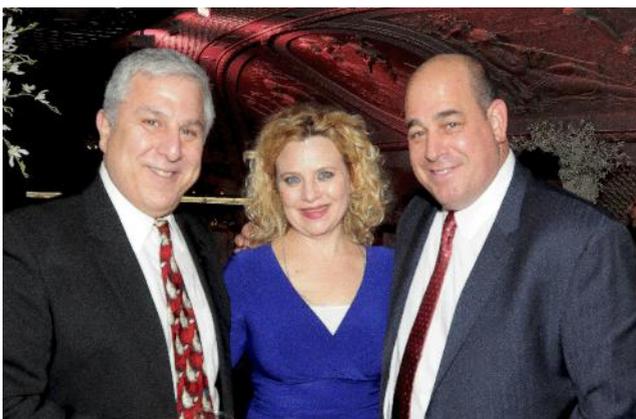
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Hon. Jodi Orlow, Paul and Paula Pavlides

# Holiday Party 12.6.18

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- You entered or attempted to reenter the United States on or after April 1, 1997, without a DHS officer admitting or paroling you into the United States.

“Aggregate period” means the total number of days of unlawful presence that you accumulated during all of your stays in the United States combined.

If the permanent unlawful presence bar applies to you, you will be permanently ineligible to:

- Receive an immigrant or a nonimmigrant visa to come to the United States;
- Adjust your status in the United States to that of a lawful permanent resident (Green

Card holder); or

- Be admitted to the United States at a port of entry.

Although you are permanently inadmissible under this ground, you may ask for permission to reapply for admission to the United States, but only if you have been outside the United States for at least 10 years since the date of your last departure. This permission is called “consent to reapply for admission” to the United States. If your application for consent to reapply for admission is denied, then you remain inadmissible on this ground. Additional information about consent to reapply is available on the Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal page.

There may be other ways to overcome this bar, depending on the immigration benefit that you are applying for. Go to [the If An Unlawful Presence Bar Applies To You section below](#) for more information.

### **Policy Changes to Unlawful Presence for Nonimmigrants in Academic Student (F), Exchange Visitor (J) and Vocational Student (M) Status.**

On Aug. 9, 2018, USCIS published a policy memorandum (Unlawful Presence and F, J, and M Nonimmigrants) that updated [AFM Chapter 40.9.2\(b\)\(1\)\(E\)](#) and outlined changes on how those in student (F), exchange visitor (J), and vocational student (M) nonimmigrant status accrue unlawful presence. The policy memorandum also applies to the

Continued on p.15...

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spouses and children of F, J, and M nonimmigrants. These changes **went into effect on Aug. 9, 2018** and were made to reduce the number of overstays and improve how USCIS implements the unlawful presence grounds of inadmissibility.

Under the new policy, those in F, J, and M nonimmigrant status accrue unlawful presence as follows:

F, J, or M nonimmigrants who failed to maintain their nonimmigrant status **before Aug. 9, 2018**, start accruing unlawful presence based on that failure **on Aug. 9, 2018**, unless they have already started accruing unlawful presence on the earliest of the following:

- The day after DHS denied the request for the immigration benefit, if DHS made a formal finding that the individual violated his or her nonimmigrant status while adjudicating a request for another immigration benefit;
- The day after the Form I-94, Arrival/Departure Record expired, if the F, J, or M was admitted for a date certain; or
- The day after an immigration judge ordered them excluded, deported, or removed (whether or not the decision is appealed).

An F, J, or M nonimmigrant begins accruing unlawful presence, due to a failure to maintain his or her status **on or after Aug. 9, 2018**, on the earliest of any of the following:

- The day after the F, J, or M nonimmigrant no longer pursues the course of study or the authorized activity, or the

day after he or she engages in an unauthorized activity;

- The day after completing the course of study or program (including any authorized practical training plus any authorized grace period, as outlined in 8 CFR 214.2);
- The day after the I-94 expires, if the F, J, or M nonimmigrant was admitted for a date certain; or
- The day after an immigration judge orders them excluded, deported, or removed (whether or not the decision is appealed).

Note: If USCIS relies solely upon information provided in the Student and Exchange Visitor Information System (SEVIS) to make an unlawful presence determination, the applicant will be given an opportunity to rebut evidence provided in SEVIS before a final decision is made.

### **If an Unlawful Presence Bar Applies to You**

Whether an unlawful presence bar applies to you depends on the immigration benefit you are seeking. Depending on the immigration benefit you are seeking, the law may exempt you from the bar.

