



Román D. Hernández  
National President

## **An Open Letter to the Judiciary**

As the current National President of the Hispanic National Bar Association (HNBA), I write with an important request of you, our esteemed colleagues on state and federal courts at all levels. First, I will briefly describe the HNBA, in the event that you are not so familiar with the organization. I will then proceed to describe the HNBA's request of you.

The HNBA is a nonprofit, national voluntary bar association that represents the interests of all attorneys, judges, law professors, legal assistants, and law students of Hispanic descent in the United States and Puerto Rico. The HNBA is led by a national Board of Governors<sup>1</sup> and has Regional Presidents in every region of the country and 40 affiliated bar associations in 22 states.<sup>2</sup> While Hispanics in the legal profession come

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<sup>1</sup> The HNBA Board of Governors includes the following individuals: Román D. Hernández, HNBA National President; Diana S. Sen, President-Elect; Jacquelynn A. Ruiz, National Vice President of Membership; Peter M. Reyes, Jr., National Vice President, Regions; Liz M. López, Vice President of External Affairs; Sean Andrade, National Vice President of Programs; Ricardo Aponte-Parsi, National Vice President of Committees; Cynthia Mares, National Secretary; Armando Castro, National Treasurer; and Uvaldo Herrera, National General Counsel; Ramona E. Romero, Immediate Past President; David Rios, National Finance Chair; The Honorable Francisca Cota, Judicial Council Co-Liaison; The Honorable Carmen R. Velasquez, Judicial Council Co-Liaison; Giovanni Ricaldes, Law Student Division President; Melisa Lopez Franzen, Young Lawyers Division Representative; Roberta Limongi Ruiz, Region I President; Gelvina Rodriguez Stevenson, Region II President; Miguel A. Pozo, Region III President; Rafael X. Zahralddin-Aravena, Region IV President; Bettina T. Guevara, Region V President; Hada Haulsee, Region VI President; Rolando E. Bascumbe, Region VII President; Jorge A. Mestre, Region VIII President; Frank Santilli, Region IX President; Dennis Nuñez, Region X President; Leonardo Castro, Region XI President; David Maldonado, Region XII President; Meshach Y. Rhoades, Region XIII President; Lizzette Alameda Zubey, Region XIV President; Christina A. Vigil, Region XV President; Jesse Valdez, XVI President; Helen Santana, Region XVII President; Gabriel Sandoval, Region XVIII President; and Richard Graffam, Region XIX President.

<sup>2</sup> The HNBA has the following affiliate bar associations: Colorado Hispanic Bar Association; Connecticut Hispanic Bar; Dallas Hispanic Bar Association; Delaware Hispanic Bar Association; Dominican Bar Association; Georgia Hispanic Bar Association; Hispanic Bar Association of Orange County; Hispanic Bar Association of the District of Columbia; Hispanic Bar of New Jersey; Hispanic Bar Association of Austin; Hispanic Bar Association of Greater Kansas City; Hispanic Bar Association of Houston; Hispanic Bar Association of Pennsylvania; Hispanic Lawyers Association of Illinois; Hispanic Lawyers Association of Louisiana, Inc.; La Raza Lawyers of Santa Clara; La Raza Lawyers of California; La Raza Lawyers of Sacramento; Latina Lawyers Bar Association; Latina/o Bar Association of Washington; Latino Lawyers Association of Queens County; Long Island Hispanic Bar Association; Los Abogados Hispanic Bar Association; Maryland Hispanic Bar Association; Massachusetts Association of Hispanic Attorneys; Mexican American Bar Association of El Paso; Mexican American Bar Association of Houston; Mexican American Bar Association of Los Angeles; Mexican American Bar of San Antonio; Mexican American Bar Association of Texas; Minnesota Hispanic Bar Association; National Hispanic Prosecutors Association; New Mexico Hispanic Bar; Oregon Hispanic Bar Association; Puerto Rican Bar Association of Florida; Puerto Rican Bar Association of Illinois; The Puerto Rican Bar Association (of New York);

from diverse personal backgrounds and political persuasions, the HNBA is strictly nonpartisan and does not represent a particular ideology. It was founded in 1972 to promote equal justice for all Americans by advancing the participation of Hispanics in the legal profession. The HNBA also serves as the voice of the broader Hispanic community on issues that significantly impact the interactions of Hispanics and the legal system.

As you are aware, Hispanics are the single largest minority group in the American population, and its fastest growing demographic group.<sup>3</sup> Today, there are over 46 million Hispanics in the United States and Puerto Rico, accounting for over 15 percent of the population.<sup>4</sup> By the year 2050, Hispanic Americans will represent nearly 30 percent of the population.<sup>5</sup> It is on behalf of this population that I write this letter and make a specific request.

