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#### WINTER 2021

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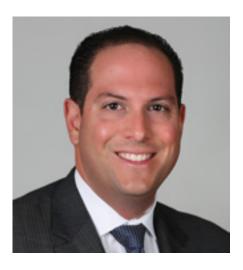
To submit an article or ad to CABA Briefs, please contact Emily Balter at ebalter@brzoninglaw.com.

Magazine Design
Cover Design
Briefs Chair
Assistant Editors

William D. Mueller
Erica Steinmiller
Jonathan Vita



### President's MESSAGE



Dear CABA Members, Sponsors and Friends,

This edition of our CABA Briefs was inspired by the courage of the Cuban people. Since they took to the streets across the island in unprecedented coordination beginning on July 11, 2021, the world has witnessed their demand for *basic* human rights. The international community can no longer deny the viciousness of the Cuban regime – it has now witnessed the regime strip its citizens of basic necessities and imprison peaceful protestors without due process. These actions are a cowardly attempt to preserve an oppressive dictatorship that cares more of its own longevity than of the best interests of the people that it should serve.

As you can see from much of the content in this issue of CABA Briefs, CABA has served as a voice for the muted and reminds them that they have an international audience that is hearing their cries for freedom. This edition of CABA Briefs is dedicated to the true Cuban patriots' quest for *Libertad*.

Viva Cuba Libre

A. Dax Bello CABA 2021 *President* 



### Editor-In-Chief's MESSAGE



Dear CABA Members:

The protests that began on July 11<sup>th</sup> reopened the world's eyes to the very real injustices still occurring in Cuba. During the pandemic, our brothers and sisters on the island have been in an extreme state of suffering. For a moment in time, the Cuban people were no longer afraid and sang through the streets their pleas for freedom. The world listened and stood in support.

The goal of this edition is to memorialize the #SOSCuba movement and carry on its momentum. Our hope is to shed light on some the issues leading up to the protests and what it means for the future of Cuba and its people, our families.

This edition also features CABA's monthly Continuing Legal Education programming for its members and the Historical Highlight virtual networking event. We were also fortunate to host numerous events, such as the Dinner with Judges, annual Getaway, AIT: Uncorked, Membership Cocktail and Awards, and the Women in Power Event.

I would like to thank the CABA Briefs Committee as well as the Chairs, Diana Arteaga and Daniel Buigas, for their guidance and support while working on topics sensitive to us all. A special thanks also to Victoria Suess, CABA's Director of Operations, and editors and contributors for their time and efforts on this extremely special edition of CABA Briefs. The tradition of CABA Briefs would not be possible without the support shown by our members and community.

Sincerely,

Emily K. Balter Editor-in-Chief

Emby Kong Balter

# ROUND UP

By ELLIOT B. KULA & W. AARON DANIEL & WILLIAM D. MUELLER



#### LEGAL ROUND UP by Kula & Associates, P.A.

It is always our pleasure to keep the readers of CABA Briefs up to date with the most recent decisions of the appellate courts in the State of Florida. This installment is provided with Cuba—its fight for freedom and relief from oppression—foremost on our minds. We stand together in the plea for freedom for all Cubans from the oppressive Cuban regime.

### Propose Only If You're Ready to Settle Down With... The Order

Castro v. Sun 'N Lake of Sebring Improvement District, Case No. 2D20–1102 (Fla. 2d DCA Aug. 13, 2021)

Agreeing on a proposed order is often a point of contention among warring lawyers ... and for a good reason shown in *Castro*. The trial court granted a motion to dismiss without prejudice. The defendant prepared the order, and while it was silent as to whether it was "with or without prejudice," it included the phrase, "go hence without day." The plaintiff—and try not to groan here—agreed to the proposal.

Of course, the plaintiff filed suit again and the defendant quickly raised the issue of the involuntary dismissal—its language ("go hence without day") indicative of its finality—and a defense of res judicata. Facing the prospect of having its action foreclosed for good, the plaintiff filed for relief from judgment in the original case (*i.e.* a Rule 1.540 motion) as having been procured by fraud. The trial court mercifully granted the motion.

But not so fast ... the Second District of Appeal reversed the vacatur order because the Rule 1.540 motion had not been filed within a year. Which is to say, the proposed order was reinstated and the plaintiff—who inadvertently agreed to the proposal—permanently lost their cause of action.

