CBAC 2018 RESOLUTION SUPPORTING MEASURES ADDRESSING PUERTO RICO’S RECOVERY FROM HURRICANE MARIA

WHEREAS, the Coalition of Bar Associations of Color (CBAC), organized in 1992, is a coalition created to act as a collective voice for issues of common concern to its member organizations; and

WHEREAS, the member organizations of the CBAC are the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA); and

WHEREAS, the member organizations of the CBAC are the national voices of their respective legal communities in the United States and its territories and possessions; and

WHEREAS, on September 20, 2017, Hurricane Maria devastated the Commonwealth of Puerto Rico, a territory of the United States (“Puerto Rico” or “the Island”), destroying most of its infrastructure and natural resources and leaving its 3.4 million residents without electricity and the majority without water or the ability to communicate via telephone or internet; and

WHEREAS, since Hurricane Maria hit Puerto Rico, hundreds of thousands across the Island remain without potable water, electricity or any means to communicate effectively via telephone or internet, and a significant number of the roads, streets, and bridges in Puerto Rico that were destroyed by Hurricane Maria have yet to be fully repaired, leaving many in the remote parts of the Island with limited options to seek out, or receive, aid; and

WHEREAS, as a result of the devastation in Puerto Rico caused by Hurricane Maria, thousands of U.S. citizens previously residing on the Island, including families with young children and the elderly, have relocated and will continue to relocate to the mainland United States; and

WHEREAS, displaced residents from Puerto Rico will require comprehensive relocation assistance, including access to appropriate housing accommodations, healthcare, and education in the United States; and

WHEREAS, as noted in the CBAC’s 2016 “RESOLUTION SUPPORTING MEASURES ADDRESSING PUERTO RICO’S FISCAL CRISIS,” even without Hurricane Maria, Puerto Rico is in a deep recession with severe fiscal, economic, and liquidity challenges that have placed
immediate and growing hardships on the Island’s 3.4 million U.S. citizens, including, continuously increasing unemployment and poverty rates; and

WHEREAS, the almost complete destruction of Puerto Rico’s infrastructure caused by Hurricane Maria has significantly exacerbated its economic recession, decreased revenues, increased unemployment, suppressed wages, and caused Puerto Rico to sink into a deeper financial crisis; and

WHEREAS, under the current tax code, Puerto Rico is treated as a foreign country and U.S. companies with subsidiaries on the Island are taxed at a higher rate than their operations on the mainland; and

WHEREAS, Puerto Rico’s fiscal crisis will continue to undermine the Island’s ability to recover from Hurricane Maria and its overall economic recovery; and

WHEREAS, Puerto Rico needs short and long-term solutions to recover from the impact of Hurricane Maria that are comprehensive, fair, and sustainable, and which inure to the benefit of the residents of Puerto Rico, help restart and sustain its economic growth, restore the Island’s infrastructure, and provide humanitarian relief for residents of Puerto Rico; and

WHEREAS, studies estimate that the adverse effects of the Merchant Marine Act of 1920, commonly referred to as the Jones Act, are costing Puerto Rico an estimated $537 million per year, which has significantly contributed to the Island’s fiscal crisis; and

WHEREAS, Section 404 of the Stafford Act allows the President to authorize the federal government to cover up to 75% of the cost of hazard mitigation measures that “reduce the risk of future damage, hardship, loss or suffering in an area affected by a major disaster,” capped at not more than 7.5% of total costs of major disasters costing $10 billion; and

WHEREAS, the federal Child Tax Credit (CTC) currently applies only to families in Puerto Rico with three or more children, but approximately 355,000 working Puerto Rican families have two or fewer children; and

WHEREAS, most residents of Puerto Rico do not currently qualify for the Earned Income Tax Credit; and

WHEREAS, U.S. citizens living on the Island are not currently allowed to receive Supplemental Security Income (SSI); and

