FROM THE
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Navigating the AI Revolution:

Embracing Generative AI Tools in Legal Practice

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Message from the Editors' Committee

Linette Figueroa-Torres | Carla S. Loubriel-Carrión | Karena Montes-Berríos

This Summer issue of From the Bar presents important perspectives on how artificial intelligence ("AI") technology is impacting and reshaping the legal practice. For instance, how "deepfakes" – images, videos or audios edited or generated using AI – pose new challenges to an adversarial system that relies on the credibility of evidence, and the truth-seeking function of our courts. We dive into the proliferation of generative AI applications and their use as a legal tool. How and what for we use generative AI, the risks and limitations associated with utilizing it, as well as recent guidance on ethically and effectively using generative AI in the legal profession.

Other articles included in this issue explore: (i) the limits of presidential authority in enforcing policies or executive orders and whether these are subject or immune to judicial review under the application of the political question doctrine; and (ii) the absolute jury unanimity as an indispensable requirement for an acquittal in criminal proceedings as articulated by the Puerto Rico Supreme Court.

This issue also features a section of Case Law Overview that summarizes a series of noteworthy cases related to recent developments in matters pertaining to both federal and state courts.

The Hon. Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association includes an FBA Student Chapters section highlighting their recent events and presenting the members of the Boards of Directors of the Student Chapters for the Inter American University of PR School of Law and the Pontificia Catholic University of Puerto Rico. We also incorporated a note of the personal experience of a law student who attended the Thurgood Marshall Memorial Moot Court Competition held on March 26-27, 2025, in Washinton D.C., underlining the opportunity to perfect his argumentation skills before appearing as a practitioner in federal courts.

We hope you enjoy this issue of From the Bar as much as we enjoyed putting it together. Our thanks go out to Manuel A. Quilichini, Jaime E. Toro-Monserrate, Ignacio J. Labarca-Morales, Samira Parrilla-Medina, Stella M. Moreira-Rabelo, Giancarlo Rivera-Cabrera, Stella M. González-Pérez, Zulinnette Pinzón-Rosario and Silvia C. Torres-Ortiz for making this issue possible through their written contributions. We also give a special thanks to Ada I. García-Rivera, Esq., Clerk of Court, and Jorge Soltero-Palés, Esq., Chief Deputy Clerk, for their continuous commitment to our Chapter by contributing to the "Clerk's Tidings" section included in every issue of the From the Bar.

As always, the editorial committee of *From the Bar* welcomes all article or note submissions for publication in upcoming issues, by e-mail to: lft@tcm.law; cloubriel@cabprlaw.com; kmontes@mpmlawpr.com.

President's Message

Carla S. Loubriel-Carrión
President
Hon. Raymond L. Acosta Chapter
Federal Bar Association

Dear FBA members and colleagues:

The past few months have been filled with engaging and inspiring events for the Hon. Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association ("FBA-PR"). Since our last edition of From the Bar, we've continued advancing our mission by fostering education, supporting our federal judiciary, and strengthening our legal community through outreach and collaboration.

We were honored to swear in the 2024–2025 Board of Directors on December 10, 2024, with the oath administered by Hon. Raúl M. Arias-Marxuach, Chief Judge of the U.S. District Court for the District of Puerto Rico. I am grateful and honored to lead a Board filled with such accomplished and engaged professionals.

As part of our continued commitment to supporting students and developing future federal practitioners, our Chapter hosted impactful seminars at law schools across the Island. On November 21, 2024, I presented "The Federal Bar Exam: A Primer" at the University of Puerto Rico Law School at the request of the FBA-PR student chapter, to guide interested students through the federal bar admission process and offer insight into opportunities in federal practice. On February 6, 2025, we hosted "The Federal Practitioner: Career Paths and Professional Options" at the Pontifical Catholic University of Puerto Rico School of Law with panelists Chief Judge Arias-Marxuach and the Hon. María de los Ángeles González-Hernández, Judge of the U.S. Bankruptcy Court for the District of Puerto Rico. They shared experiences from their own professional journeys and offered students a valuable perspective on the many roles and paths available within the federal legal system.

Continuing that student-focused momentum, on April 7, we co-hosted "Introduction to Legal Writing and the Federal Courts," at the Interamerican University School of Law, in conjunction with the FBA-PR's student chapter and the Asociación de Litigación. Once again, Chief Judge Arias-Marxuach lent us his time and spoke to the students about the core principles of effective legal writing, emphasizing the importance of clarity and precision in advocacy.

Our Chapter was also proud to host two timely and well-received seminars for our professional members. On February 20, 2025, Roberto Prats-Palerm led the webinar "Playing in the Sandbox of Generative Artificial Intelligence: The Promise of Gen-AI in the World of Legal Service Delivery." It explored how AI is beginning to reshape legal practice and raised important considerations for its ethical and practical use in the courtroom and beyond. On March 26, we offered "Navigating the Future of Immigration Laws Amid Political Uncertainty – What Companies Need to Know," a webinar featuring Xana Conelly and Janine Guzmán of DLA Piper (Puerto Rico) LLC. Their insights were especially relevant to practitioners navigating the complexities of business immigration law and evolving policy landscapes.

Our social events keep bringing our Chapter members together to celebrate and connect. On January 29,

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President's Message

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we held our annual Christmas Party at Tinto y Blanco in Hato Rey. Along with many esteemed members of our federal community and judiciary, we were honored to have Puerto Rico Supreme Court Associate Justices Rafael Martínez-Torres and Roberto Feliberti-Cintrón in attendance. It was truly an evening to celebrate our shared professional bonds. Most recently, on April 10, we gathered at the new Ocean Lab restaurant in San Patricio for a Cocktails with the Bar event. Our sincere thanks to Linette Figueroa for her leadership and dedication organizing these gatherings.

Thanks to the initiative of our colleague James Noel, of the Labor & Employment Law Section of the FBA, and our Treasurer Victoria M. Rivera, on March 6, we co-hosted a rum tasting and networking event in collaboration with Rums of Puerto Rico at the offices of McConnell Valdés LLC. We were pleased to welcome members of the FBA-PR student chapters from the University of Puerto Rico and Interamerican University law schools, along with participants who joined us remotely from the mainland United States.

At the national level, Secretary Isabel Lecompte and Treasurer Victoria M. Rivera represented our Chapter at the FBA Capitol Hill Day and Leadership Summit, held from March 27–29 in Washington, D.C. Through meetings with congressional offices and national FBA leaders, we advocated for continued support for the renovation of the Degetau Federal Building and Clemente Ruiz Nazario U.S. Courthouse in Hato Rey, which is critical to addressing structural vulnerabilities to seismic activity, security concerns, and evolving operational needs. We also joined voices from across the country in emphasizing the importance of supporting and preserving the independence and strength of our federal judiciary. This mission is more critical than ever, as recent attacks on the judiciary—both institutional and personal—threaten to erode public trust in the rule of law. Now is the time to reaffirm our shared commitment to a fair, impartial, and well-resourced federal court system.

Finally, our Board was honored to attend the retirement ceremony of the Honorable Bruce J. McGiverin, U.S. Magistrate Judge, held on March 21 at the Hato Rey courthouse. It was a meaningful occasion to celebrate Judge McGiverin's distinguished career and longstanding service to the federal judiciary and our legal community.

We hope you enjoy this edition of From the Bar and look forward to seeing you at future gatherings. Please stay connected through our LinkedIn page (Federal Bar Association – Hon. Raymond L. Acosta Puerto Rico Chapter), where you can find current updates and opportunities to engage.

Gracias a todos por su apoyo.

Deepfakes: The Perfect Evidentiary Storm?

by Manuel A. Quilichini, Esq.

"Seeing is believing." "The eyes don't lie." "A picture is worth a thousand words." "I'll believe it when I see it." There is no doubt that in our society, audiovisual information has always had considerably more credibility than any other type of information. We instinctively trusted what we could see or hear. Those days have come to an end with the technology known as "deepfakes".

Thanks to generative artificial intelligence, we've entered a new era of evidence fabrication. Deepfakes - realistic videos or audio recordings generated or manipulated by artificial intelligence - can depict apparently real people saying or doing things they never said or did. What makes it worse is that the software to create deepfakes is easily accessible to anyone with a computer without any special skill or large amounts of cash. Thus, the rapid proliferation of false images, sounds and videos, especially in social media.

No longer a hypothetical threat, Deepfakes are beginning to appear in litigation—sometimes as fabricated evidence, other times as the basis for a defense. According to a simple search in Lexis/Nexis, the word "deepfake" is mentioned in 18 federal cases and in 8 State cases. Several hundred articles, statutes and bills have focused on how deepfakes impact all aspects of our daily life. Deepfakes are on their way to becoming ubiquitous.

The consequences could be profound - faked confessions, forged surveillance footage, or discredited legitimate evidence, all posing serious risks to the truth-seeking mission of the courts. This reality is a call to raise awareness of the evidentiary challenges that deepfakes present, especially around authentication. Judges and attorneys must now approach audiovisual evidence with a healthy mix of skepticism, technological literacy, and procedural vigilance. The evidentiary perfect storm is gathering—and we need to be ready.

WHY DEEPFAKES MATTER IN THE COURTROOM

Few types of evidence carry more persuasive weight than video or audio. A surveillance clip, a recorded confession, a dash cam, or even a voicemail

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can decisively shape how a jury or judge interprets a case. Audiovisual evidence often seems self-authenticating: it shows what it shows, and jurors tend to believe it without much hesitation.

That assumption is precisely what makes deepfakes so dangerous.

Deepfakes exploit our trust in our senses, by making things look and sound real. As technology improves, even digital forensic tools can struggle to distinguish fake from genuine. We're rapidly approaching a point where manipulated media can pass casual—and sometimes even expert—scrutiny.[1]

For the legal system, the stakes are high. Imagine a divorce proceeding in which a parent appears to be caught on video striking a child—but the video is a fabrication. Or a criminal case where a defendant claims that an authentic confession video was manipulated by adversaries. In both scenarios, the truth is obscured, and the court's ability to reach a just outcome is undermined. Even police body cams are vulnerable to hacks and fabricated evidence.[2]

There's also a broader problem: as deepfakes become more common, jurors may begin to question the reliability of all audiovisual evidence. This is known as the "reverse CSI effect" (or "liar's dividend")—a scenario in which jurors, acutely aware of the potential for manipulation, become overly skeptical, even of legitimate recordings. When jurors stop believing their eyes and ears, it threatens the entire evidentiary process.

> *Deepfakes exploit our trust in our senses, by making things look and sound real. As technology improves, even digital forensic tools can struggle to distinguish fake from genuine.*

In short, deepfakes present a dual threat: they can be used to create false evidence, and they can cast doubt on authentic evidence. Either way, the result is the same – erosion of trust in a type of evidence that has historically been seen as incontrovertible.

THE LEGAL FRAMEWORK: AUTHENTICATION UNDER RULE 901

Federal Rule of Evidence 901 sets the baseline for authenticating evidence. The concept is simple: before evidence can be admitted, a party must produce "evidence sufficient to support a finding that the item is what the proponent claims it is." For audiovisual evidence, the most commonly used method is testimony from a witness with personal knowledge who affirms that the video or audio is a "fair and accurate portrayal" of the events depicted.[3] But deepfakes complicate this way of presenting evidence.

First, the traditional "fair and accurate portrayal" standard assumes that the witness can meaningfully verify the content. In the deepfake era, even someone present during the events may not detect subtle but significant manipulations in a recording. Sophisticated fakes can swap faces, alter speech, or insert fabricated events in ways that are imperceptible to the human eye or ear – especially if the edits were made by advanced AI.

Second, there are two theories courts use to admit audiovisual evidence, and both are now under strain:

- **The pictorial communication theory** treats audiovisuals as illustrative -essentially a visual aid to a witness's testimony.

- **The silent witness theory** treats the mechanical and usually automated recording as independent evidence that speaks for itself, so long as its reliability is established through chain of custody or other technical assurances.[4]

Deepfakes test both theories. Under pictorial communication, a witness

1 Science & Tech Spotlight: Combating Deepfakes, GAO-24-107292. Published: Mar 11, 2024. Publicly Released: Mar 11, 2024. Available at https://www.gao.gov/products/gao-24-107292 (last visited May 9, 2025).
2 CISO Mag, Police body cams can be tampered with: Researcher, Published August 17, 2018. Available at https://cisomag.com/police-body-cams-can-be-tampered-with-researcher/ (last visited May 13, 2025).
3 See, e.g., U.S. v. Bynum, 567 F.2d 1167, 1070-71 (1st Cir. 1978) (video verified through corroboration of eye witness).
4 See generally Straughn v. State, 876 So. 2d 492, 502 (Ala. Crim. App. 2003) (discussing both theories).

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may mistakenly affirm a fake. Under the silent witness theory, a fabricated video with no obvious flaws could appear completely trustworthy unless the opposing party has the expertise and opportunity to challenge it.

The bottom line is that the traditional assumptions underlying Rule 901 may no longer hold. The ability to generate realistic, undetectable fake recordings raises serious questions about whether existing standards are enough – and whether jurors can still rely on what they see and hear in court.

THE EMERGING DEBATE: COMPETING VIEWS ON WHAT SHOULD BE DONE

As courts begin to grapple with deepfakes, legal scholars and practitioners are split on how to respond. While everyone agrees that deepfakes pose real risks, there is far less agreement on whether existing evidentiary rules are equipped to handle them—or whether significant reform is needed. Debate continues over what the reform should entail and its impact on our judicial system.

View 1: The Current Framework Is Sufficient

Some experts, like Riana Pfefferkorn, argue that courts already have the tools they need.[5] Our evidentiary rules require authentication, which means that if a party wants to admit a video, it must still prove what it purports to show. Courts have a long history of dealing with forged evidence—altered documents, doctored photos, even staged crime scenes. From this perspective, deepfakes are just a new version of an old problem and no changes are required to deal with deepfakes.

Supporters of this view caution against overreacting. Raising the authentication bar too high might exclude valid, probative evidence, especially for parties with limited resources. Instead of rewriting the rules, they suggest doubling down on established methods: rigorous cross-examination, expert witnesses, chain-of-custody documentation, and adversarial testing in the courtroom.

View 2: The Rules Must Evolve

Others believe that the existing framework is outdated. Scholars like Rebecca Delfino[6] and John LaMonaca[7] have called for more rigorous standards and even amendments to the Federal Rules of Evidence.

One major proposal is to shift the responsibility for determining the authenticity of contested audiovisual evidence from the jury to the judge—treating it as a gatekeeping issue under Federal Rule of Evidence 104(a), akin to Daubert hearings for expert testimony. Proponents argue that jurors lack the technical expertise to discern a sophisticated deepfake and may be misled or confused.

Another recommendation is to raise the evidentiary threshold by requiring corroborating circumstantial evidence—such as metadata, forensic analysis, or independent witness confirmation—before admitting any standalone video or audio under the silent witness theory.

MIDDLE-GROUND APPROACHES

Some suggest a hybrid approach: courts could maintain the current structure but encourage more robust authentication protocols when audiovisual evidence is at issue.[8] For example:

- Judges could issue limiting instructions reminding jurors that videos can be manipulated.
- Parties might be encouraged (or required) to disclose potential use of AI-generated media in discovery.
- Courts could develop local rules or best practices around the use of forensic video authentication experts.

Judge Paul W. Grimm, Professor Maura R. Grossman, and Professor Gordon V. Cormack suggest a structured approach when allegations of deepfake evidence arise.[9] They state that a mere

5 Riana Pfefferkorn, "Deepfakes" in the Courtroom, 29 B.U. Pub. Int. L.J. 245 (2020)
6 Rebecca A. Delfino, Deepfakes on Trial: A Call To Expand the Trial Judge's Gatekeeping Role To Protect Legal Proceedings from Technological Fakery, 74 Hastings L.J. 293 (2023)
7 John P. LaMonaca, A Break from Reality: Modernizing Authentication Standards for Digital Video Evidence in the Era of Deepfakes, 69 Am. U. L. Rev. 1945 (2020)
8 See, e.g., Agnieszka McPeak, The Threat of Deepfakes in Litigation: Raising the Authentication Bar to Combat Falsehood, 23 Vand. J. Ent. & Tech. L. 433 (2021).
9 Paul W. Grimm, Maura R. Grossman & Gordon V. Cormack, Artificial Intelligence as Evidence, 19 Nw. J. Tech. & Intell. Prop. 9 (2021).