If one or more of the unlawful presence bars applies to you, you generally cannot obtain a visa from the U.S. Department of State, enter the United States at a port of entry, or obtain an immigration benefit such as adjustment of status (Green Card) in the United States without first obtaining a waiver or another form of relief.

Whether a waiver or other form of relief is available to you depends on the immigration benefit that you are seeking. You can find information about some of the waivers or forms of relief on the following form pages:

- Form I-192, Application for Advance Permission to Enter as a Nonimmigrant
- Form I-601, Application for Waiver of Grounds of Inadmissibility
- Form I-601A, Application for Provisional Unlawful Presence Waiver
- Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal

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*Allen E. Kaye and Joseph DeFelice are Co-Chairs of the Immigration and Nationality Committee of the Queens County Bar Association.*

# Some trades are not as good as they first appear

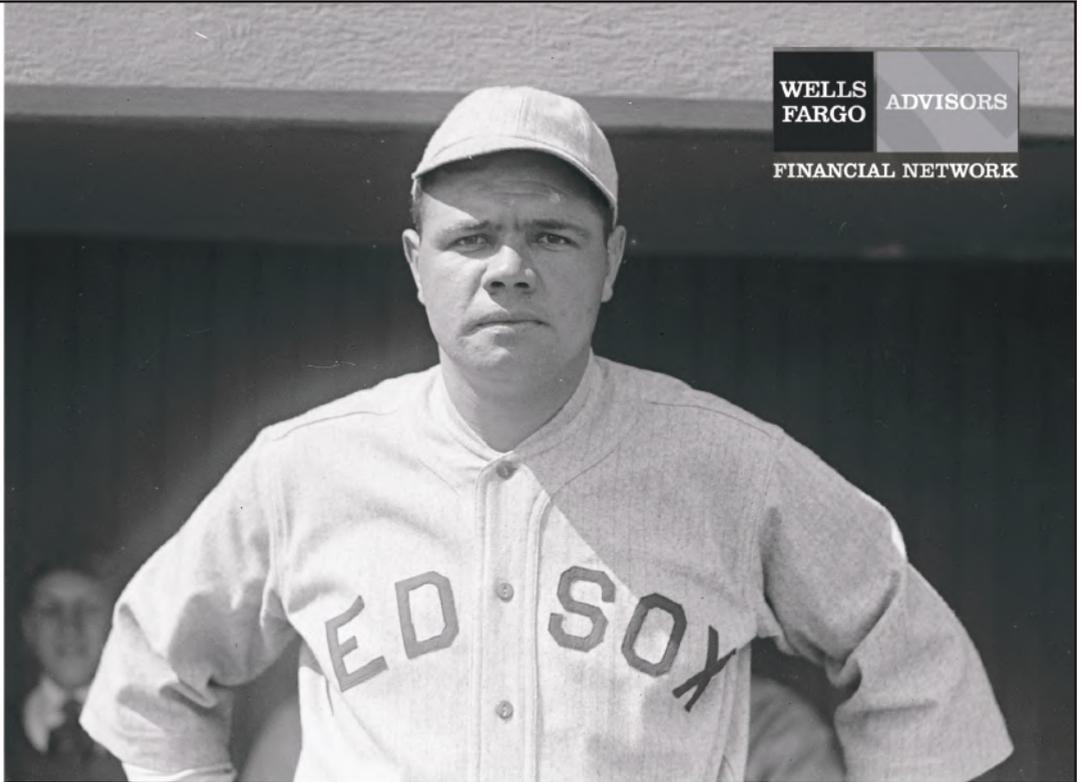
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# The Black Hole of Administrative Possessing

By Dev B. Viswanath, Esq. & Michael Phulwani, Esq.



When an individual applies for a visa their application may be required to go through further administrative processing. This occurs after the individual's interview by a consular officer, and the timing of how long their application

will go through administrative processing varies by each case. 90% of cases that fall into administrative processing under 221(g) will be resolved within the few 2 to 4 weeks. However, another 8% may take longer than 1 month, and about 2% of cases will take much longer than a month.

An individual who is placed in administrative processing will need to wait at least sixty days from the date of interview or submission of additional documents, which ever is later, before making any inquiries about their case.