WHEREAS, the CBAC lauds Congress for the recent bipartisan budgetary agreement that serves as a significant step in the right direction to assist Puerto Rico with its recovery, but recent management scandals of the Federal Emergency Management Agency (FEMA) contracts demand greater scrutiny of government contracts in order to ensure that resources are being used for their intended purpose and that the recovery advances at a faster rate; and
WHEREAS, Congress is considering a fourth supplemental bill that must include much needed investment of funds for infrastructure, both remedial and a forward-looking expansion, that would improve connections to remote areas across Puerto Rico and help modernize the Island’s transportation network, boosting the chances for an improved economy; and

WHEREAS, the CBAC finds it unacceptable and unviable to add to the Island’s current debt load by making repayment a condition of some or any funding provided to Puerto Rico by Congress for the purposes of disaster relief, rebuilding, or restructuring.

NOW THEREFORE BE IT RESOLVED, that the CBAC supports action by Puerto Rico to make the structural and fiscal reforms that would allow the Island to recover from Hurricane Maria, including by repairing, rebuilding and improving its infrastructure, providing humanitarian relief to the residents of Puerto Rico, and improving its economic efficiency and growth, and that the federal government be supportive of said measures; and

NOW THEREFORE BE IT RESOLVED, that the CBAC supports the restructuring process currently underway pursuant to the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), but urges the Governor of Puerto Rico and the fiscal oversight board to revise the current fiscal plan to eliminate austerity measures, and implement comprehensive restructuring or forgiveness of Puerto Rico’s debt; and

NOW THEREFORE BE IT RESOLVED, that the CBAC urges the Supreme Court of Puerto Rico to adopt the American Bar Association (ABA) Model Court Rule on Provision of Legal Services Following Determination of a Major Disaster in order to allow out-of-state attorneys to provide legal assistance to individuals in the jurisdiction on a temporary basis; and

NOW THEREFORE BE IT RESOLVED, that the CBAC supports action by the ABA and other legal organizations for the creation of hotlines, task forces, training and other avenues for lawyers in the United States and Puerto Rico to assist with FEMA claims and other actions related to housing, insurance, employment, and other vital issues, and otherwise provide legal assistance to the residents of Puerto Rico impacted by Hurricane Maria; and

NOW THEREFORE BE IT RESOLVED, that the CBAC calls on Congress to take the following immediate actions:

(1) Enact legislation that assists Puerto Rico’s recovery and rebuilding and places Puerto Rico on a path towards economic growth including, Congressional appropriation for additional funding for both disaster relief recovery and rebuilding, and for the improvement of the Island’s existing infrastructure for purposes of hazard mitigation, hurricane readiness, and climate adaption;

(2) Approve FEMA funds under Section 404 of the Stafford Act to substantially improve Puerto Rico’s electricity grid;

(3) Authorize a permanent waiver or exemption of the Jones Act for Puerto Rico that
affords Puerto Rico more access to emergency and building supplies and lowers the cost of all imported goods needed for reconstruction efforts and future economic recovery and growth;

(4) Make immediate changes to the current tax reform plan in order to classify Puerto Rico as a domestic territory, thereby removing the 20% tax on U.S. mainland businesses operating on the island and saving up and around 250,000 jobs that lay in the balance;

(5) Ensure that funding provided through FEMA and the Community Development Block Grant-Disaster Recovery Program is allocated to Puerto Rico on terms and conditions no less advantageous than those applicable to the fifty states and the District of Columbia;

(6) Approve a temporary waiver of the local matching requirement for federal Medicaid funding and enact legislation that eliminates the annual Medicaid/Mi Salud funding cap on Puerto Rico and replaces those funding caps with the Federal Match for Medicaid (FMAP) funding calculation used for the 50 states and the District of Columbia;

(7) Enact legislation or include a provision in future disaster relief legislation that would permit families in Puerto Rico with one or two children to claim the Child Tax Credit and extend the Earned Income Tax Credit to Puerto Rican residents under the same criteria under which mainland U.S. citizens are allowed to claim it;

(8) Enact legislation that extends Supplemental Security Income (SSI) benefits to residents of Puerto Rico;