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assertion that evidence is a deepfake is insufficient to warrant exclusion or a pretrial hearing. Instead, there must be a credible, fact-based challenge to the authenticity of the evidence. Upon such a showing, it is recommended that judges conduct a pretrial evidentiary hearing under Rule 104(a) of the Federal Rules of Evidence. This hearing allows the proponent to demonstrate the reliability and authenticity of the evidence, potentially through expert testimony or forensic analysis. This approach ensures that the court maintains the integrity of the evidentiary process without impeding the admissibility of legitimate evidence.

WHAT SHOULD TRIAL LAWYERS AND JUDGES DO

Whether or not the Federal Rules evolve, lawyers and judges must start adapting now. Deepfakes are no longer theoretical—they are becoming tools in the evidentiary arsenal, and potential weapons in the hands of bad actors. Therefore, a few practical recommendations follow.

For Trial Lawyers: Be Proactive, Not Reactive

• **Don't assume the video will speak for itself.** If your case relies on audiovisual evidence, be prepared to prove its authenticity, not just introduce it. This may require establishing chain of custody, calling witnesses with direct knowledge of the recording, or retaining forensic experts to validate the file.

• **Conduct due diligence on your own evidence.** Even if your client supplies what appears to be an authentic recording, verify its origin. You don't want to walk into court relying on a deepfake—especially if your opponent is prepared to challenge it.

• **When opposing a suspicious video, raise the issue early.** File pretrial motions to exclude unauthenticated or questionable media, request discovery of original source files, or ask for a hearing under Rule 104(a) to challenge admissibility.

• **Educate yourself and the court.** Courts are only beginning to encounter the issue of deepfakes in the courts. We must educate ourselves on this technology so that we can argue more effectively for or against its admissibility. We also must be ready to educate the court on the nuances of deepfakes.

FOR JUDGES: MAINTAIN A SKEPTICAL BUT BALANCED GATEKEEPING ROLE

• **Recognize that audiovisual evidence is no longer inherently trustworthy.** A recording can be completely fabricated, so judges should be willing to probe the foundations of what may seem like self-evident proof.

• **Use Rule 104(a) hearings where appropriate.** When authenticity is in serious dispute, resolving the question before the evidence reaches the jury helps protect the integrity of the proceedings.

• **Consider tailored jury instructions.** Jurors may either be too trusting or too skeptical of video evidence. Judges can help by instructing them on the potential for manipulation—and their responsibility to weigh the evidence in light of the entire record.

• **Stay informed.** Courts will be on the front lines of this evidentiary shift, pushed by the rapid growth of artificial intelligence in all its forms. Staying current with developments in forensic media analysis and emerging AI detection tools is now part of the job.

A CALL FOR AWARENESS AND ACTION

Deepfakes are no longer science fiction; they're a present and growing threat to the integrity of the judicial process. In an adversarial system that relies on the credibility of evidence, the ability to fabricate or challenge audiovisual material with powerful AI tools changes the game. We are entering an evidentiary environment where "what you see" may not be "what happened," and where even legitimate evidence can be weaponized through doubt.

The legal system doesn't need to panic, but it does need to prepare. Attorneys must learn to scrutinize videos and recordings with a forensic eye. Judges must evaluate authentication claims more critically. And both must be willing to question long-held assumptions about the trustworthiness of visual and auditory evidence. We must keep in mind that this is not just a technical issue, it's a credibility issue, one that strikes at the heart of the truth-seeking function of our courts. We must respond with care, vigilance, and updated practices, so that we can meet the challenge head-on. The storm is coming—and for the sake of justice, we must be ready.

> *"Deepfakes are no longer science fiction; they're a present and growing threat to the integrity of the judicial process.*

Federal Bar Association

Hon. Raymond L. Acosta Puerto Rico Chapter

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SCAN
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A Friend's Voice at the Start and Finish of a Judicial Career

by Jaime E. Toro-Monserrate, Esq. of Toro Colón Mullet P.S.C.

Appointment of Magistrate Judge B. McGiverin in 2007

Today is a happy day for me.

Over twenty years ago, I began to work as a legal professional in federal court, as a law clerk first in the northern district of New York, then in the court of appeals for the First Circuit.

In my experience in federal court, I learned to respect and appreciate the long and profound tradition of this least dangerous branch, which is the most powerful judicial system in the world.

My respect for this system becomes a personal joy today, because my friend Bruce McGiverin is now an honorable member of this court.

Many years ago, I met Bruce as we were both leaving clerkships and entering private practice in the then largest firm in Puerto Rico. The fact that some partners in the halls called Bruce "Jaime" and me "Bruce" lead us to care about what the other was doing.

Thus, Bruce and I began a long friendship in which we have shared many things:

We have shared a passion for literature, and i know no better reader than Bruce, whose enthusiasm for books is contagious;

We shared the priority of dedication to our families, and in Bruce's home I can vouch that Lake Wobegon's description is true: all the women are beautiful and all the children are above average;

And we shared the intense experiences and uncertainties of the legal profession, consulting frequently, sharing our challenges and frustrations, and even working together in a difficult and finally very satisfying case.

From these various angles I have found an intensely intelligent and profound person. Working with Bruce, I realized the extent to which he is an excellent draftsman, a keen advocate, and a very sober legal advisor.

Working with him, Bruce struck me as an extremely thorough and focused advocate, and my expectation was high. He was not distracted by the slings and arrows of outrageous advocacy, or misled by skillful attempts at misdirection from opposing counsel.

Bruce also had a whole area of professional development which I lacked: he worked a lot in criminal cases, which evidently kept him very busy, and provided for many good stories. The knowledge of complex and varied civil litigation and the extensive experience in criminal law make Bruce an exceptional professional to serve this court.

Bruce also has a healthy balance of good humor, solid common sense, and a humane appreciation of the absurd.

> *The knowledge of complex and varied civil litigation and the extensive experience in criminal law make Bruce an exceptional professional to serve this court.*

From my experience as a legal practitioner, I trust this federal system, which is run by knowledgeable and savvy professionals who follow rules and traditions of sound historical sense. As a legal practitioner, I am delighted that Bruce will be part of the team of adjudicators in federal court. As a friend, I'm happy.

Oh, and yes, I have often been congratulated, "congratulations Bruce", by my recent vicarious appointment.

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Retirement of Magistrate Judge B. McGiverin in 2025

In 2007, eighteen years ago, if my math is correct, I sang the praises of Bruce McGiverin, the lawyer, I stood before a similar group of people to celebrate the beginning of Bruce McGiverin's work as a magistrate judge of the United States district court.

Today we are together to celebrate the end of his outstanding career as a jurist. That is all I can say of Bruce as a jurist, at least from direct knowledge, because I had the misfortune of being placed on a list which meant that I could not be an attorney in cases in which he was a judge.

Oh, based on hearsay—stories of those that could appear before him—and from reading several decisions Bruce wrote, I could confirm that he has been an excellent jurist: precise, thorough, fair, respectful of the law and of the dignity of the parties … and extremely hard working. In the course of the 18 years on the bench, according to those strange statistics Westlaw provides, Bruce made thousands of rulings, on criminal, employment, torts, civil rights and other areas of law—thousands.

But of those I really cannot speak.

I can speak of my friend, of that I can:

Bruce is a fiercely loyal, incisive, honest friend; he is generous in word and deed, patient with needs, and impatient with tomfoolery. I can vouch for that last statement.

He is so precise that, when he presided my wedding to Cristina, after asking him to be brief, he complied, and the totality of the ceremony was something like this: "I hereby pronounce you husband and wife." The rest was partying.

> *Oh, based on hearsay – stories of those that could appear before him – and from reading several decisions Bruce wrote, I could confirm that he has been an excellent jurist: precise, thorough, fair, respectful of the law and of the dignity of the parties … and extremely hard working.*

He is also the best reader I have met, and I have spoken about books with many minds much brighter than mine. But Bruce is exceptional. Not only has he read Proust, and Joyce, and Melville, and Trollope and so many other great and powerful writers, no, it's not a matter of quantity: Bruce has the uncanny ability to remember whole paragraphs from books he read long ago, and to quote them with his wonderful Gandalfian voice.

Imagine my privilege when over the years we have traveled the universes of Homer and Virgil, Ovid and Bocaccio, Tolstoi and Dostoevsky, Ishiguro and James, Yourcenar and Cervantes, Vargas Llosa, Carpentier, Nabokov, García Márquez, Faulkner and many other wonders of worlds with words created.

That is my definition of privilege.

The man is wise, the man is generous, the man is good, and now he can be on the loose:

Can he write now that he is unfettered? Can you imagine the wonders that can come from his imagination were he to desire to put words to creative uses?

There is a lot more in him to share and contribute, and I hope in the next many years we can continue sharing his wisdom and humor, his love for Christine and the boys, his love for life, … and his friendship.

Live long my friend.

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PRESS RELEASE

APPLICATIONS FOR THE FIRST CIRCUIT CRIMINAL JUSTICE ACT PANEL

BOSTON (April 23, 2025) — The U.S. Court of Appeals for the First Circuit is accepting applications to serve on the court's Criminal Justice Act ("CJA") Panel including: (1) applications from attorneys not currently on the panel; and (2) reapplications from panel members whose terms expire on **September 30, 2025**. Instructions and application forms may be downloaded from the court's website at www.ca1.uscourts.gov under the "CJA Materials" tab. They may also be obtained from the Clerk of Court, John Joseph Moakley United States Courthouse, One Courthouse Way, Suite 2500, Boston, MA 02210. **Three paper copies of the completed form and attachments should be mailed to the Clerk and must be received no later than June 13, 2025, at 5:00 p.m.** For additional information, please contact Zuleen Nova at (617) 748-9380 or CJA Coordinator Kaitlin Copson at (617) 748-9066.

Navigating the AI Revolution: Embracing Generative AI Tools in Legal Practice

by Ignacio J. Labarca-Morales[1], Esq. of Marini Pietrantoni Muñiz, LLC

I. INTRODUCTION

Artificial Intelligence ("AI") is revolutionizing industries across the globe, and the legal field is no exception. Although it has been met with both fascination and skepticism, it is undeniable that AI is here to stay and that it is forever changing how we see the world. The recent hype in AI is understandably related to the release of modern Large Language Models ("LLMs"),[2] a type of generative AI.

Generative AI, as defined in President Joseph Biden's Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence issued on October 30, 2023 (the "AI Executive Order"),[3] refers to the class of AI models that emulate the structure and characteristics of input data to generate outputs in the form of text, images, videos and audio clips. In a nutshell, the term refers to tools that use your input inquiries to generate related outputs which were not created by a human.[4] How and what for, instead of if, we use Generative AI, are seemingly the key questions.

The variety of AI applications and LLMs that are now available is exponential and appears to increase daily. This makes it possible to use several LLMs to create an exorbitant amount of different data output in seconds. Output possibilities therefore appear endless and, from a legal professional's standpoint, LLMs can provide invaluable growth with their potential of assisting us with numerous tasks.

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We have all heard horrifying stories about attorneys who have been disciplined for having presented inexistent (hallucinatory) precedents in their briefs submitted to courts, facing consequences that none of us ever want to be subjected to.[5] While these cases are frightening, it seems apparent that they serve as a reminder of our ethical duties and the obligation under Federal Rule of Civil Procedure 11 to review and verify the content of our work as attorneys, rather than an evaluation of the appropriateness of the use of AI. As held by the U.S. District Court for the Southern District of New York, attorneys have a "gatekeeping role … to ensure the accuracy of their filings."[6]

Thus, while the use of generative AI in

1 Member at Marini Pietrantoni Muñiz, LLC.

2 ChatGPT is one of the most renowned AI tools, which uses LLMs trained on extremely large sets of data, to generate text in response to a user's prompt. See Authors Guild v. Open AI, Inc., 345 F.R.D. 585, 589 (S.D.N.Y. 2024). There are, however, several different other AI tools, such as Google Gemini, Claude, among others, some of which are specialized in specific areas. Thus, some users resort to several LLMs for different tasks.

3 See AI Executive Order, Section 3(p), Definition of Generative Artificial Intelligence, available at [PLEASE PROVIDE LINK].

4 See AI Executive Order, Section 3 (ee), Definition of Synthetic Content.

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the legal field –and seemingly all other fields– appears to be unavoidable, it is a prudent practice to first review the American Bar Association's ("ABA")'s Formal Opinion 512 issued on July 29, 2024, addressing the ethical considerations for lawyers using them, and to refer to these guidelines as a benchmark in our profession.

The ABA outlines key professional responsibilities and potential risks associated with using generative AI in the legal field, summarizing them in six points: (1) competence, (2) confidentiality, (3) communication, (4) supervision, (5) meritorious claims and candor towards courts, and (6) reasonability of fees billed when using LLMs. The overall theme of the ABA's formal opinion is that professionals using generative AI in their practices must (i) become familiarized with it enough to understand its potential and limitations; (ii) communicate with clients about how AI is being used; (iii) ensure that the output complies with professional standards by verifying it, especially if such content will be submitted to courts; (iv) protect the confidentiality of a client's information, considering that, generally, information inputted to LLMs is stored and used by the system to continue learning;[7] and (v) charge reasonable fees for tasks for which generative AI was used.

III. POTENTIAL USES OF AI IN LEGAL PRACTICE

So, how can generative AI tools be incorporated into the practice of law?

For starters, the big players in legal research, namely Westlaw and LexisNexis, have incorporated generative AI tools and LLMs to their services,[8] some of which can process an inquiry made by a user through a chat-like interface, drafting legal memoranda in less than two minutes. Those memorandums, in turn, are generated with respective citations of cases and secondary sources from which the data was obtained. To combat the risk of "hallucinations," these companies advertise that they have developed their own database to assure that outputs generated by their AI models do not reach those of other companies and products, mitigating the possibility of non-existent precedents.[9] In fact, some law schools have implemented a few of these tools in the research programs provided to students, revealing that the perception of legal investigation for attorneys of newer generations is already being shaped by generative AI; it is no longer a matter of if, but of when.

This raises other interesting questions:

• How soon should law schools rethink or reframe their legal research and writing courses?

• Do courts currently have these tools available? If not, will they have them available soon?

• If courts have them available, at what point in an attorney's career will not using these tools entail that he or she is falling behind?

• When will the use of AI become the norm for the legal profession?

In addition to assisting with research, LLMs can prepare not only an initial draft of documents such as letters, pleadings, motions and memorandums; they can also help revise the tone of a working document and reframe its structure. Perhaps an attorney who has been going back and forth with a paragraph that he or she feels reads as too aggressive (or maybe even a bit dramatic) can consult a generative AI tool, for it to quickly help steer the tone towards the right path. Of course, the attorney can and should

5 See Park v. Kim, 91 F.4th 610, 615 (2nd Cir. 2024) (court found attorney presented false statement of law to court, which fell well below basic obligations of counsel, by relying on generative AI tool to identify precedent that might support arguments in her brief without reading or otherwise confirming validity of non-existent decision she cited); see also Mata v. Avianca, Inc., 678 F. Supp. 3d 443, 465 (S.D.N.Y. 2023) (court sanctioned an attorney for submitting inexistent cases); compare with United States v. Cohen, No. 18-CR-602 (JMF), 2024 WL 1193604 (S.D.N.Y. Mar. 20, 2024) (counsel's citation to non-existent judicial cases created by generative AI tool in motion for termination of supervised release was not done in bad faith, and thus it did not warrant sanctions under statute governing vexatious multiplication of proceedings, court's inherent authority, or Rule 11 standards, though it was embarrassing, negligent, and perhaps even grossly negligent).