Being placed in administrative processing

can seem like a black hole for visa applicants because the reason for administrative processing is concealed and the length of time is uncertain. Some applicants believe this delay will eventually result in a denial. But that is not always true. If an applicant is placed in administrative processing, the consular officer issues a written notice stating that under Section 221(g) of the Immigration and Nationality Acts (INA) no visa can be issued until additional administrative processing has been completed. An applicant may be put into administrative processing for several reasons such as:

- The need to review their case more thoroughly
- The need to review their answers from the interview
- To do a background check and name check
- Requesting additional information to support applicant's petition
- A suspicion of visa fraud and need to investigate further

During administrative processing a consular officer may request for a Security Advisory Opinion (SAO) to determine if the applicant poses a risk to the United States. If an SAO is requested, consular officers are told not to reveal that information to applicants. Once a visa application is put into administrative processing it may be very difficult to move it along in the consular posts but with a persistent and respectful manner it can sometimes be done.

If an application is denied after administrative processing, the applicant cannot appeal the denial. But, an applicant may be able to request an advisory opinion from the Visa Office in Washington D.C. Since administrative processing may at times take a very long time it is sometimes better to apply for a visa all over again rather than appealing a denial. The decision should be made only after consulting a legal professional.

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# New State and City Sexual Harassment Laws Go Into Effect

By Stephen Hans, Hans & Associates, P.C.

In recent years, a large cultural shift toward greater gender equality has been underway in American society. Perhaps the most visible area of this ongoing transformation has been the high profile #MeToo and Time's Up movements, which have highlighted issues of workplace sexual assault and sexual harassment. While accusations against several Hollywood power players may have garnered the lion's share of headlines, the increased attention being paid to these issues has trickled down to impact the lives of everyday people, as state and local governments across the country have been assessing what they can do to minimize instances of workplace sexual harassment.

Here in New York, both the State and City governments have taken action to fight gender-based harassment and to better educate private sector employees regarding their rights and available remedies under the law. On the State level, as part of the 2019 New York State Budget, every employer – regardless of size – is now required to establish a formal, written sexual harassment prevention policy and complaint form, and must distribute such forms to all statewide employees. While many private employers may already have sexual harassment policies in place as part of existing employee manuals, this is the first time that the law has specifically mandated such a policy.

In order to be compliant with the law, a sexual harassment prevention policy must contain certain specific provisions and meet certain required minimum standards. The NYS Department of Labor and the Division of Human Rights have jointly created a model policy which employers can adopt or modify as needed for their specific businesses, or employers can choose to draft their own policies, as long as they contain all of the necessary information required by the new law. While not mandatory, it is strongly recommended that employers obtain employee signatures verifying that they received a copy of the policy.



The new State law also requires that all employers provide interactive sexual harassment prevention training to their employees, both immediately upon hire and annually thereafter. As with the model policy, the Labor Department and Human Rights Division have created a model training template that employers can use, including Microsoft PowerPoint slides and an accompanying script. As with the model policy, these materials can be modified, or employers can create their own training presentation, as long as the training meets certain minimum standards and contains all of the information required by the law. Again, while many employers – especially in the corporate sector – have chosen to provide sexual harassment prevention training in the past, this is the first time that State law actually requires that such training be provided to all employees. Model policy and training materials can be obtained from: [ny.gov/combating-sexual-harassment-workplace/employers](http://ny.gov/combating-sexual-harassment-workplace/employers).

In New York City, private employers also face additional compliance requirements as part of the Stop Sexual Harassment in NYC Act enacted in May. In addition to extending the limitations period for filing gender-based harassment claims with the NYC Commission on Human Rights from one to three years, the law also removes a statutory exemption for the smallest businesses with fewer than four total employees. While still exempt from other types of workplace discrimination claims, such small businesses will now be subject to claims of gender-based workplace harassment under the NYC Human Rights Law.

New York City employers must also display a new sexual harassment prevention poster in the workplace and distribute a mandatory factsheet to all employees at the time of hire. These forms can be obtained from the City Human Rights Commission's website ([nyc.gov/humanrights](http://nyc.gov/humanrights)). Finally, NYC employers with 15 or more employees must also provide anti-sexual harassment training to their employees on hire and once annually thereafter. As discussed above, the State already requires such training. However, the City law mandates that additional content and information be included, and also requires employers to maintain records of all training sessions, including signed employee acknowledgment forms.

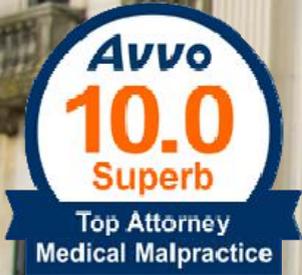
New York employers must take immediate steps to comply with these new State and City sexual harassment prevention laws, and should seek the advice of an experienced employment law attorney to ensure that all standards are properly met.