(9) Enact legislation that pays for or forgives Puerto Rico’s approximately $70 Billion debt; and

NOW THEREFORE BE IT RESOLVED, that the CBAC calls on the President of the United States and the Executive Branch agencies under his authority to take the following immediate actions:

(1) Deploy the necessary resources to Puerto Rico, and to provide all the tools available to the U.S. military and U.S. government agencies to provide logistics, communication and engineering assets to get Puerto Rico’s power grid up, repair mobile and fixed telecommunications systems throughout the Island to pre-Hurricane Maria levels, rebuild or replace infrastructure destroyed or damaged by Hurricane Maria, remove debris, clear and fix roads and bridges, and ensure that assistance is received immediately;

(2) Waive the federal matching requirements for FEMA disaster public assistance programs beyond the current 180-day extended waiver period;

(3) Extend FEMA’s 60-day deadline for filing individual claims for disaster relief for an additional 120 days (and possibly longer for individuals who continue without power or a means to communicate after the extended deadline);

(4) Approve the use of FEMA funds under Section 404 of the Stafford Act to substantially improve Puerto Rico’s electricity grid;
(5) Make all residents of Puerto Rico and those who have relocated to the mainland eligible to receive USDA Supplemental Nutrition Assistance Program (SNAP) benefits, subject to that program’s eligibility criteria and the additional rule that those receiving SNAP benefits may not simultaneously receive Puerto Rico Nutrition Assistance Program (NAP) benefits;

(6) Issue an Executive Order directing federal agencies to prioritize hiring residents of Puerto Rico and local organizations on the Island over non-Puerto Rican residents, to: ensure that disaster survivors participate in recovery activities and directly benefit from recovery funds; help Puerto Rico reduce its high unemployment rate and low labor force participation; generate local economic activity that can lead to additional tax revenue for the Government of Puerto Rico; and reduce the costs associated with disaster relief and recovery by reducing the costs associated with transporting and housing workers from the mainland;

(7) Support debt forgiveness of Puerto Rico’s approximately $70 billion debt through Executive Order or legislation;

(8) Extend the temporary moratorium on mortgage foreclosures by twelve months to March 19, 2019 in light of the extensive damage caused by Hurricane Maria which has created significant difficulties to homeowners’ ability to pay their mortgages, including incurring exorbitant energy costs (for generators) and reduced or lack of income; and

NOW THEREFORE BE IT RESOLVED, that the CBAC supports immediate action by all states to which Puerto Rico residents have relocated as a result of Hurricane Maria or its economic crisis to provide appropriate assistance and access to their healthcare, housing and education systems, including the waiver of certain deadlines and requirements for seeking such assistance, and to ensure that such assistance is available in Spanish to mitigate language barriers that may hinder a person’s ability to take advantage of such assistance; and

NOW THEREFORE BE IT RESOLVED, that the CBAC supports immediate action through the Emergency Management Assistance Compact process to facilitate the provision of assistance to Puerto Rico by states and other U.S. jurisdictions.

BE IT FURTHER RESOLVED that the CBAC authorizes the presidents, boards, and staff of each CBAC organization to communicate the content of this resolution to its members, affiliates, other bar associations, members of Congress, the Administration, the press, and others to take steps to implement this resolution, as they deem necessary; and

BE IT FURTHER RESOLVED that the CBAC supports this resolution as a policy priority until it is withdrawn or modified by subsequent resolution; and

BE IT FINALLY RESOLVED that this resolution shall be the legislative priority of the CBAC until it is withdrawn or modified by subsequent resolution.
CERTIFICATION

WE, the duly-elected Presidents of the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA), hereby certify that the foregoing Resolution was duly enacted by a duly noticed meeting of the Board of Directors.

Erica V. Mason  2/26/18  Date
President, Hispanic National Bar Association

Pankit J. Doshi  2/26/18  Date
President, National Asian Pacific American Bar Association

Juan R. Thomas  2/26/18  Date
President, National Bar Association

Diandra Benally  2/26/18  Date
President, National Native American Bar Association