6 Sillam v. Labaton Sucharow LLP, No. 21-CV-6675 (CM) (OTW), 2024 WL 3518521, at *2 (S.D.N.Y. July 24, 2024)

7 See AI Executive Order, Section 3(t), defining "Machine Learning" as a set of techniques that can be used to train AI algorithms to improve performance at a task based on data.

8 In addition to Westlaw and LexisNexis, it is worth mentioning here that other tools like ROSS Intelligence and Casetext are also offering interesting legal research and assistance services.

9 See LexisNexis, A Framework for Legal Gen AI Success, available at https://law.lexisnexis.com/LexisPlus-AI-Buyers-Guide?v=a; LexisNexis, The Definitive Guide to Choosing a Gen A Legal Research Solution https://www.lexisnexis.com/html/choosing-genai-legal-research-solution/; see also Patrick Austin, National Business Institute, LexisNexis and Westlaw Will Launch AI Legal Research Tools, available at https://nbi-sems.com/blogs/news/lexisnexis-and-westlaw-will-launch-ai-legal-research-tools

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still revise or change it to make it his or her own, but these tools could expeditiously aid us out of a momentary writer's block. With the proper framing of inquiries, AI can also assist attorneys in creating comprehensive charts to visually organize workflows and the content of documents, in a matter of seconds. Some commentators have even suggested that different AI tools and LLMs will eventually be able to accurately predict the outcome of cases, awards and other matters by analyzing precedents and rulings of specific courts.[10]

A key consideration, following the ABA's guidelines, is that confidential or privileged information should never be inputted into any LLM (in my opinion, even if it is advertised as safe to do so). Using AI to have a good starting point to work with can be highly beneficial for seemingly anyone and, who knows, maybe we can even get a spark of inspiration from their output. On the other hand, junior attorneys should not feel that their role in the legal field is somehow threatened by these tools, because, ultimately, their learning of the profession is being shaped by their implementation. Instead, that knowledge could be seen as a competitive edge over those who might be reluctant to learn about them.

IV. COURT ORDERS REGARDING USE OF AI

It is worth noting that some federal judges, the first of which appears to have been Judge Brantley Starr of the U.S. District Court for the Northern District of Texas,[11] have created standing orders requiring attorneys to submit documents certifying that no portion of the filing was drafted by generative AI or that any language drafted by generative AI was checked for accuracy by a human being. Magistrate Judge Gabriel A. Fuentes of the U.S. District Court for the Northern District of Illinois has adopted a similar standing order, providing that "any party using any generative AI tool in the preparation of drafting documents for filing with the Court must disclose in the filing that AI was used," stating that "the Court will continue to presume that the pre-existing Rule 11 certification is a representation by filers, as living, breathing, thinking human beings, that they themselves have read and analyzed all cited authorities to ensure that such authorities actually exist and that the filings comply with Rule 11(b)(2)."[12] Some judges have gone further, prohibiting the use of these tools entirely. In the context of an order granting a request to admit counsel pro hac vice, Judge Donald W. Molloy of the U.S. District Court for the District of Montana has issued an order specifying that pro hac counsel "must do his or her own writing," prohibiting the use of AI automated drafting programs such as Chat GPT.[13] Still, the tendency appears to be to, at the very least, require attorneys to disclose the use of AI, reminding us to supervise any output generated by it, not to ban their use.

V. CONCLUSION

With proper education and care, AI and LLMs should be cause for excitement. These tools–like the implementation of digital, online research as opposed to manual investigations[14]–are ultimately designed to assist us in becoming more efficient, not replace us. With technology that evolves by the second, we should not only adapt but lead the conversation on its ethical and effective implementation. Therefore, attorneys should welcome these new technologies and evaluate how they can improve their practices. In sum, when it comes to AI, the legal profession is changing because the world is changing – and we need to change with it. The future belongs to those who embrace it.

10 See Meisenbacher et al., Legal AI Use Case Radar 2024 Report, Technical University of Munich (July 2024), available at https://mediatum.ub.tum.de/doc/1748412/1748412.pdf); see also Axios, AI Tells Lawers How Judges are Likely to Rule, available at https://www.axios.com/2023/09/12/ai-judges-trials-predictions.

11 See Judge Brantley Starr, Standing Order titled "Mandatory Certification Regarding Generative Artificial Intelligence" (2023), available at https://www.txnd.uscourts.gov/judge/judge-brantley-star. As of October 14, 2024, Judge Starr's standing order was unavailable in the U.S. District Court of the Northern District of Texas's website, although such order is widely and publicly referenced in multiples sources. See, e.g., Kacqueline Thomsen, Reuters, US Judge Orders Lawyers to Sign AI Pledge, Warning Chatbots "Make Stuff Up" (June 3, 2023), available at https://www.reuters.com/legal/transactional/us-judge-orders-lawyers-sign-ai-pledge-warning-they-make-stuff-up-2023-05-31/.

12 Magistrate Judge Gabriel A. Fuentes, U.S. District Court, Northern District of Illinois, Standing Order (2024), available at https://www.ilnd.uscourts.gov/judge-info.aspx?o/k+bI2/OTJpYzY/AqVcDQ==.

13 Order in Belenzon v. Paws Up Ranch, LLC, CV-23-69-M-DWM (D.Mont. June 22, 2023), available at https://storage.courtlistener.com/recap/gov.uscourts.mtd.73612/gov.uscourts.mtd.73612.8.0.pdf.

14 See Role Models Am., Inc. v. Brownlee, 353 F.3d 962, 975 (D.C. Cir. 2004) (characterizing computerized services to "presumably save money by making legal research more efficient"); see also Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany, 369 F.3d 91, 98 (2nd Cir. 2004) (stating that "online research services likely reduces the number of hours required for an attorney's manual search").

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A Misplaced Symmetry: The Miscalculation Behind Unanimous Acquittals

by Samira Parrilla-Medina, Law Student at Interamerican University of Puerto Rico School of Law

In exercising its interpretive function and seeking to maintain formal constitutional symmetry, the Supreme Court of Puerto Rico (TSPR) has articulated a jurisprudential doctrine that imposes absolute jury unanimity not only as an indispensable requirement for a conviction but also for an acquittal in criminal proceedings. Before the interpretation established in Pueblo v. Centeno[1], Puerto Rico consistently applied the constitutional requirement of at least a 9-3 jury majority for both conviction and acquittal verdicts[2], a parallelism the TSPR has explicitly sought to preserve through its current jurisprudence. This interpretive shift, while inspired by the federal constitutional standard established in Ramos v. Louisiana[3], exclusively mandates unanimity for convictions and does not address acquittals, introduces a requirement beyond what Ramos explicitly dictates. Although motivated by a legitimate desire to preserve coherence within Puerto Rico's constitutional system and maintain its historical balance by mirroring the original constitutional mandate of at least a 9-3 majority for both verdict types, the TSPR's determination introduces complexities whose constitutional, cultural, and procedural implications merit thorough examination.

This article offers such discussion proposing that the requirement of unanimity for acquittal, although formally consistent with the unanimity required for conviction, creates an inherent tension with the cardinal constitutional principle of the presumption of innocence. Through an analysis that integrates principles of abstract algebra and constitutional hermeneutics, it will demonstrate that equating two distinct decision-making standards, full certainty for conviction versus minimal reasonable doubt for acquittal, inevitably produces a logical contradiction. Simply put, equating a majority requirement for conviction with a majority requirement for acquittal is not the same as equating unanimity for conviction with unanimity for acquittal.

From a logical-legal perspective informed by my background in pure mathematics, this article uses abstract algebra as a methodological tool to illustrate the mathematical contradiction generated by the current doctrine. It will demonstrate how the constitutional standard required for conviction (absolute certainty) is algebraically represented by a single specific combination of votes among the 4,096 possible jury decisions. In contrast, requiring the same unanimity for acquittal reduces the protection inherent in the principle of reasonable doubt, imposing a restrictive condition in circumstances that, constitutionally, require greater flexibility under the presumption of innocence. To properly understand this presumption, Dr. Jorge Farinacci Fernós in La Carta de Derechos explains: "The presumption denotes a legal use: it is a rule of evidence that deems a fact to be true until sufficient proof to the contrary is presented; in this case, the innocence of the accused person, defined as 'the state and quality of a soul free from guilt' (1925)".[4]

Moreover, this reflection explicitly considers Puerto Rico's democratic idiosyncrasy, marked by a legal and cultural tradition that values reasonable dissent and recognizes the difficulty in achieving absolute consensus, particularly in criminal proceedings, as acknowledged in our constitutional jurisprudence. The Constitution of the Commonwealth of Puerto Rico originally established in Article II, Section 11 [5], a qualified majority rule (a minimum of nine affirmative votes among twelve jurors), precisely designed to reflect the country's pluralistic and democratic reality.

In the same vein, the article discusses how the recent interpretation by the TSPR may have inadvertently led to a reduction in constitutional guarantees established by our Constitution, contradicting the fundamental principle that Puerto Rico may provide greater constitutional protection but never less than the federal minimum required. Indeed, under current federal doctrine, nothing prevents Puerto Rico from

1 Pueblo v. Centeno, 2021 TSPR 133, 208 DPR 1
2 *11 Art. II, § 11, Const. ELA, LPRA, Tomo 1.*
3 Ramos v. Louisiana, 140 S.Ct. 1390 (2020)
4 J. M. Farinacci Fernós, La Carta de Derechos, 1ra ed., San Juan, PR, UIPR, 2021, pag. 201.
5 11 Art. II, § 11, *supra*

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maintaining broader constitutional protections through majority verdicts for acquittal.

Finally, this analysis addresses a constitutional concern related to the separation of powers. The Constitution of the Commonwealth establishes that the Legislative Assembly is the only body empowered to modify fundamental guarantees related to jury trials, including the numerical requirement to issue conviction or acquittal verdicts. In this regard, it is important to emphasize that the current Constitution, specifically, Article II, Section 11, has not been amended to require unanimity for acquittal, hence the originally established qualified majority of nine votes remains in effect. Therefore, this article proposes that, by jurisprudentially imposing unanimity for acquittal without express legislative intervention, the TSPR may have exceeded the constitutional limits of its interpretative authority, affecting the delicate constitutional balance and implicitly altering the original design envisioned by the Constituent Assembly.

In sum, this analysis seeks to encourage a legal discussion that acknowledges the complex and delicate role of the TSPR, while inviting reflection on how these legal determinations impact fundamental constitutional principles, the democratic structure of the jury system, and the cultural and legal identity of Puerto Rican society.

I. LOGICAL-MATHEMATICAL ANALYSIS: ABSTRACT ALGEBRA AS A CONSTITUTIONAL BEACON

To properly evaluate the recent jurisprudential requirement of unanimity for acquittal, we must first explore its logical foundations.

1. The Basic Set (Our Jury)

Our base set is the jury, composed of twelve jurors:

$J = \{j_1, j_2, j_3, \ldots, j_{12}\}$

2. Algebraic Operation: Vote (Guilty or Not Guilty)

Each juror casts a vote. There are only two possible options:

C = Guilty

N = Not Guilty

Thus, the set of possible votes is:

V = {C, N}

3. Cartesian Product: All Possible Combinations

Each juror votes independently, so we calculate the total number of possible outcomes as a Cartesian product:

$V^{12} = V \times V \times \ldots \times V$ **(12 times)**

That results in:

$|V^{12}| = 2^{12} = 4{,}096$

4. Unanimity for Conviction (All "C")

Unanimity means all twelve jurors vote "Guilty." This results in a single combination:

$UC = \{(C, C, C, \ldots, C)\}$

Only one outcome qualifies:

$|UC| = 1$

5. When the Jury Is Not Unanimous

Now, let's consider what happens when this **doesn't** occur—when there is *not* unanimity for guilt. This includes **any combination** of votes where at least one juror votes "Not Guilty" ("N"):

$UC^c = V^{12} - UC$

How many combinations are left?

$|UC^c| = 4096 - 1 = 4095$

So, out of 4,096 possible voting combinations:

- **Only 1** results in a **conviction**.
- The remaining **4,095** combinations do **not** result in a conviction.

However, here's the legal nuance:

> **Not reaching a unanimous guilty verdict does not automatically result in acquittal. If the jury cannot unanimously agree on "Not Guilty" either, then we face what the legal system defines as a hung jury—a situation where the trial ends without a verdict.**

In other words:

- **Conviction** → All 12 vote "Guilty" → 1 combination
- **Acquittal** → All 12 vote "Not Guilty" → 1 combination
- **Hung Jury** → Anything in between (mixed votes) → 4,094 combinations

So algebraically:

- **|Conviction| = 1**
- **|Acquittal| = 1**
- **|Hung Jury| = 4094**

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This breakdown shows that:

1. **Convicting is extremely rare** in the algebraic sense; it requires one exact sequence.

2. **Acquitting is equally rare**, under a system that requires unanimous "Not Guilty."

3. **Hung juries**, ironically, are the most likely outcome when juror disagreement is present, even if a majority doubts guilt.

Thus, the current legal structure, requiring unanimity both to convict and to acquit, mathematically favors stalemate rather than resolution.

The TSPR thus created two equally difficult scenarios, requiring the same absolute certainty for conviction (all guilty) and acquittal (all innocent). This rule breaks both abstract and constitutional logic, because it ignores that acquitting should be "easier" than convicting. In doing so, the current doctrine results in a mathematically contradictory and constitutionally inappropriate standard, equating certainty (conviction) with doubt (acquittal); certainty of absolute doubt.

II. FUNDAMENTAL CONSTITUTIONAL PRINCIPLES AT STAKE

The previously described mathematical contradiction reveals a deeper constitutional issue. The original qualified majority rule (9-3) was congruent with this principle in the context of acquittals because it faithfully reflected the constitutional standard whereby, to protect the accused, the mere existence of reasonable doubt in a limited number of jurors is enough.

As Justice Estrella Martínez aptly noted in his dissenting opinion in Pueblo v. Centeno:

> *"[...] accepting majority verdicts for acquittal represents a broader protection of the constitutional rights of the accused, and our legal system allows us to preserve it. By contrast, adopting the requirement of unanimity for the purpose of not guilty verdicts would not work in favor of defendants, but rather would restrict the protection our penal tradition already provides. Therefore, given our authority to expand upon the minimum content established by the Supreme Court of the United States, I maintain that the unanimity requirement in jury voting should not be extended to acquittals."* [6]

This observation is key because Puerto Rican criminal law is constitutionally structured around the cardinal principle of the presumption of innocence. As Dr. Jorge Farinacci Fernós explains:

> *"...[T]he innocence of the accused constitutes the starting point in every criminal proceeding until the State proves otherwise, thereby defeating the presumption. As stated during the Constitutional Convention deliberations: 'The most important presumption we know under the American judicial system is the presumption of innocence.' Diario de Sesiones 2002, Soto González. The aim of this clause is to place the full burden of proof regarding the guilt of the accused on the prosecution and to invalidate any legal norm that contradicts this fundamental principle."* [7](emphasis added)

Therefore, by requiring unanimity for an acquittal, the scope of constitutional protection is further constrained, amplifying the impact of even minimal juror disagreement. Under the prior 9-3 system, a verdict of "Not Guilty" could be entered when at least nine jurors voted to acquit, thereby accommodating reasonable dissent while still allowing for a clear and legally conclusive resolution in favor of the defendant. In contrast, the current unanimity requirement means that even if eleven jurors vote to acquit, a single dissenting vote prevents a definitive verdict. The outcome is not a conviction, but a hung jury, leaving the accused in procedural limbo, vulnerable to retrial, and subjected to prolonged exposure to the coercive machinery of the criminal process.