### If Memory Lapses Were Sanctionable, We Would All Be In Contempt of Court

Cousins v. Duprey, Case No. 4D19–3602 (Fla. 4th DCA July 21, 2021)

Not every opinion's holding can be reduced to a simple aphorism, but in *Cousins v. Duprey*, the Fourth District Court of Appeal offered this memorable, yet simple observation: "No one's memory is perfect." Attributing the quote to Eleventh Circuit Court of Appeals' Judge Ed Carnes, the Fourth District reversed a sanctions order that awarded plaintiff's counsel over \$200,000 excusing a monumental shift on an essential fact in the case as the product of mere faulty memory.

Here's how it happened. A medical malpractice suit was filed against a doctor who performed surgery on a Crohn's disease patient, and purportedly

# ROUND UP

BRIEFS

removed diseased portions of the patient's abdomen and bowel. Sadly, the patient suffered a relapse, and it was then discovered that the doctor had failed to remove all of the diseased areas.

During litigation that ensued, in the midst of a testy deposition, the doctor affirmatively claimed he had removed that portion of the plaintiff's abdomen, but that was later determined to be untrue; and at trial, the doctor performed an about-face, then claiming that he had never removed that portion of the plaintiff's abdomen. The plaintiff (on proper objections) moved for sanctions, which the trial court granted following an evidentiary hearing.

The Fourth District reversed, finding the doctor's faulty memory at the earlier deposition should not condemn him to a large award of sanctions. He had performed the surgery several years prior, after all; and his deposition testimony mildly equivocated the truth. The Court concluded, relying on Judge Carnes yet again, "People forget things or get confused, and anyone can make an innocent misstatement or two." Innocence, in this case, appeared to be beyond subjectivity.

### Pursuit of Trial Fees is Not The Same as Appellate Fees—Getting One Does not Beget the Other

Lenahan v. Lenahan, Case No. 3D20–1436 (Fla. 3d DCA Aug. 11, 2021)

Siblings resolved a dispute by settlement agreement, which included an attorney's fee provision—good thing, too, because in sibling disputes you'll never hear the end of it. Sure enough, the brother filed suit and the sister countersued—but she neglected to request attorney's fees in her counterclaim. Hold that thought.

The sister prevailed at trial, and defeated her brother's appeal. The Third District Court of Appeal along with affirming, granted the sister's motion for *appellate* attorney's fees based on the settlement's attorney's fees provision and pursuant to Florida Rule of Appellate Procedure 9.400 which "governs the procedures applicable for parties seeking appellate fees." So, all good on appellate fees.

Back in the trial court, the sister went after her *trial* fees; but now recall, she had never requested attorney's fees in her counterclaim. She tried to bridge the gap by relying on the Third District's *appellate* fee order. And it worked. But not for long. Back up on appeal, the Third District reversed the fee judgment, explaining that *trial* fees and *appellate* fees are procedurally different. Thus, while you may accidentally waive your attorney's fees at the trial level by failure to plead, appellate fees are still available if you timely move under Rule 9.400.



Appellate attorney **Elliot B. Kula** of Kula & Associates, P.A., works collaboratively with great trial lawyers to provide appellate services and trial strategy consultation. Visit the Firm's website at www.KulaLegal.com.



Appellate attorney **W. Aaron Daniel** of Kula & Associates, P.A., works collaboratively with great trial lawyers to provide appellate services and trial strategy consultation. Visit the Firm's website at www.KulaLegal.com.



Appellate attorney William D. Mueller of Kula & Associates, P.A., works collaboratively with great trial lawyers to provide appellate services and trial strategy consultation. Visit the Firm's website at www.KulaLegal.com.

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# Oppression at Home, Rejection Abroad: How U.S. Immigration Law Disappoints Cuba's White Coat Army

By Michael Mirabella and Kayleigh Yerdon



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#### Introduction

Despite its notoriously poor economic and human rights records, The Republic of Cuba has deployed over 2,000 doctors and nurses overseas to nearly forty countries around the world since the start of the COVID-19 pandemic. Bringing in more than \$11 billion in annual revenue, Cuba's appropriately dubbed "army of white coats"

generates more income each year than the country's entire tourism industry. Yet, while Cuba attributes its medical missions to "altruism, humanism, and international solidarity," others have criticized the nation for the mistreatment of their medics—even calling it "slave labor"—in what many consider a gross exploitation of human capital under the guise of goodwill and compassion.