The HNBA requests that you refrain from using unnecessary and divisive terms in judicial opinions that you author, and that you refrain from allowing litigants who appear before you to use these terms. Specifically, I am referring to the terms “illegal alien” and “illegal immigrant.” Regrettably, these terms exist in the common day-to-day vernacular of some individuals within our society to describe persons who lack proper immigration status. Yet, these terms are dehumanizing, degrading, and divisive. They are intended to create a pejorative impression of the estimated 12 million individuals who live and work in this country in an undocumented legal status. The HNBA does not support usage of these terms in court proceedings nor in judicial opinions because of the negative connotation that these terms place upon litigants, and the appearance of lack of impartiality by courts when used, even innocuously.

Usage of terms like “illegal alien” and “illegal immigrant” in court proceedings and in judicial opinions tends to erode the trust and confidence that individuals from ethnic minority communities have of our legal system. These terms cloud the proceedings in a veil of bias, unfairness, and tarnish the reputation of our system of justice where all are equal under the law, and where all disputes are to be fairly resolved. Indeed, there is evidence that communities of color have less faith in the judicial system than the Caucasian population.<sup>6</sup> That is why we urge you that terms such as “illegal

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San Diego La Raza Lawyers Association; San Francisco La Raza Lawyers Association; and Wisconsin Hispanic Lawyers.

<sup>3</sup> From 2000 to 2050, the Hispanic community will more than double from 35.6 million to 102.6 million, an increase of 188 percent. See <http://www.census.gov/Press-Release/www/releases/archives/population/001720.html>.

<sup>4</sup> See <http://www.census.gov/population/www/projections/summarytables.html>.

<sup>5</sup> *Id.*

<sup>6</sup> See, e.g., *Pew Hispanic Center, Hispanics and the Criminal Justice System: Low Confidence, High Exposure*, April 7, 2009 (found at <http://pewhispanic.org/files/reports/106.pdf>).

alien” and “illegal immigrant” have no basis for being introduced into our legal system which is deeply rooted in fundamental fairness, equality, and impartiality. As Elie Wiesel, a Holocaust survivor and Nobel Peace Prize recipient, once stated, “No human being is illegal.”<sup>7</sup>

Legal scholars have also expressed concerns about the issues of access to the courts and the inherent prejudice of a litigant having to enter a criminal or a civil trial while carrying the label of “illegal” figuratively stamped across his forehead or hung on a placard around her neck. Professor Lupe S. Salinas, a former state district judge from Texas, wrote in a law review article in 1976 about the stigma associated with being labeled an “illegal.” *The Undocumented Mexican Alien: A Legal, Social and Economic Analysis*, 8 *Houston Law Review* 863, 863 n.1 (1976). In addition, terms like “illegal alien” and “illegals” have been denounced by the National Association of Hispanic Journalists (NAHJ) based on their dehumanizing effect. The NAHJ has called upon colleagues in journalism to refrain from their usage.<sup>8</sup>

As further support of its request, the HNBA requests that you follow the example established by the United States Supreme Court. The Court, speaking through the late Chief Justice Rehnquist and most recently through the newest member of the Court, Associate Justice Sonia Sotomayor, has substantially agreed with this petition. While Chief Justice William Rehnquist utilized the term undocumented worker or alien, he also utilized the term “illegal” to refer to the litigant worker before the Court (*Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137 (2002)). Associate Justice Sonia Sotomayor, writing for the majority, used the term “undocumented worker” exclusively in one of her first opinions (*Mohawk Industries v. Carpenter*, 130 S. Ct. 599; 175 L. Ed. 2d 458 (2009)). While not binding precedent upon you, we nevertheless encourage you to follow this example, and use the term “undocumented immigrant” or “undocumented worker” when referring to an individual who lacks proper immigration status because the term “illegal” is dehumanizing, degrading, divisive, and because it carries an unjustified stigma.<sup>9</sup>

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<sup>7</sup> See Weisel, Elie, *And the Sea is Never Full* (Alfred A. Knopf, 1999).

<sup>8</sup> See <http://www.nahj.org/2009/09/nahj-urges-news-media-to-stop-using-the-term-illegals-when-covering-immigration/>.

<sup>9</sup> See *United States v. Gorayska*, 482 F. Supp. 576, 578 n.2 (S.D.N.Y. 1979) (concluding that usage of the term “undocumented” was more appropriate than the term “illegal” because the term “illegal” carries an unjustified stigma).

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The HNBA trusts that it can count on your support of its request, and it looks forward to continuing to work with you on matters such as these that are of mutual importance to practitioners and to you, our colleagues on state and federal courts of this great country, and to the American system of justice as a whole.

Sincerely,

Román D. Hernández  
HNBA National President

*The Hispanic National Bar Association (HNBA) is an incorporated, nonpartisan, not-for-profit, national membership organization that represents the interests of the more than 100,000 Hispanic attorneys, judges, law professors, legal assistants, and law students in the United States and its territories. From the days of its founding over three decades ago, the HNBA has acted as a force for positive change within the legal profession. For more information, please visit [www.hnba.com](http://www.hnba.com).*