Crucially, this shift erodes the foundational principle that the burden of proof rests solely with prosecution. This constitutional design is not incidental, it exists to prevent the dangers historically associated with state overreach and oppressive legal systems, where the individual bore the weight of proving their own innocence. In requiring unanimity not only to convict, but also to acquit, the defense is inadvertently placed on equal footing with the State, as if both must persuade the jury to the same degree. Such symmetry contradicts the core logic of the presumption of innocence, which demand that the accused benefit from doubt, not be defeated by it.

6 *Pueblo v. Centeno, supra*

7 J. M. Farinacci Fernós, La Carta de Derechos, 1ra ed., San Juan, PR, UIPR, 2021, pag. 202.

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III. FEDERAL VS. LOCAL CONSTITUTIONAL PROTECTIONS

The Federal Constitution sets a mandatory minimum floor that all states and territories must uphold in terms of fundamental guarantees. The recent decision by the U.S. Supreme Court in Ramos v. Louisiana, held that absolute unanimity is constitutionally required only for convictions in criminal cases. However, this federally mandated minimum does not prohibit individual jurisdictions, including Puerto Rico, from offering broader protection to the accused.

The Constitution of Puerto Rico has historically exemplified this principle by offering a "higher constitutional ceiling" through the original qualified majority rule (9-3) for acquittals. In this way, our local legal framework functioned as an additional shield that protected the accused to a greater extent than the federally imposed minimum. Think of this dynamic as the distinction between a federally mandated "protective floor" and Puerto Rico's historically broader "protective ceiling." By unilaterally adopting the requirement of unanimity for acquittal, local jurisprudence effectively lowered that ceiling and, in doing so, diminished the scope of rights that our legal system had traditionally guaranteed the accused.

This legal framework has been explicitly recognized by the Supreme Court of Puerto Rico on multiple occasions. For instance, in Pueblo v. Díaz Bonano[8], our Supreme Court stated:

> *"It is well established that the applicability of a federal constitutional right constitutes only the minimum scope of that right. Therefore, the Supreme Court of a state, including Puerto Rico, may interpret its constitution to afford broader protection to an individual than those recognized by the Federal Constitution. As a corollary of this principle, it has been acknowledged that our Bill of Rights is broader in scope than the Federal Constitution. That is to say, just like the states of the Union, in Puerto Rico we may adopt broader and more inclusive interpretations than those established by the United States Supreme Court when interpreting a parallel clause of the Federal Constitution."*

Thus, by now requiring unanimity for acquittal through judicial interpretation, based on federal jurisprudence that only mandates unanimity for conviction, instead of maintaining the originally established qualified majority rule (9-3), the TSPR may have inadvertently limited, without legislative mandate, the historically broader constitutional protections offered by our legal system.

Such an unintentional reduction of local constitutional protections contradicts both the original intent of the framers of our Constitution and the well-established jurisprudence affirming Puerto Rico's authority to expand upon the minimum protections required by the Federal Constitution.

IV. SEPARATION OF POWERS AND CONSTITUTIONAL NORM HIERARCHY

As part of the process of preparing this article, I had the opportunity to meet with Dr. Jorge Farinacci Fernós, author of La Carta de Derechos. That meeting was not only valuable in providing historical context for this constitutional analysis, but it also prompted me to weave in a separation-of-powers concern that I had not initially contemplated.

This inadvertent reduction of local constitutional guarantees is not merely a doctrinal deviation; it raises a deeper structural issue about institutional boundaries. Article II, Section 11 of the Constitution of the Commonwealth of Puerto Rico expressly provides that, in criminal cases, a jury verdict may be rendered by no fewer than nine jurors. This numerical threshold reflects a deliberate constitutional design that limits the judiciary's discretion in altering the decision-making standard for juries. Any substantive change to that requirement, such as imposing unanimity for acquittals would need to be enacted through the formal amendment process outlined in Article VII, a process that rests solely in the hands of the Legislative Assembly and the people of Puerto Rico via referendum.

This is no trivial matter. This topic was the subject of extensive debate during the Constitutional Convention. From a textual analysis of Section 11, while unanimous verdicts are permitted, the provision also grants flexibility to the

8 Pueblo v. Díaz Bonano, 176 DPR 601 (2009)

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Legislative Assembly to determine the number of votes required to meet the constitutional threshold. The Diario de Sesiones of the Constitutional Convention recognized this possibility and stated that allowing 'no fewer than nine' enabled the Legislature to make such adjustments through legislation[9]. Likewise, the Report of the Bill of Rights Committee stated: The proposed formula will allow the Legislature to increase the margin of majority to unanimity, **if it deems it appropriate in the future**[10]. (emphasis added). The Diario de Sesiones of the Constitutional Convention confirms that unanimity was considered and consciously rejected in favor of a qualified majority, in part to preserve democratic functionality and avoid the paralysis of the criminal justice process due to a single dissenting juror. That historical record reinforces the constitutional mandate: modifying the number of votes required to reach a verdict is a legislative prerogative, not a matter subject to judicial reinterpretation.

By unilaterally imposing a requirement for unanimous acquittal, without a constitutional amendment, the Supreme Court of Puerto Rico may have unintentionally overstepped its constitutional authority. In doing so, it occupies a role reserved exclusively for the legislative branch, effectively modifying the Constitution in substance, though not in form.

In Ramos v. Louisiana, the U.S. Supreme Court did not address unanimity for acquittals. In contrast, Puerto Rico's Constitution explicitly states that in felony cases, a verdict may be rendered by majority vote, with no fewer than nine jurors concurring. Thus, through its ruling in Centeno, the Supreme Court of Puerto Rico appears to have extended its interpretive authority into a matter already definitively resolved by the constitutional text, thereby exceeding its constitutional bounds.

V. THE REQUIREMENT OF UNANIMITY AND PUERTO RICO'S PLURALIST TRADITION

Historically, Puerto Rican society has recognized itself as pluralistic, diverse, and complex. The jurisprudence of the Supreme Court of Puerto Rico emphasized these foundational values, integrating them into our democratic and constitutional identity. In the case of Partido Nuevo Progresista v. De Castro Font[11] the Court stated: "Pluralism and the right to vote, as superior values of the legal order, must be integrated into the concept of democracy [...]."

This jurisprudential recognition underscores why the original qualified majority rule (9-3) for acquittals was in harmony with our democratic reality. The current requirement of absolute unanimity introduces a standard foreign to our constitutional tradition; a uniform requirement that assumes the easy and frequent occurrence of absolute consensus within a sociocultural context that has historically acknowledged the democratic legitimacy of reasonable dissent.

The practical consequence of imposing this requirement can be likened to demanding that each jury function as a constitutional machine originally designed to tolerate a degree of democratic disagreement. This requirement of absolute unanimity directly contradicts the constitutional logic that, in complex and momentous matters, especially those concerning individual liberty, reasonable doubt, even if expressed by a small minority, must clearly operate in favor of the accused. Therefore, the current unanimity rule acts as an artificial barrier that hinders the effective protection of the accused, significantly affecting both their constitutional presumption of innocence and the practical efficiency and functionality of the judicial system.

In conclusion, to impose unanimity for acquittal through judicial interpretation not only creates a mathematical and logical paradox, it also disregards our pluralistic democratic tradition, weakens constitutional protections for the accused, and implicitly exceeds the interpretive limits assigned to the Supreme Court. The Constitution was clear in granting the Legislative Assembly the exclusive authority to adjust the jury's numerical standard, precisely to safeguard fundamental guarantees such as the presumption of innocence. For this reason, it is imperative to revisit this doctrine so that Puerto Rico's judicial system may faithfully reflect both the cultural values of our society and the delicate constitutional balance envisioned by our founding framers.

9 The Diario de Sesiones of the Constitutional Convention of Puerto Rico, pp. 1939–1941.

10 Report of the Committee on the Bill of Rights, p. 3184.

11 Partido Nuevo Progresista v. De Castro Font, 172 D.P.R. 883 (2007)

Upcoming Events in 2025

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- **Webinar: Subchapter V Small Business Bankruptcies**
  - June 24 from 3:00 p.m. – 4:00 p.m.

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  - June (Date & Location TBD)

- **Seminar on the Death Penalty**
  - July (Date & Location TBD)

- **Hybrid Seminar: The AI Wild West: Taming the Workplace**
  - August 20 from 3:00 p.m. – 5:00 p.m. (Ferraiuoli, San Juan)

- **Cocktails with the Bar**
  - September 3 at 6:30 p.m. (IL Bacalao Marisquería, San Juan)

- **First Circuit Reception**
  - October/November (Date & Location TBD)

National

• **Webinar: Reduction in Force – What Federal Attorneys Need to Know**
- May 28 from 2:00 p.m. – 3:00 p.m.

• **40th Annual Insurance Tax Seminar**
- May 29-30 (Washington, D.C.)

• **Webinar: Chambers Ready: What Every Clerk and Intern Should Know**
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- June 18 from 2:00 p.m. – 3:00 p.m.

• **2025 FBA Annual Meeting & Convention**
- September 12-13 (Minneapolis, MN)

The Legal Tech Revolution: How to Ethically Ride the AI Wave

by Manuel A. Quilichini, Esq.

In this article, we are going to unravel Formal Opinion 512 from the American Bar Association ("ABA") regarding the use of generative artificial intelligence ("GAI") tools in legal practice. Issued in late July 2024, this Opinion was something we were eagerly awaiting to provide us with some guidance on how to ethically manage this new technology that has captured the world's attention. Of course, it comes two years after the launching of ChatGPT and after several ethical blunders by some attorneys.

INTRODUCTION: WHAT IS GAI?

Before diving into the details of the Opinion, let's all get on the same page about what generative artificial intelligence (GAI) is and why it should matter to us, in case you're not familiar with it.

GAI is a system of computers running algorithms that can create new things from just a few words. Imagine asking your computer or phone to write an essay for you, paint a picture, or even create software code, and it does it almost magically in mere seconds. Editing photos and creating videos are child's play for these new systems. A lengthy document that would take us hours to translate into another language, GAI can translate almost instantly and practically error-free. It can even serve as an interpreter if one isn't available, by using just your phone.

GAI isn't a tool only for the tech geeks or experts. Proud luddites and tech-challenged individuals can dive into the world of generative AI and discover how it can greatly improve their lives, and the potential to change how we practice law and how justice is administered. In legal practice, these tools can review contracts, help predict how a judge might rule, and even assist in drafting complex legal documents. Courts are using these tools to research matters, generate transcripts of hearings, draft orders and more.

If you're a lawyer and think you can ignore this technology, you're wrong. Not using this technology is like enter-

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ing a car race riding a bicycle. And if you think this technology is a fad that will go away, I suggest you don't bet on it.

However, not everything is smooth sailing with GAI, and we've seen notorious cases of its irresponsible use leading to sanctions for attorneys, followed by calls to avoid using this tool. That's where the ABA Opinion comes in.

COMPETENCE: DON'T STAY IN THE STONE AGE!

Every time we talk about technology in a group of lawyers, reactions range from extreme enthusiasm to panic, often depending on the lawyer's age. I often hear, "I'm not interested in technology, I'm not going to learn about it." This can be a huge mistake, and even a potential ethical violation.

In Puerto Rico, we are called to be competent when providing services to our clients. This term is broad and dynamic. Fifty years ago, competence didn't include knowing how to use the internet, e-filing, or videoconferencing. We now cannot conceive of an attorney not having those skills. Today, it's not enough for a lawyer to have good legal knowledge. They must understand technology in a way that helps them adequately represent their clients.

The ABA has the Model Rules of Professional Conduct ("MRPC") that guide states in adopting their ethical standards. In 2012, the ABA adopted the concept of technological competence, requiring lawyers to understand the benefits and risks of applicable technology. Over 40 jurisdictions have adopted this duty of technological competence, and although these rules don't apply in Puerto Rico locally, as mentioned earlier, understanding technology today is part of the general duty of competence for any legal professional. Also, the US District Court's Local Rule 83E mandates compliance with the ABA's MRPC.

The ABA rule doesn't require you to be a tech genius, but you do need to have a reasonable understanding of what these tools can and can't do. Imagine you're in a kitchen full of modern gadgets: you don't need to be a five-star chef, but you should know what each tool is for and how not to burn the house down. The same applies here: know the benefits and risks of GAI, stay up-to-date by reading articles, attending seminars, or consulting experts.

GAI tools can help you be more efficient and improve the quality of your legal services. Imagine having an assistant that works at lightning speed, never tires, never sleeps, and is available 24/7, 365 days a year. And its monthly salary is only around $20.

But beware, they can also make mistakes. These systems are only as good as the data they're trained on. If that data is limited, outdated, or biased, you could end up with unreliable or even discriminatory results. So always review and verify the information GAI provides. You don't want to end up giving bad legal advice because you blindly trusted your robotic assistant.

CONFIDENTIALITY: THE BIG SECRET

Model Rule 1.6 is the ABA's guide for maintaining client confidentiality. Before entering any sensitive data into a GAI tool, evaluate the risks. Can you imagine handing over your client's secret diary to a stranger? Well, that's more or less what you'd be doing if you don't properly protect that information.

Self-learning GAI tools can learn from the data you input, which sounds great until you realize that they might use that information in future contexts, potentially revealing secrets unintentionally. So, before using one of these tools, make sure you have your client's informed consent. Explain the benefits and risks clearly and simply, without technical jargon. Honesty and transparency are key here.

There are ways to protect confidential information, such as

- Remove identifying information such as names, addresses and others.

- Use generic terms whenever possible

> *In litigation, truthfulness is crucial. Model Rules 3.1, 3.3, and 8.4(c) remind us that we should not file frivolous claims or make false statements to the courts. If you're using GAI to prepare documents or arguments, carefully review the results.*

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- Frame prompts as hypotheticals
- Generalize facts
- Use secure AI systems

It would be wise if you could read and understand the terms of use and privacy policies of the GAI tool you're using. Drink a lot of coffee because it is a boring and confusing read, but at times necessary. Protecting your client's information is a huge responsibility, and you can't take it lightly.

COMMUNICATION: HONESTY ABOVE ALL

Model Rule 1.4 establishes the importance of effective communication with clients. This includes informing them about the tools you're using to achieve their goals. If you're using a GAI tool, tell them. Transparency builds trust.

You might have to educate the client on how you plan to use the GAI tool. Asking a GAI to translate a motion or to summarize a deposition carries less risks than having the GAI prepare a motion for summary judgment or assist you in deciding on a settlement offer. Let the client know you will be making all the important decisions and GAI will just be one more tool in your litigation arsenal.

MERITORIOUS CLAIMS AND HONESTY BEFORE THE COURT: DON'T MESS UP

In litigation, truthfulness is crucial. Model Rules 3.1, 3.3, and 8.4(c) remind us that we should not file frivolous claims or make false statements to the courts. If you're using GAI to prepare documents or arguments, carefully review the results.

GAI tools can produce surprising results, but they can also make mistakes. By now, most of us know how bad it can end when blindly trusting GAI's recommendations, as in the notorious case of Mata v. Avianca.[1] Don't be misled by the shiny new objects and remember your legal and ethical obligations.

Check and double check all the information and cites provided by GAI as you would the information provided by a legal assistant. If a case sounds too good to be true, it probably is. Of course, if you are using one or more of the AI-enabled legal research systems such as Lexis Plus AI or West Edge, you could be more trusting, but always remember what you are risking if you do not double check.

SUPERVISION: KEEP YOUR TEAM IN CHECK

Model Rules 5.1 and 5.3 address the responsibilities of supervision in a law firm. If you're in charge, you need to establish clear policies on GAI use and ensure that everyone on your team follows them. Think of it as training a group of kittens: you need patience and clear rules to avoid chaos.

Setting clear policies isn't enough. You also need to make sure everyone receives proper training on how to use these tools ethically and effectively. This includes understanding the risks associated with GAI and how to handle information securely. Continuous training and supervision are essential to maintaining your team's integrity and protecting your clients' interests.