The office of Stephen D. Hans & Associates is located at 45-18 Court Square, Suite 403 Long Island City, New York 11101. They can be reached via phone at (718) 275-6700.

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# Zara gives over 1,000 presents to tenants in Jamaica

In the spirit of giving, Zara Realty recently hosted a tenant holiday party at their main building in Jamaica, Queens.

The Queens Landlords gave over 1,000 presents, 3,000 LED light bulbs, and food to their beloved tenants at an all day appreciation event.

Even Santa made the trip to Jamaica to take photos with kids and families.

Face painting and balloon making ensued.

“Our Zara community is filled with warm, good hearted people. When we all come together, it’s an event full of love and laughter,” said Tony Subraj, Zara VP.

“We have the best tenants, and we love giving back. We are proud to

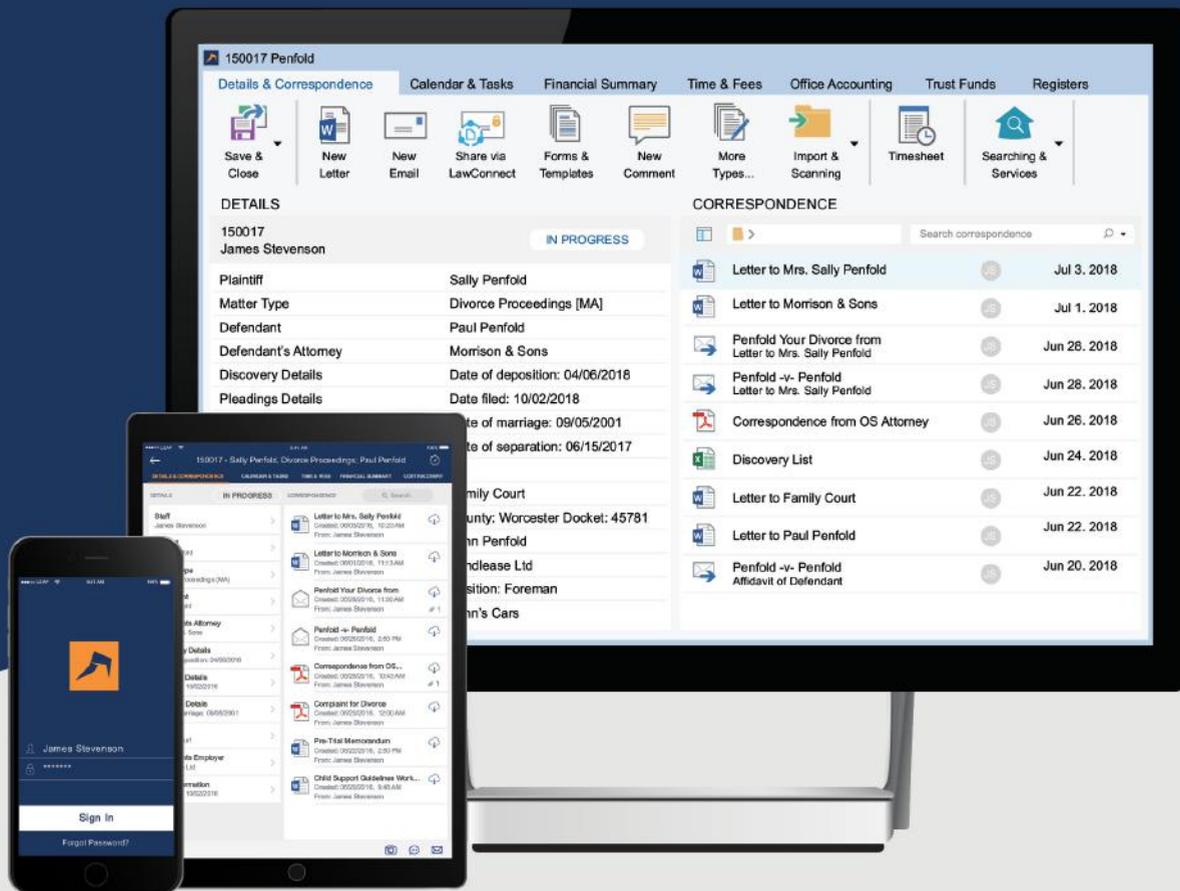
serve the Jamaica community,” added Amir Sobhraj, Zara CFO.

Holiday tenant parties are an often occurrence for Zara residents.

Just last month, Zara gave away hundreds of turkeys, chickens, and hams at their Thanksgiving appreciation event.

More pictures @ [leaderobserver.com](https://www.leaderobserver.com)





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