FEES: BE FAIR AND TRANSPARENT

Model Rule 1.5 tells us that fees must be reasonable. If you're using GAI and plan to charge the client for it, you need to be transparent about how and why you're making those charges. Imagine being charged for a pizza that took 5 minutes to make thanks to a super-fast oven, but they charge you as if it took hours. That wouldn't be fair, right?

Similarly, if a GAI tool allows you to do the work faster, you can't charge the client the same rate as if it had taken hours. Clearly explain the basis of your fees and make sure the client understands how GAI is improving efficiency and reducing costs. Transparency in billing is key to maintaining a trusting relationship with your clients.

IN CONCLUSION

Formal Opinion 512 from the ABA provides us with detailed guidance on how to ethically and effectively use GAI tools in legal practice. Stay informed, communicate clearly and openly, protect your clients' information, and be fair with your fees. In this ever-changing technological world, adapting and learning is essential. Until next time, friend!

1 In Mata v. Avianca, 678 F.Supp.3d 443 (S.D.N.Y. 2023), an attorney representing a man who had sued an airline relied on GAI (ChatGPT, to be precise) to help prepare a court filing. It turns out that ChatGPT had fabricated the cases and quotes cited in the attorney's motion on the issue of tolling, and the attorney filed the motion as-is. The Court found the attorney had acted in "subjective bad faith" meriting sanctions under Federal Rule of Civil Procedure 11 by failing to verify the basic accuracy of the filing, among other bad acts.

The Humanitarian Doctrine: A New Perspective on Domestic and Foreign Affairs

by Stella M. Moreira-Rabelo, Executive Director at MR Consulting Group

The principle of separation of powers is a cornerstone of democratic systems aiming to ensure the protection of liberties. This concept is rooted in the idea that ultimate power resides with the people. To safeguard this belief, the U.S. Constitution establishes a system of checks and balances that encourages collaboration among the branches, preventing abuses of power and promoting accountability. This article addresses a critical question about the limits of presidential authority: Is the President's discretion in enforcing policies or executive orders always immune from judicial review under the political question doctrine?

This question is especially relevant considering the complaint filed on November 13, 2023, in the U.S. District Court for the Northern District of California in the case of Defense for Children International-Palestine et al. v. Biden et al., Civil No. 4:2023cv05829 ("Defense for Children International"). The plaintiffs sued the United States government under international human rights law for its failure to exert influence over Israel to prevent genocide. In an Order issued on January 31, 2024, Senior District Judge Jeffrey S. White denied preliminary injunctive relief and granted a motion to dismiss for lack of jurisdiction. In its Order, the Court noted that "the undisputed evidence before [the] Court comports with the finding of the ICJ and indicates that the current treatment of the Palestinians in the Gaza Strip by the Israeli military may plausibly constitute a genocide in violation of international law."[1] The Court implored the U.S. President "to examine the results of their unflagging support of the military siege against the Palestinians in Gaza."[2]

An interpretation of the Order shows that the plaintiff's standing for a private right of action was met, and with that I agree. Unfortunately, the Court concluded that the preferred outcome

1 Defense for Children International, 714 F.Supp.3d 1160, 1163 (N.D. Cal. 2024).
2 Id. at 1167.

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> *[T]his article proposes that the humanitarian doctrine serves as an exception to the legal framework of the political question doctrine by presenting additional factors to determine whether a dispute constitutes a justiciable case for court review under U.S. national and foreign policy.*

was inaccessible as there was no jurisdiction over the defendants based on the political question doctrine.[3] On that point, I respectfully submit an alternative outcome.

The political question doctrine was established by Chief Justice John Marshall in Marbury v. Madison, 5 U.S. 1 (1803). For the past two centuries, it has continued to apply almost without exception, despite significant technological advances and rights movements. Its application is particularly important in limiting the court's jurisdiction over the interpretation of the executive's foreign policies and is also invoked in national controversies, even when those policies may breach substantive due process and human rights.

As a result, the political question doctrine has prevented U.S. courts from exercising their authority to interpret cases and controversies arising under international human rights law, when alleged against the U.S executive branch.[4] This constitutes a significant conflict with Article III, Section 2 of the U.S. Constitution, which translates as an imbalance of power in the most critical matter of justice: the preservation of human dignity.

The Judicial branch, however, has acknowledged that not "every case or controversy which touches foreign relations lies beyond judicial cognizance," rather, it is evaluated on a case-by-case basis.[5] For example, in Japan Whaling Ass'n v. American Cetacean Society, 478 U.S. 221 (1986), the Supreme Court rejected the application of the political question doctrine when addressing the executive branch's failure to enforce a foreign treaty involving the International Convention for the Regulation of Whaling and the Magnuson Fishery Conservation and Management Act of 1976. According to the Court, this question involved "applying no more than the traditional rules of statutory construction" in interpreting the Convention and the statutes at issue and, as such, did not present a political question.[6]

In Zivotofsky v. Clinton, 566 U.S. 189 (2012), the Court also embraced a narrow conception of the political question doctrine in addressing presidential limits on federal court jurisdiction in foreign affairs. It held that the doctrine could not justify refusing to hear a case involving the constitutionality of a federal statute.[7] The same logic should be applied to a case such as Defense for Children International, supra.

In the case of Defense for Children International, supra, the pertinent issue arises when the U.S. President is included in the list of defendants in a case alleging that the U.S. administration is aiding and abetting genocide in violation of U.S. law. The political question is commonly invoked to dismiss these cases arguing a speculative encroachment by the judiciary into political matters, thereby resulting in a lack of jurisdiction. Ironically, it is the opposite.

Conceding that the courts act as arbiters in cases involving violations of federal law, even when executive policies are implicated, this article proposes that the humanitarian doctrine serves as an exception to the legal framework of the political question doctrine by

3 Id. at 1165-66.

4 See Abusharar v. Hagel, 77 F. Supp. 3d 1005, 1006 (C.D. Cal. 2014) (a Palestinian American attorney sued U.S. Secretary of State John Kerry and Secretary of Defence Chuck Hagel to halt military aid to Israel; the Court determined that the foreign policy decision whether to provide military or financial support to a foreign nation is "a quintessential political question" and likely "inappropriate for judicial resolutions"); See also Mobarez v. Kerry, 187 F. Supp. 3d 85, 92 (D.D.C. 2016) (noting "if the court is being called upon to serve as 'a forum for reconsidering the wisdom of discretionary decisions made by the political branches in the realm of foreign policy or national security[,]' then the political-question doctrine is implicated, and the court cannot proceed") quoting El–Shifa Pharm. Indus. Co. v. United States, 607 F.3d 836, 842 (D.C. Cir. 2010)).

5 Baker v. Carr, 369 U.S. 186 (1962)

6 Joanna R. Lampe, The Political Question Doctrine: Foreign Affairs as a Political Question (Part 4), Congressional Research Service, June 12, 2022, available at https://www.congress.gov/crs-product/LSB10759 (last visited May 13, 2025).

7 Id.

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presenting additional factors to determine whether a dispute constitutes a justiciable case for court review under U.S. national and foreign policy. As discussed further below, these factors are: (1) federal funds allocated to enforce policies or executive orders[8]; (2) the enforcement of policies or executive orders — whether direct or indirect — that infringe on human rights[9]; and (3) two or more legislative provisions that conflict with the executive branch's mandatory versus discretionary powers to enforce.[10] These factors would weight in favor of a determination of justiciability. The humanitarian doctrine does not propose a change in policy, but rather to apply it fairly as espoused by the other branches of government.

Analysing these factors concerning the limits of presidential authority discussed in the case of Defense for Children International, supra, require consideration of the Foreign Military Financing (FMF) policy program. Pertinently, the FMF program is governed by provisions in the Foreign Assistance Act (FAA)[11] and the Arms Export Control Act (AECA)[12], specifically those codified at 22 U.S.C.A. § 2311 to § 2323, § 2344, § 2753, § 2754 and § 2778. Their relevant sections are grounded in providing presidential control of exports and imports of defense articles and defense services to friendly countries solely for internal security, legitimate self-defense, strengthening the security of the United States, and promoting international peace and security.[13] In simpler terms, the President has the discretion, rather than the obligation, to decide whether to restrict or prohibit arms exports or military assistance to countries engaged in acts of genocide or serious human rights abuses.[14] That discretion, however, is inconsistent with the President's duty to prevent and punish genocide under the following international and domestic law.

> *[T]he President has the discretion, rather than the obligation, to decide whether to restrict or prohibit arms exports or military assistance to countries engaged in acts of genocide or serious human rights abuses.*

The Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277 (the Genocide Convention), imposes a legal duty on states to prevent and punish extra-judicial killings, torture, and other serious violations of human rights leading to the commission of genocide. The United States ratified this treaty, making it binding under Article VI of the Constitution, which designates treaties as part of the "supreme law of the land." The Genocide Convention Implementation Act (1987)[15], implements the provisions of the Genocide Convention, and requires the United States government and law enforcement to prosecute individuals engaged in genocide. Lastly, the Genocide Accountability Act (2007) and the Human Rights Enforcement Act (2009) amended the above, to clarify that U.S. courts have jurisdiction over crimes of genocide committed by foreign nationals outside the United States.[16] These pieces of legislation underscore the United States government's responsibility to hold individuals globally accountable for genocide.

8 See, e.g., City of San Francisco v. Trump, 897 F.3d 1225 (9th Ci r. 2018) (case that challenged Executive Order 13768, which aimed to withhold federal funds from "sanctuary jurisdictions" that did not comply with federal immigration enforcement; Ninth Circuit upheld a nationwide injunction against the order, finding that it violated the Tenth Amendment by coercing states and localities into enforcing federal immigration laws).

9 See, e.g., National Urban League v. Trump, No. 1:25-cv-00471 (D.D.C. filed Feb. 19, 2025) (civil rights organizations sued the Trump administration over Executive Orders 14151, 14168, and 14173, which targeted diversity, equity, inclusion, and anti-discrimination programs; plaintiffs argue that these orders infringe upon their rights to free speech and due process).

10 See, e.g., Immigration and Naturalization Service v. Chadha, 462 U.S. 919 (1983) (the Supreme Court ruled that the legislative veto provision in the Immigration and Nationality Act violated the Constitution's separation of powers; the provision allowed a single house of Congress to override the Attorney General's decision, conflicting with the executive branch's discretionary authority).

11 22 U.S.C. § § 2151 et seq.

12 Id., § § 2751 et seq.

13 Id., § 2754.

14 Id., § 2753.

15 18 U.S.C. § 1091 et seq.

16 See id., § 1091(e)(2).

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The U.S. government has been enforcing foreign policies that provide military and financial assistance to Israel for decades. According to the Costs of War project at Brown University's Watson Institute, as of October 7, 2024, Israel had received a record $22.76 billion in federal funds over the past year.[17] Israel's allegations of using funds for legitimate self-defense under the FMF Program have been dramatically refuted.[18] While self-defense is an important consideration under the AECA and the international rule of proportionality, Israel's serious human rights violations are supported by multiple international organizations, including the United Nations.[19] Based on these reports, there is evidence showing that U.S. funds have been diverted for unauthorized purposes and are being used outside the scope of their intended legislative allocations, thus undermining the legitimacy of the assistance provided by the United States.

In this way, the limits of presidential authority over foreign and domestic affairs must be examined in relation to the conflict between the President's duties and responsibilities. On one hand, the FAA grants the President of the United States discretion to impose an arms embargo in cases of gross violations of human rights. On the other, this legislation directly conflicts with the President's mandatory duty, and the obligation of the government of the United States, to prevent and punish genocide under both customary international and domestic law. Consequently, under a careful weighing of the factors I proposed at the outset of this article, the court would have jurisdiction in a case such as Defense for Children International, supra, to at least determine that the FAA is unconstitutional, as it grants the President the discretion to indirectly aid and abet genocide. In response to that determination and in accordance with federal humanitarian laws, the Congress should consider amending the FAA to make the imposition of an arms embargo mandatory in cases of systematic human rights violations.

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> *[T]he limits of presidential authority over foreign and domestic affairs must be examined in relation to the conflict between the President's duties and responsibilities.*

Politics and justice should not be detached from each other. To the extent that both domestic and foreign policies are fair, individual liberties will be protected. That is why this article is an extension of my sincere gratitude to the press, individuals, reporters, students, the legal community, state authorities, and organizations working on human rights issues. They should be reassured in their efforts to bring the limits of presidential authority under legal scrutiny. As proposed here, the Supreme Court's adoption of an exception to the political question doctrine based on the humanitarian doctrine would allow for a true balance of power with regard to domestic and foreign policy, as mandated by the Constitution. We must remain committed to ensuring that federal funds are not allocated for the commission of genocide and other human rights violations anywhere in the world, regardless of the territory or the identity of the oppressed—whether in terms of race, gender, religion, or political affiliation. There is no better moment to take action.

17 Bilmes, Hartung and Semler, United States Spending on Israel's Military Operations and Related U.S. Operations in the Region, October 7, 2023 – September 30, 2024, Watson Institute for Int'l and Public Affairs at Brown University (Oct. 7, 2024), available at https://watson.brown.edu/costsofwar/papers/2024/united-states-spending-israel-s-military-operations-and-related-us-operations-region (last visited May 3, 2025).

18 See International Court of Justice, Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), available at https://www.icj-cij.org/case/192 (last visited May 13, 2025).

19 See Francesca Albanese, Anatomy of a Genocide: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, U.N. Doc. A/HRC/55/73 (2024), available at https://www.un.org/unispal/document/anatomy-of-a-genocide-report-of-the-special-rapporteur-on-the-situation-of-human-rights-in-the-palestinian-territory-occupied-since-1967-to-human-rights-council-advance-unedited-version-a-hrc-55/ (last visited May 13, 2025).

A University of Puerto Rico School of Law Student's Experience at the Thurgood Marshall Memorial Moot Court Competition

by Giancarlo Rivera-Cabrera, President-Elect of the FBA UPR Student Chapter

On March 26th and 27th, oral arguments took place in Washington, D.C. for the Thurgood Marshall Memorial Moot Court Competition. These argumentations were the culmination of roughly two and half months of hard work. Two and a half months of preparing, drafting, analyzing and finalizing the brief submitted for consideration before the Court and training to present the arguments for both the Petitioners and Respondent. The Federal Bar Association brought together students from forty law schools from all over the United States, including Puerto Rico this year, to compete and showcase their capabilities as future lawyers that will be called upon to protect the Rule of Law.

This year, alongside my team member Paola R. Meléndez López, I had the honor of representing not only the University of Puerto Rico School of Law and the Federal Bar Association – Hon. Raymond L. Acosta Puerto Rico Chapter, but Puerto Rico as a whole. We knew we had to surpass our perceived limits and prepare as best we could. Thanks to the guidance and help we were provided through the journey, especially by our mentor Dr. Glenda Labadie Jackson, we undoubtedly achieved our goals and gave a performance to be remembered.

Participating in the Thurgood Marshall Memorial Moot Court Competition was an invaluable and enriching experience. Even more so in our case, being native Spanish speakers and having to argue at an appellate court level in English. As a member of a student chapter of the Federal Bar Association with an interest in litigation, my end goal is to practice before the federal judiciary. Having the opportunity to perfect my argumentation skills in English before appearing as a practitioner in a federal court is invaluable. Developing better proficiency with legal terms in English, which are completely different to those utilized in Spanish, and the ability to respond in the moment to questions presented by the judges, without falling back to Spanish, was an enriching experience.

After putting in significant time and effort to prepare, we had a reasonable expectation that the judges would be well acquainted with the case record. As competitors and aspiring lawyers, our expectation is that the decision-makers are well-prepared to engage with the issues presented. Without a doubt there are inherent logistical challenges involved in assembling twenty panels of three judges each. That said, in one of our rounds, it appeared that the panel may not have been fully familiar with the details of the case. This was suggested by the nature of the questions asked and by a proposed resolution, remanding the case to the District Court, that was not pursued by either party, as clearly stated in the record. This observation is shared not as a criticism, but in the spirit of continuous improvement for a competition that provides an invaluable experience for law students. My comments arise from a genuine desire that the Thurgood Marshall Memorial Moot Court continuously improves and better itself. Opportunities like this, where law students can simulate arguing before the Supreme Court of the United States and experience the weight of setting legal precedent are rare and precious.

The Federal Bar Association, whether at the national, state or student chapter level, carries out necessary and important work such as advocating in favor of the federal judiciary, protecting federal practitioners and arduously defending the Rule of Law. This work does not mean they are infallible. Therefore, there is space to grow and improve. In the present case, I urge the Federal Bar Association to review the Thurgood Marshall Memorial Moot Court Competition as to ensure that the judges are adequately prepared and that law students have the most enriching experience possible. I look forward to seeing in the very near future other teams representing Puerto Rico and being, even in a small part, responsible in achieving this.

Statement of the First Circuit Court of Appeals Regarding the Passing of Judge Bruce M. Selya

BOSTON (February 23, 2025)—The United States Court of Appeals for the First Circuit mourns the passing of Judge Bruce M. Selya, who died on Saturday, February 22, 2025, at the age of 90. The Court of Appeals expresses deepest sympathy to Judge Selya's family, especially his wife, Cindy, and their two daughters, as well as their six grandchildren. Judge Selya was a member of the Court of Appeals for more than 38 years.

First Circuit Chief Judge David J. Barron said, "Bruce Selya's legacy will live on in his muchquoted opinions, which have shaped the law of our circuit in nearly every field. But it will also live on in the high standard that he set for appellate judging nationwide. His devotion to the job was unmatched, and his love for it an inspiration. His capacity to instill that love in the many new members of the court who came after him was a great gift not only for myself but for so many of my colleagues. He was a brilliant mind but also a generous spirit and our court — like the state and the country that he loved — was greatly enriched by his remarkable service on it."

Judge Sandra L. Lynch stated, "The country has lost a great man in the death of Judge Bruce Selya, as has this court. Bruce was wise, had uncommon insights, and was truly learned both in the law and in the lessons drawn from experiences. His high intelligence, astonishing memory, and ability to see what was important marked him as extraordinary, well before he became a judge. His influence and accomplishments were notable as a leader in his beloved Rhode Island. He thought deeply and his influential opinions, meant to structure the law, are much admired. He wrote distinctively, with prose reflecting the richness of the English language. He was my friend, and I mourn his passing."

"When I joined the court in 1998, Bruce Selya was already a legendary judge because of the brilliance of his opinions and his signature writing style. But I soon understood that these public gifts were only part of the story. Bruce's preparation for oral argument was extraordinary. He remembered everything he ever read. And his ability to crystallize issues for the benefit of colleagues, and to offer constructive criticism of our draft opinions, was matchless. He made all of our work better. Personally, Bruce was a delightful colleague — warm, witty, ever thoughtful. In particular, my wife Nancy and I had many wonderful times with Bruce and his lovely wife Cindy when we were together in Puerto Rico for court sittings. Nancy and I extend our deepest sympathy to Cindy and the entire Selya family. Bruce's passing is a great loss for our court and for us personally," remarked Judge Kermit V. Lipez.

Judge Jeffrey R. Howard stated, "Bruce Selya's legacy as one of the great American appellate judges will endure for a long time to come. But what the countless lawyers who learn the law from reading his erudite and clear-eyed opinions do not know is that Judge Selya was a mentor to nearly every federal appellate and trial judge in our circuit who came after him. I always felt that he was especially generous in sharing his time and wisdom with me, and I will miss him to pieces."

Judge O. Rogeriee Thompson said, "Judge Bruce Selya was a brilliant colleague whose influence on American jurisprudence cannot be underestimated. I was proud and honored to be the successor to his seat on the court, but I quivered, knowing that I was following in the footsteps of a legal giant. I will be forever grateful for all the knowledge and wisdom Judge Selya was gracious enough to share with me in his sincere desire to help me flourish in his wake. It goes without saying that we will all miss his towering spirit."

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Statement of the First Circuit Court of Appeals Regarding the Passing of Judge Bruce M. Selya

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Judge William J. Kayatta, Jr., stated, "Within our small and collegial court, Bruce Selya will be fondly remembered for his incomparable graciousness. His emails invariably began with the word 'Dear' and ended with 'Best ever.' So, too, in person his every utterance conveyed a message of affection and respect. We will do well to keep his example in mind even as he leaves us."

"I had the privilege of appearing before Judge Selya and later sitting along him. He was a brilliant jurist, role model, and kind friend. His passion for the law and use of language was beyond inspirational. He was an esteemed colleague of the federal and commonwealth judiciary in Puerto Rico. Judge Selya's decades of service left a remarkable legacy of jurisprudence and interpretation of local law that will continue to define federal practice in Puerto Rico," stated Judge Gustavo A. Gelpí.

Judge Lara E. Montecalvo said, "Bruce Selya was a friend and mentor to me as I joined the court he loved, and I will always be grateful for his generosity and advice. He was a guiding light for many on our court but also to lawyers and judges in his home state of Rhode Island where he will be long remembered."

Judge Julie Rikelman remarked, "I will miss Judge Selya terribly. From my first days on the court, he was a warm and generous colleague, reaching out regularly to offer his support and mentorship. As he often said, he believed he had the best job in the world, and his devotion to the work of the court was and will continue to be an inspiration. I feel lucky to have had the chance to serve with him."

Judge Seth R. Aframe said, "As a law clerk in another chambers, I was awed by Judge Selya's intellect and ability. As a frequent litigant in his court, I revered his mastery of oral argument and marveled at his appreciation for the nuance of every case. And as a colleague, I was so honored to receive his wisdom and friendship. Like for thousands of lawyers, Judge Selya taught me about intellectual rigor, clear expression, and the search for justice. Our court, our region, and our nation are better off because Judge Selya served us with such distinction. His vast body of work demonstrates his enduring commitment to the rule of law. We will miss him very much."

Judge Selya was the longest serving Rhode Islander on the U.S. Court of Appeals for the First Circuit. Judge Selya, a lifelong resident of Providence, was born on May 27, 1934, and attended Providence public schools, prior to attending Harvard College, where he earned a B.A. magnacum laude in 1955, and Harvard Law School, were he received a J.D. cum laude in 1958. He was admitted to the Rhode Island Bar in 1960. Immediately following law school, Judge Selya clerked for Chief Judge Edward W. Day of the United States District Court for the District of Rhode Island for two years, before entering private practice. He was a judge on the Lincoln Probate Court in Rhode Island from 1965 to 1972. In 1982, Judge Selya was appointed a U.S. District Court Judge for the District of Rhode Island, and, in 1986, he was elevated to the U.S. Court of Appeals for the First Circuit. Judge Selya took senior status in 2006 and continued to hear cases on the First Circuit Court Appeals as a senior judge until his passing. He also served on the Judicial Panel for Multidistrict Litigation and as Chief of the Foreign Intelligence Surveillance Court of Review.

> *"Bruce Selya's legacy will live on in his muchquoted opinions, which have shaped the law of our circuit in nearly every field. But it will also live on in the high standard that he set for appellate judging nationwide."*
>
> ***- First Circuit Chief Judge David J. Barron***

Judge Selya was dedicated to the Rhode Island community in numerous capacities. For example, he was a member of the board of trustees of Rhode Island Hospital and was the founding chairman of the board of directors of Lifespan, Rhode Island's first health system. Judge Selya was a governor and trustee emeritus of Rhode Island Hospital and a member of the Rhode Island Commodores, the Rhode Island Historical Society, and the Rhode Island School of Design Museum. He was also a chairman of the board of trustees of Bryant University and chairman of the board of directors of Roger Williams University School of Law. In addition to his judicial duties, Judge Selya was actively involved in the teaching of law, and held faculty appointments at Boston College Law School, Boston University School of Law, and Roger Williams University School of Law.

Statement of the First Circuit Court of Appeals Regarding the Passing of Judge Michael Boudin

BOSTON (March 24, 2025)—The United States Court of Appeals for the First Circuit mourns the passing of Judge Michael Boudin, who died on March 24, 2025, at the age of 85. The members of the court express deepest condolences to his family, especially his nephew, Chesa Boudin, Executive Director of the Criminal Law & Justice Center at the University of California, Berkeley, School of Law, and his wife, Martha Field, Langdell Professor of Law at Harvard University. Judge Boudin was a Court of Appeals judge for more than 29 years.

Judge Boudin was born in New York, New York, on November 29, 1939. Judge Boudin earned a B.A. from Harvard College in 1961 and graduated from Harvard Law School, where he served as President of the Harvard Law Review, in 1964. Following law school, Judge Boudin served as law clerk to Judge Henry J. Friendly of the U.S. Court of Appeals for the Second Circuit from 1964 to 1965, and as law clerk to Justice John Harlan of the Supreme Court of the United States from 1965 to 1966. He then worked in private practice in Washington, D.C., from 1966 to 1987. In 1987, Judge Boudin left private practice and served as Deputy Assistant Attorney General in the Antitrust Division of the U.S. Department of Justice until 1990, when he was appointed to the U.S. District Court for the District of Columbia. Judge Boudin served as a district judge on that court until 1992, when he was elevated to the U.S. Court of Appeals for the First Circuit. Judge Boudin served as chief circuit judge from 2001 to 2008, in which role he also served as a member of the Judicial Conference of the United States. He assumed senior status in 2013, in which capacity he continued to provide valuable service to the Court of Appeals, before retiring in 2021.

Judge Boudin was a highly respected jurist. He was elected to the Council of the American Law Institute in 1980 and took emeritus status in 2010. Judge Boudin was elected to the oldest learned society in the United States, the American Philosophical Society, in 2010. In 2014, Chief Justice John G. Roberts, Jr., of the Supreme Court of the United States presented him with the American Law Institute's Henry J. Friendly Medal, which is awarded to individuals who make extraordinary contributions to the law. Further, from 1982 to 1983, he was a Visiting Professor at Harvard Law School, and, from 1983 to 1998, he was a Lecturer at Harvard Law School.

Chief Judge David J. Barron said, "Judge Boudin served as a law clerk for two of the most respected judges of their era. He in turn became one of the most respected judges of his own. Through nearly three decades worth of opinions that were elegant, penetrating, and candid about

the difficulty of the judgment that had to be made, he brought light to area after area of law. In doing so, he demonstrated the importance to our system of government of the task of judging in ways that only the finest judges can.

> *"Judge Michael Boudin was one of the greatest federal judges of his generation, known and widely respected for his brilliance and wisdom. His work embodied the virtues of judicial restraint and showed extraordinary mastery of the doctrines undergirding the Constitution."*
>
> ***- First Circuit Judge Sandra L. Lynch***

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Statement of the First Circuit Court of Appeals Regarding the Passing of Judge Michael Boudin

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His example remains for all of us on this court and all those serving in the federal judiciary."

Judge Sandra L. Lynch, a former chief judge of the court who served with Judge Boudin, stated, "Judge Michael Boudin was one of the greatest federal judges of his generation, known and widely respected for his brilliance and wisdom. His work embodied the virtues of judicial restraint and showed extraordinary mastery of the doctrines undergirding the Constitution. His excellent opinions demonstrated respect for the legislative and executive branches and for the protections of individuals in the Bill of Rights. He was modest, kind, insightful, and measured. I and his other colleagues on the First Circuit held him in highest esteem and affection and were so very fortunate to have shared the bench with him."

Judge Jeffrey R. Howard, another former chief circuit judge who was on the bench with Judge Boudin, remarked, "Among jurists and legal scholars, Michael Boudin was known for his brilliant mind and his deep understanding of economic and social forces. His frequently cited opinions will live on in American jurisprudence. I will remember him most fondly for his steady hand as chief judge of our court and for the many kindnesses he showed me when I was a new judge."

Federal Bar Association
Puerto Rico Chapter

The Hon. Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association cordially invites you to its webinar on:

SUBCHAPTER V SMALL BUSINESS BANKRUPTCIES

Panelist: Carlos Infante, Estrella, LLC

DATE	Tuesday, June 24, 2025
TIME	3:00 p.m. – 4:00 p.m.
LOCATION	Virtual Classroom: Zoom
ADMISSION	FBA-PR Members: $25 Non-FA-PR Members: $40
REGISTER	Online at www.federalbar.org/events

Additional Details: This seminar will be submitted to the Puerto Rico Supreme Court for Continued Legal Education (CLE) accreditation and participants will be required to provide their "RUA" number.

If you have any questions, please contact Sagry Velázquez at puertorico@federalbar.org.

SUMMARY OF:

Dewberry Group, Inc., FKA Dewberry Capital Corp. V. Dewberry Engineers Inc., 145 S. Ct. 681 (Feb. 26, 2025), 604 U.S. ____ (2025)

by Stella M. González-Pérez, Esq. of Toro Colón Mullet P.S.C.

Re: Computing damages under the Lanham Act

This case addresses an important controversy regarding how damages should be calculated under the Lanham Act, particularly when the liable party reports no positive income. The following Supreme Court's opinion tackles the question: How should damages be calculated, specifically, when the defendant has no profits?

The plaintiff, Dewberry Engineers Inc. ("Engineers"), is a corporation dedicated to real-estate development services for commercial entities across the United States, particularly in the southeast region. The defendant, Dewberry Group, Inc. ("Group") also operates in the commercial real-estate sector in the southeast. However, Group's income primarily comes from fees charged to its affiliates for financial, legal, operational and marketing services. Profits derived from leasing commercial properties appear on the affiliates' books–not Group's.

The dispute arises from two trademark infringement cases. First, in 2007, Engineers sued Group for trademark infringement, which lead to a settlement restricting Group's use of the word "Dewberry". About a decade later, Group violated the settlement by rebranding and prominently using "Dewberry" again in its marketing. For this reason, Engineers successfully sued Group again, alleging trademark infringement and unfair competition under the Lanham Act, and breach of contract.

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> *Justice Kagan emphasized that under American corporate law, separate incorporated organizations maintain distinct legal identities. Thus, merging Group and affiliates' profits violated this principle.*

The District Court found Group liable on all claims. Since, as stated above, Group itself reported no profits, the District Court treated Group and its affiliates as a single corporate entity. The reason behind the decision was that the affiliates received the actual income from the leasing of the commercial property and, thus, reflected the income generated from Group's infringing acts. To prevent unjust enrichment and the liable party from evading the financing consequences of its infringing acts, the District Court awarded Engineer almost $43 million based on the affiliates' profits. The Court of Appeals for the Fourth Circuit affirmed.

The Supreme Court of the United States ("SCOTUS") granted certiorari and reversed. Writing for the majority, Justice Kagan emphasized that under American corporate law, separate incorporated organizations maintain distinct legal identities. Thus, merging Group and affiliates' profits violat-

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Summary of: Dewberry Group, Inc., FKA Dewberry Capital Corp. V. Dewberry Engineers Inc., 145 S. Ct. 681 (Feb. 26, 2025), 604 U.S. ____ (2025)

Continued from previous page

ed this principle. SCOTUS explained that Engineers could have sued the affiliates directly or argued to pierce Group's corporate veil but chose not to do so. For this reason, the only possible alternative was to calculate the awards according to Group's—the only defendant—profits.

Engineers pointed to Section 1117(a) of the Lanham Act, which states: "If the court shall find that the amount of the recovery based on profits is either inadequate or excessive the court may in its discretion enter judgment for such sum as the court shall find to be just, according to the circumstances of the case." 15 U.S.C. § 1117(a). Engineers argued that under this provision, the Court can first analyze the defendant's profits and, if inadequate, can subsequently use the affiliates' profits as evidence. However, instead of going through this "two-step process," the district court added Group's and the affiliates' profits together.

SCOTUS concluded that the District Court and the Court of Appeal's decision violated corporate formalities, holding that only Group's profits could form the basis for a damages award.

In a concurring opinion, Justice Sotomayor agreed with the result but emphasized that the courts must remain alert to economic realities and attempts to disguise a defendant's true profits. For this reason, Justice Sotomayor outlined two ways courts might still account for affiliates profits without violating corporate separateness but still staying true to the Lanham Act's "principles of equity":

First, if a company undercharges an affiliate for infringing services, this can be treated as an anticipatory assignment of income, with the affiliate's profits reflecting what the defendant would have earned. This complies with tax law that has long recognized that one may consider anticipatory assignment schemes while respecting entity separateness.

Second, if a company indirectly recoups profits from its affiliates, those cash transfers may also reflect the company's profits from the infringing activities. This, Justice Sotomayor affirms, aligns with the Lanham Act's purpose of ensuring national trademark protection.

In sum, while SCOTUS reinforced the principles of corporate separateness, Justice Sotomayor highlighted ways courts can still ensure that defendants are not unjustly enriched at the expense of trademark owners, safeguarding the Lanham Act's principle of equity and national trademark protection.

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In sum, while SCOTUS reinforced the principles of corporate separateness, Justice Sotomayor highlighted ways courts can still ensure that defendants are not unjustly enriched at the expense of trademark owners, safeguarding the Lanham Act's principle of equity and national trademark protection.

SUMMARY OF:

Ex Parte Torres-Pérez, 2025 TSPR 5

by Zulinnette Pinzón-Rosario, Esq. of Toro Colón Mullet P.S.C.

Re: Segregation requirement for *Expediente de Dominio* proceedings

In 2023, Efraín Torres Pérez and Mirka Ivelisse Cabrera Vélez, a married couple, sought judicial recognition of ownership (expediente de dominio) over a parcel of land located in Isabela, Puerto Rico. They had acquired the property in 2011 by virtue of a private contract with the previous owner, Virginia Pérez Aldarondo. Mrs. Pérez-Aldarondo had herself obtained the property in 1951 through a private contract with the owners before her. Together, both owners were in possession of the property continuously, publicly, and peacefully for over thirty years. The property, however, lacked formal registration in the Puerto Rico Property Registry.

The Court of First Instance rejected the couple's petition on the grounds that they failed to prove that the property's segregation was approved by the proper government agency, as required by the Puerto Rico Property Registry Act. The petitioners then filed a petition for writ of certiorari before the Court of Appeals, which was denied. However, the Supreme Court ultimately granted review to clarify whether evidence of segregation permits is necessary in cases involving parcels derived from unregistered parent properties or segregated before the effective date of applicable planning laws.

In a decision authored by Associate Justice Ángel Colón-Pérez, the Court held that petitioners are not required to present evidence of government-approved segregation under two scenarios: first, where the parent parcel is not registered in the Property Registry, and second, where the segregation occurred before the effective date of the "Ley de Planificación, Urbanización y Zonificación de Puerto Rico" on September 4, 1944. The Court reasoned that Article 185 of the Puerto Rico Property Registry Act only imposes the requirement of segregation permits when the parent parcel is registered. When the parent parcel is not registered, the statute requires only that the petitioner state that fact. Thus, the lack of a formal segregation permit did not bar relief under the expediente de dominio process for the Petitioners in this case. Consequently, the Supreme Court remanded the case to the Court of First Instance to continue proceedings in accordance with its holding.

The Court emphasized that the expediente de dominio is a non-contentious proceeding designed to justify ownership, but its resolution does not have the effect of res judicata. As such, any person alleging a superior right to the property retains their ability to bring an ordinary adversarial ownership action. The decision clarifies a key aspect of the Puerto Rico Real Property , stating that segregation permits are not universally required in all cases involving unregistered parcels. When the parent parcel is also unregistered, the court must treat the segregated parcel as if it were always independent.

> *The Court emphasized that the expediente de dominio is a non-contentious proceeding designed to justify ownership, but its resolution does not have the effect of res judicata. As such, any person alleging a superior right to the property retains their ability to bring an ordinary adversarial ownership action.*

CLERK'S TIDINGS

by Ada I. García-Rivera, Esq., CPA
Clerk of Court
U.S. District Court for the
District of Puerto Rico

This is a section with news items, notices, and general information from the Clerk's Office of the United States District Court for the District of Puerto Rico ("District of Puerto Rico"), as part of a joint effort with the Federal Bar Association's ("FBA") to keep the Bar apprised of events and information, and to provide better, expedited service to its members. As part of this effort, we sometimes provide internet links to sites over which the Clerk's Office and the District of Puerto Rico exercise no control and thus assume no responsibility for their organization, views, accuracy, contents, standards, copyright, trademark compliance, or legality.

The Court

The United States District Court for the District of Puerto Rico

The District of Puerto Rico currently consists of seven (7) active District Judges, two (2) senior District Judges, and four (4) Magistrate Judges.

District Judges
Hon. Raúl M. Arias-Marxuach, Chief
Hon. Aida M. Delgado-Colón
Hon. Pedro A. Delgado-Hernández
Hon. Silvia L. Carreño-Coll
Hon. María Antongiorgi-Jordán
Hon. Camille L. Vélez-Rivé
Hon. Gina R. Méndez-Miró

Senior District Judges
Hon. Jay A. García-Gregory
Hon. Francisco A. Besosa

Magistrate Judges
Hon. Marcos E. López
Hon. Marshal D. Morgan
Hon. Giselle López-Soler
Hon. Héctor L. Ramos-Vega

Upcoming Virtual Training Series on Habeas Corpus Litigation

The District of Puerto Rico is pleased to announce a virtual training series on Habeas Corpus litigation. These sessions aim to strengthen practical skills and enhance knowledge of key aspects of Habeas practice. Each session will be approximately 1 hour and 15 minutes and will cover the following topics:

• Friday, June 13, 2025: Introduction to Habeas Practice

• Friday, July 11, 2025: Criminal Law and Practice Concepts of Habeas Litigation

• Friday, August 8, 2025: Civil Litigation Concepts of Habeas Litigation

• Friday, August 22, 2025: Investigating and Supporting your Habeas Claim

• Friday, September 12, 2025: Habeas Petition Drafting

Further details, including registration information, will be provided shortly. We look forward to your participation!

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Upcoming Continuing Legal Education Event – December 4 and 5, 2025

The District of Puerto Rico will host a Continuing Legal Education (CLE) program on December 4 and 5, 2025, at the Sheraton Convention Center Hotel. This two-day program will cover essential topics for legal practitioners, including employment law in a multicultural workplace, ethical considerations for attorneys, developments in artificial intelligence with a focus on evidence, and a review of recent U.S. Supreme Court rulings.

Additional details, including registration information, will be provided soon. We look forward to your participation!

Chief Judge Arias-Marxuach Shares Insights on Federal Law Careers with Students

Law students from the Pontifical Catholic University of Puerto Rico (PUCPR) had a unique opportunity to learn about career pathways in federal law during a panel discussion titled “The Federal Practitioner: Career Paths and Professional Options.” The event, held on February 6, 2025, at the university’s legal clinic, was a collaborative effort between the PUCPR School of Law and the FBA Puerto Rico Chapter.

The panel featured Chief Judge Raúl M. Arias-Marxuach and Bankruptcy Judge María de los Ángeles González-Hernández. Both judges shared their professional journeys, offered advice to aspiring federal practitioners, and discussed the diverse opportunities with the federal legal system. Students engaged in a lively Q&A session, gaining firsthand knowledge about the challenges and rewards of practicing federal law.

District Court of Puerto Rico Welcomes 21 New Bar Members

On February 7, 2025, the District of Puerto Rico held an admission ceremony to welcome 21 new members to its bar. The event was presided by District Judge Silvia L. Carreño-Coll.

District Court of Puerto Rico Welcomes UPR FBA Student Chapter for First Circuit Arguments and Q&A with Judges

On March 5 and 7, 2025, members of the University of Puerto Rico (UPR) School of Law’s FBA Student Chapter visited the José V. Toledo U.S. Courthouse in Old San Juan for an enriching educational experience. During their visit, the students observed oral arguments before the United States Court of Appeals for the First Circuit, gaining valuable insights into appellate court proceedings. They also participated in a Q&A session with several Circuit Judges, including Chief Judge David J. Barron, Judge Kermit V. Lipez, Judge O. Rogeriee Thompson, and Judge Gustavo A. Gelpí.

The judges shared their perspectives on the judicial process, appellate court dynamics, and their experiences on the bench. Additionally, students had the opportunity to meet with District Judge Gina Méndez-Miró, who spoke about her legal career and experiences on the federal bench. This visit provided students with a unique opportunity to expand their understanding of the federal judicial system at both the district and appellate court levels.

Retirement Ceremony in Honor of the Magistrate Judge Bruce J. McGiverin

On March 21, 2025, a special ceremony was held at the Clemente Ruiz Nazario U. S. Courthouse in Hato Rey to honor Magistrate Judge Bruce J. McGiverin on his retirement. The event was attended by Judge McGiverin's family, friends, and judicial colleagues, as well as current and former law clerks who had worked with him throughout his distinguished career in the federal judiciary.

The ceremony featured remarks by Circuit Judge Gustavo A. Gelpí, District Judge Aida M. Delgado-Colón, Magistrate Judge Marcos E. López, and Chief Bankruptcy Judge Mildred Cabán. Additional speakers included Federal Public Defender Rachel Brill, Counsel Jaime E. Toro-Monserrate, and former law clerks Riana Pfefferkorn, Wes Henricksen, and Nora Cassidy.

Chief Judge Arias-Marxuach Participates as Judge in Island-Wide Law School Debate Competition

On April 4, 2025, the 2024 Competencia Nacional de Debate Miguel A. Velázquez-Rivera, sponsored by the UPR School of Law, was held at the Puerto Rico Supreme Court. The event brought together student teams from all three ABA-accredited law schools on the island. Chief Judge Arias-Marxuach joined Puerto Rico Supreme Court Associate Justices Ángel Colón-Pérez and Camille Rivera-Pérez in evaluating the students' oral advocacy skills.

District Court Hosts Estrella Trial Advocacy Competition Featuring Law Schools from Puerto Rico and the U.S. Mainland

Chief Judge Arias-Marxuach presided over a semi-final round of the 2025 Estrella Trial Advocacy Competition, that took place at the Clemente Ruiz-Nazario and José V. Toledo U.S. Courthouses. The event was held on April 5 and 6, 2025 and hosted by George Washington University Law School and Estrella LLC. Fourteen law schools from Puerto Rico and the U.S. mainland participated in this multi-day mock trial tournament. District Judge Silvia Carreño-Coll presided over the final round, in which a troop of Boy Scouts served as the jury and selected the winning team.

District Court Chief Judge Leads Legal Writing Workshop for Aspiring Practitioners

On April 7, 2025, Chief Judge Arias-Marxuach delivered a lecture on effective legal writing to law students as part of the "Introduction to Legal Writing in the Federal Courts" program. This event, organized by the FBA Puerto Rico Chapter and the Student Chapter of the Interamerican University Law School, provided students with practical guidance on drafting pleadings and motions for federal practice.

American Bar Association Delegation Visits the District of Puerto Rico

On Friday, April 25, 2025, the District of Puerto Rico proudly hosted a delegation of approximately 20 attorneys from the American Bar Association (ABA) at the José V. Toledo U.S. Courthouse in Old San Juan. The visiting group included members from the ABA's Section of Civil Rights and Social Justice and Section of State and Local Government Law. Chief Judge Arias-Marxuach welcomed the delegation and delivered a presentation on the history of the District Court and its role within the federal judiciary in Puerto Rico.

As a token of appreciation, the Court presented the visiting attorneys with copies of "The History of the Federal Court in Puerto Rico." The event reflected the Court's commitment to fostering dialogue with the broader legal community and promoting a deeper understanding of Puerto Rico's unique legal landscape.

First Circuit Judicial Conference Highlights Seminar on Civility in Legal Profession

On May 1, 2025, as part of the 2025 First Circuit Judicial Conference held in Rio Grande, Puerto Rico, Chief Judge Arias-Marxuach and Circuit Judge Gustavo A. Gelpí took part in a special seminar titled Civility in the Legal Profession and Beyond, designed for students. The seminar brought together law students from the UPR and the PUCPR Schools of Law.

The panel featured remarks by Chief Judge Arias-Marxuach and Dr. Ana María García-Blanco of Instituto Nueva Escuela, and included the presence of Dean Vivian Neptune of UPR School of Law, Dean Fernando Moreno-Orama of PUCPR School of Law, and Professor Luis Pellot-Juliá.

FBA Student Chapters

Federal Bar Association at Inter American University of PR School of Law

INTER CHAPTER BOARD MEMBERS

Samira Parrilla-Medina

President

As President of the FBA Student Chapter at UIPR, I've witnessed, firsthand, how combining passion with purpose can transform legal education into genuine professional growth. This journey has sharpened my advocacy skills, expanded my understanding of federal practice, and challenged me to lead authentically. The FBA continuously provides practical tools and connections essential for navigating complex legal landscapes, reminding us that a meaningful legal career begins with cultivating both competence and character. I'm honored to lead, and learn, alongside peers committed to making a tangible impact in our profession.

Bryan Carrasquillo

Treasurer

My experience with the Federal Bar Association has been both inspiring and enriching. As the Treasurer of the Inter American University Chapter, I've had the opportunity to engage with accomplished legal professionals, attend thought-provoking events, and gain deeper insight into the workings of the federal legal system. The FBA has provided me with invaluable exposure to the practical side of law, helping me build connections, strengthen my professional identity, and reaffirm my commitment to pursuing a meaningful career in federal practice. Being part of this community has expanded my perspective and motivated me to contribute actively to the legal profession.

Natasha X. Ojeda-Caro

Secretary

As a law student, I believe that our school offers many valuable opportunities, and being part of the Federal Bar Association is definitely one of them. Through this association, I have access to mentorship and guidance that provide both practical and personal tools to navigate federal law. Networking and building strong connections are essential to professional growth, and by attending events and engaging with others, new opportunities naturally unfold. I envision myself practicing in both local and federal courts, and I am truly grateful to be part of a community that supports and encourages that journey.

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Alice Fontanillas

Sub-Secretary

The FBA Division is a space where creativity, learning, and leadership come together. As someone just beginning to get involved, I see so much potential for growth, connection, and positive change. This organization offers opportunities to explore new ideas, collaborate on projects, and strengthen our community. I hope to help make it a place where everyone feels welcomed and empowered to contribute. Whether you're looking to share your voice or develop new skills, the FBA Division is where we can grow and achieve great things together.

Jorshua M. Laboy-Garofalo

Public Relations Representative

The Federal Bar Association has been instrumental in my professional growth as a law student. Through its educational resources, opportunities, and exclusive events, I have expanded my legal knowledge and built meaningful connections within the federal legal community. This experience has strengthened my commitment to public service and access to justice.

Cristina Seda-Colón

Events Coordinator

My involvement with the Federal Bar Association has been an incredibly enriching experience, both academically and professionally. Through its programs, events, and networking opportunities, I have deepened my understanding of federal practice and procedure, as well as the broader implications of federal law in areas such as civil rights, administrative law, and constitutional litigation. I've gained valuable insights from seasoned practitioners and judges, and these interactions have sharpened my legal reasoning, advocacy skills, and awareness of current legal challenges. Being part of this community has not only expanded my legal knowledge, but also reaffirmed my commitment to excellence, service, and integrity within the legal profession.

INTER STUDENT CHAPTER HIGHLIGHT EVENT

On April 7, 2025, we co-sponsored with the Hon. Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association and the Asociación de Litigación of the School of Law of the Interamerican University of Puerto Rico, the seminar “Introduction to Legal Writing in the Federal Courts”, which was provided by Chief Judge Raúl M. Arias-Marxuach of the U.S. District Court, District of Puerto Rico. This was a unique opportunity for us law students to learn about the do’s and don’ts of legal writing.

Federal Bar Association at Pontifical Catholic University of PR School of Law

PUCPR CHAPTER BOARD MEMBERS

Aliette Hernández

President

Serving as President of the Federal Bar Association is both an honor and a profound responsibility. It is a unique opportunity to lead with purpose, advocate for the integrity of the legal profession, and uplift the voices of our diverse membership. Every decision I make is guided by a commitment to justice, service, and the continuous advancement of our federal legal community as well as the beginning of a pathway towards a federal career within the justice system. This is an association that has excelent opportunities of networking as well as oportunities that will enhance the knowledge of life as well as of the law for every law student that is willing to take the challenge, no doubt, I wanted to be a part of it all.

Maria F. García

Vice-president

I joined the Federal Bar Association student chapter at the Pontifical Catholic University of Puerto Rico as a crucial step in my pathway to the federal practice. The association offers invaluable exposure and access to resources and numerous networking opportunities, making it a great platform to learn from experienced professionals, stay updated on current developments in federal law, and connect with peers and mentors who share similar interests. As part of the chapter's leadership team I intend further enrich this experience by actively contributing to its initiatives and fostering deeper connections within the legal community for the benefit of our student body.

Carmen Y. Torres

Secretary

Becoming part of the Federal Bar Association as a first year law student is both an honor and an invaluable opportunity for learning and networking. Being part of this prestigious organization as a member of the directive represents commitment to the legal profession and the ability to develop my leadership potential. Through the association members are able to expose themselves to the federal law practice as well as contribute to it even before becoming a licensed lawyer. I am grateful for the opportunity at hand and hope to inspire others to aspire to become a part of the federal practice.

Continued on next page

Joyce M. Alicea

Treasurer

As a law student with a strong interest in federal practice, the Federal Bar Association offers me a unique opportunity to connect with experienced professionals, gain valuable insight into the federal legal system, and grow both personally and professionally. It provides access to resources, mentorship, and events that support my development and help me stay informed about key issues in federal law.

Gabrielly Vallès

Day shift representative

As a member of the Federal Bar Association and a law student at the Pontifical Catholic University of Puerto Rico, I'm excited to be part of a community that supports my interest in federal legal practice and commitment to justice. I look forward to continuing to engage with the Association's resources, mentorship opportunities, and professional network as I grow and prepare for a future in federal law.

Sebastian A. López

Night shift representative

I joined the Federal Bar Association in hopes to connect with a community of legal professionals who share a commitment to federal practice. Being part of the FBA provides valuable networking opportunities, access programs, and insight into key developments in federal law. Through my membership, I aspire to develop meaningful relationships with colleagues across the country, enhanced my professional skills, and gained a stronger voice in advocating for the federal legal system.

Eliza Ramos

Event coordinator

The main reason that motivated me to become a part of the Federal Bar Association is all the opportunities it offers to help students grow and develop professionally. The purpose behind the mentorship of all the attorneys, judges, prosecutors, and legal professionals through the FBA, along with the networking activities where we connect more with the profession, is something very valuable. But most importantly, I enjoy serving students by providing enriching academic and extracurricular experiences with the commitment that they will have a positive impact on their careers and lives.

EVENT AT PUCPR

by Coralys M. Cora-Luciano, Law Student at Pontifical Catholic University of Puerto Rico School of Law

On February 6, 2025, the student community of the School of Law at the Pontifical Catholic University of Puerto Rico had the privilege of welcoming distinguished guests to the Practice Court for the conference titled "The Federal Practitioner: Career Paths and Professional Options." The event was sponsored by the Hon. Raymond Acosta Puerto Rico Chapter of the Federal Bar Association (FBA-PR).

Among the invited panelists were Hon. Raúl M. Arias-Marxuach, Chief Judge of the U.S. District Court for the District of Puerto Rico, and Hon. María de los Ángeles González-Hernández, Judge of the U.S. Bankruptcy Court for the District of Puerto Rico. Both judges shared their professional experiences and offered valuable insights into the various opportunities within federal legal practice. They also spoke about their journeys in the legal profession, including internships they completed, their passion for their work, and the path that led them to become judges.

Additionally, attorneys Carla Loubriel-Carrión Nayda Pérez-Román, President and Vice President of the FBA-PR, respectively, delivered an enriching presentation on the workings and benefits of being part of this prestigious association. They thoroughly explained the professional development opportunities the Federal Bar Association offers law students, including scholarships and internship programs.

The event proved to be an invaluable experience for attendees, who gained firsthand insight into the various professional paths within federal legal practice. Interaction with the distinguished judges and members of the Federal Bar Association allowed students to broaden their understanding of the legal field and the opportunities available to them in their future careers.

We extend our gratitude to the FBA-PR, and all panelists for their time and dedication in providing this educational opportunity to our student community. Without a doubt, events like this reinforce our institution's commitment to training highly skilled legal professionals dedicated to serving society.

Federal Bar Association at University of Puerto Rico School of Law

UPR STUDENT CHAPTER HIGHLIGHT EVENT

On March 5 and 7, 2025, members of our Federal Bar Association UPR Law School Student Chapter had the opportunity to attend oral arguments before the U.S. Court of Appeals for the First Circuit and to participate in a Q&A session with Circuit Judges, including Chief Judge David J. Barron, Judge Kermit V. Lipez, Judge O. Rogeriee Thompson, and Judge Gustavo A. Gelpí. We also had the opportunity to meet with U.S. District Court, District of Puerto Rico Judge Gina Méndez-Miró, who spoke about her legal career and experiences on the federal bench. This visit was a valuable educational opportunity for us law students to expand our understanding of the federal judicial system and consider a career path in the federal practice.

BOOK TALK: CALM COMMAND

by Silvia C. Torres-Ortiz, President of the FBA UPR Student Chapter

On April 28, 2025, the Federal Bar Association UPR Law School Student Chapter had the distinction of hosting the book talk "Calm Command" with Maine journalist and author Douglas Rooks in our main lecture hall, the Aula Magna. We were joined by Judge Gustavo A. Gelpí of the United States Court of Appeals for the First Circuit, who served as our moderator for the event. The pair commented on the legacy of Chief Justice Melville W. Fuller, from his youth in Augusta, Maine, through the beginnings of his career in Chicago, Illinois, to his leadership of the High Court. Particular import was given to Fuller's dissents in the Insular Cases, juxtaposed with those of Justice John Marshall Harlan and Fuller's majority vote in Plessy v. Ferguson.

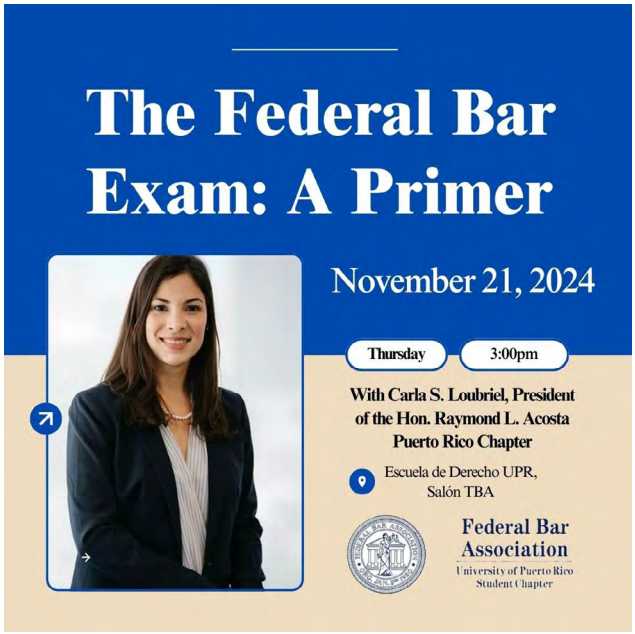
Members of the public had the opportunity to ask questions after the main session. One attendee drew a parallel between the admission of Hawaii into the Union and Puerto Rico's territorial status in terms of their ethnic composition not being Anglo-Saxon in origin. This led to Douglas Rooks mentioning the Treaty of Guadalupe Hidalgo of 1848 as yet another example of non Anglo-Saxons being assimilated into the U.S. polity. All this to say that ethnic difference alone was not why Puerto Rico remained a territory. I commented on the role of academia within the ratio decidendi of the Insular Cases and asked Douglas Rooks what may have been the result if influential articles from the Harvard Law Review and Yale Law Journal had not published their theories regarding territorial incorporation. I was advised against second-guessing the Supreme Court and assured they would have found whichever framework necessary to reach a similar conclusion, which seemed quite reasonable.

> *One attendee drew a parallel between the admission of Hawaii into the Union and Puerto Rico's territorial status in terms of their ethnic composition not being Anglo-Saxon in origin. This led to Douglas Rooks mentioning the Treaty of Guadalupe Hidalgo of 1848 as yet another example of non Anglo-Saxons being assimilated into the U.S. polity. All this to say that ethnic difference alone was not why Puerto Rico remained a territory.*

This book talk was a bittersweet albeit special moment, being my last act as President of the FBA UPR Student Chapter. This year was an unforgettable experience filled with many triumphs and challenges alike. I am forever grateful to my Board, our mentor Professor Nilda M. Navarro-Cabrer, the Directors of the FBA Puerto Rico Chapter and fellow President Carla S. Loubriel for making this all possible. My sincerest well wishes to the incoming President and Board, it has truly been an honor.

Highlights of Chapter Events 2024-2025

Event at UPR Law School



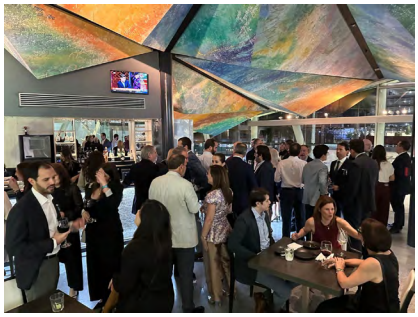
On November 21, 2024, our Chapter president, Carla S. Loubriel, offered the seminar "The Federal Bar Exam: A Primer" to the students of the University of Puerto Rico Law School. The seminar was a guide through the federal bar admission process and offered insight into opportunities in federal practice.

Swearing-In of New FBA Board

Our Chapter's Board of Directors was sworn in on December 10, 2024, before the Honorable Raúl M. Arias-Marxuach, Chief Judge of the U.S. District Court for the District of Puerto Rico. We are eager to serve our members and, to that end, we continue to work on emerging and insightful projects that have an impact on the legal profession of federal practitioners. Let us know your thoughts and ideas @ puertorico@federalbar.org.

Christmas Party @ Tinto & Blanco

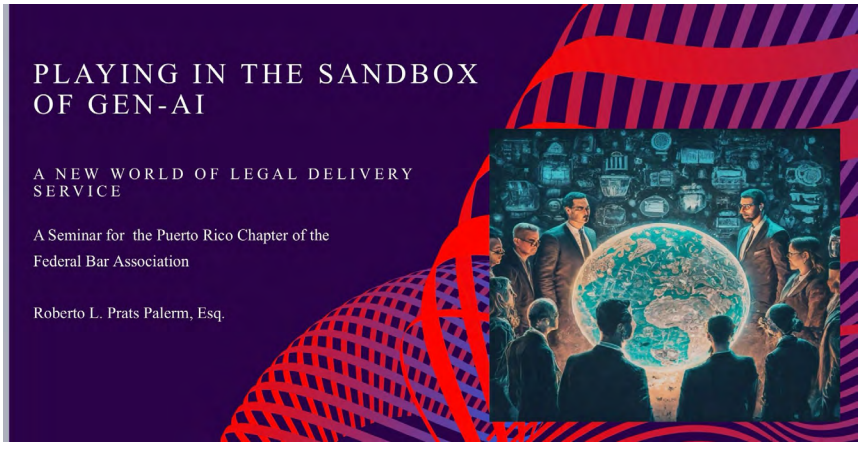
On January 29, 2025, our Chapter had its traditional Christmas party during “Las Octavitas.” The event was held at Tinto y Blanco restaurant in Hato Rey. It was a wonderful opportunity to keep the holiday spirit alive and enjoy a festive atmosphere among colleagues and friends. We thank everyone who joined us. We had so much fun! Until next year!



Event at PUCPR

On February 6, 2025, the Chief Judge of the U.S. District Court for the District of Puerto Rico, Hon. Raúl M. Arias-Marxuach, and Hon. María de los Ángeles González-Hernández, Judge of the U.S. Bankruptcy Court for the District of Puerto Rico, shared their professional experiences within the federal practice with the students of the Pontifical Catholic University of Puerto Rico School of Law. It was an excellent learning opportunity for the students. We look forward to seeing them as federal practitioners in a couple of years!

Seminar: Playing in the Sandbox of Generative Artificial Intelligence: The Promise of Gen-AI in the World of Legal Service Delivery



On February 20, 2025, Roberto Prats-Palerm offered a seminar on GEN-AI and its transformative impact on the legal profession. It was a thought-provoking discussion on GEN-AI and how its revolutionizing our profession by enhancing efficiency, productivity, and decision-making. Stay tuned for more seminars on emerging federal legal topics!

Rum Tasting and Networking Event

On March 6, 2025, we had the great experience of teaming up with Rums of Puerto Rico to offer a rum tasting guided by Juan Gabriel Montes at McConnell Valdés. The attendees enjoyed the unique flavors of our Puerto Rican rum. Stay tuned for more exciting spirit tastings from Puerto Rico!

Retirement of Magistrate Judge Bruce McGiverin

On March 21, 2025, our Board had the honor to attend the retirement ceremony of the Honorable Bruce J. McGiverin, U.S. Magistrate Judge, at the Hato Rey courthouse. It was a meaningful occasion to celebrate almost 20 years of Judge McGiverin's distinguished career and longstanding service to the federal judiciary and our legal community. We wish him the best in his retirement! Enhorabuena!

Seminar: Navigating the Future of Immigration Laws Amid Political Uncertainty – What Companies Need to Know

On March 26, 2025, our Chapter hosted a seminar that featured two leading attorneys on Immigration Law from DLA Piper (Puerto Rico) LLC, Xana Connelly and Janine Guzmán. They provided essential insights regarding the complexities of immigration laws at times of political uncertainty and how businesses can effectively navigate through this evolving legal landscape. This was a must-attend event for attorneys practicing Immigration Law, business owners, and HR professionals. Stay tuned for more seminars on emerging legal issues!

FBA Leadership Summit

Our Chapter was proud to be represented by our Board's Secretary, Isabel Lecompte, and Treasurer, Victoria M. Rivera-Lloréns, at the Federal Bar Association's Capitol Hill Day and Leadership Summit held in Washington, D.C on March 27-29, 2025. During Capitol Hill Day, they met with legislative teams of state representatives Mikie Sherrill, George Latimer, Nick Langworthy, Nydia Velázquez and Tim Kennedy to discuss key issues including: the urgent need for more federal judges, judicial security and the unique needs of the Puerto Rico federal judiciary. At the Leadership Summit, they connected with fellow FBA chapter members and directors from across the country to share ideas and learn new strategies to strengthen our Chapter, grow and engage our membership and reach a more diverse audience. They came back energized and full of ideas to make an even greater impact. Looking forward to next year's Leadership Summit!

Seminar: Introduction to Legal Writing in the Federal Courts

The Chief Judge Raúl M. Arias-Marxuach of the U.S. District Court, District of Puerto Rico, offered an insightful seminar, "Introduction to Legal Writing in the Federal Courts", to students of the Interamerican University of Puerto Rico School of Law on April 7, 2025. It was a unique opportunity for law students to learn about the do's and don'ts of legal writing. The event was co-sponsored by the FBA Interamerican Student Chapter and the Asociación de Litigación of the School of Law of the Interamerican University of Puerto Rico. We look forward to continuing to support the next generation of legal professionals.

Cocktails with the Bar @ Ocean Lab

Our Chapter kicked off the spring season with our first Cocktails with the Bar event of the year at Ocean Lab restaurant in San Patricio on April 10, 2025. We had a fantastic evening reconnecting with colleagues and making new connections, while enjoying some refreshing brews. We look forward to seeing everyone again at our future events!