#### Mandatory Medical Missions

According to Human Rights Watch, "Cuban doctors deployed to respond to the COVID-19 pandemic provide valuable services . . . but at the expense of their most basic freedoms." Specifically, the Cuban government deprives Cuban doctors of their right to privacy, movement, and freedom of expression. In fact,

the Cuban government imposes effective control, under threat of criminal sanctions, over health workers' participation in political or social demonstrations, public expressions of opinion, friendships, roommates, and even romantic relationships. In addition to harsh working conditions and excessive hours, Cuban medical personnel do not have the rights to income they earn abroad.

But it isn't as simple as refusing to volunteer. In fact, failure to comply with any of Cuba's strict regulations often result in persecution by the Cuban government, including severe social ostracization, steep fines, banishment from Cuba, and, in many cases, imprisonment. The systematic subjugation of Cuban doctors has led the Department of State ("DOS") not only to rank Cuba in its 2021 Trafficking In Persons (TIP) Report as a "Tier 3" country for its failure to comply with minimum standards for the elimination of human trafficking, but also to urge Latin American allies to refuse Cuban medical aid. Make no mistake-Cuban medical missions constitute a form of human trafficking. Unsurprisingly, given the gross human and economic rights abuses they face daily, Cuban medical professionals on mission are seeking asylum at the doorstep of U.S. embassies. But is U.S. immigration law helping or hurting Cuban doctors?

#### U.S. Immigration Law and Its Impacts on Cuba

When it comes to the relationship between U.S. immigration law and Cuba, the following two enactments immediately stand out: the special parole policy for arriving Cuban nationals, more widely known as "wet-foot/dry-foot", and the Cuban Medical Professional Parole ("CMPP") Program. Introduced by the Clinton Administration in the 1990s, and abruptly ended by the Obama Administration, wetfoot/dry-foot colloquially refers to the revision made to the 1966 Cuban Adjustment Act, which allowed Cuban nationals who made it to U.S. soil a unique path to residency. Similarly, in 2017, the U.S. Department of Homeland Security ("DHS") announced an end to the CMPP Program, which allowed certain "Cuban medical personnel working in third countries to apply for parole at a U.S. embassy or consulate." Given the relatively recent end to wet-foot/dry-foot and the CMPP Program, Cuban doctors are left with little choice but to turn to the tremendously backlogged U.S. asylum system.

For non-citizens seeking to enter the United States through the southern border, recent changes to immigration law have made entry challenging, particularly as a result of the 2019 Migrant Protection Protocols ("MPP") and policy changes surrounding the COVID-19 virus. Known colloquially as the "remain in Mexico" program, the MPP is a government action that allows the DHS to return to Mexico certain foreign individuals entering or seeking admission to the United States from Mexico to wait outside the U.S. during their immigration proceedings. The MPP applies to citizens and nationals of any country when they arrive in the United States on land from Mexico when they are not clearly admissible or are placed in removal proceedings under Section 240 of the Immigration & Nationality Act. In June 2021, the Biden administration sought to terminate the MPP, stating that the program does "not adequately or sustainably border enhance management in such a way as to justify the program's extensive operational burdens and other shortfalls." Yet, on August 13, 2021, the U.S. District Court for the Northern District of Texas issued an order enjoining the Biden administration's termination of the MPP. Shortly thereafter, Justice Alito rushed consideration from the Supreme Court which, on August 24, rejected the Biden administration's effort to challenge the district court's ruling, essentially requiring the government to reinstate the Migrant Protection Protocol.

Entry has become even more complicated for non-citizens in the wake of the COVID-19 virus. In March 2020, the U.S. Department of Health and Human Services Centers for Disease Control and Prevention ordered a suspension of the introduction of people from countries where an outbreak of a communicable disease exists, under Title 42 of the U.S. Code. Since March 2020, "expulsions" under this order have become the most common means of returning non-citizens arriving from Mexico, overtaking the MPP. The Biden administration has kept this policy in place, recently citing the need to protect against the spread of the Delta variant of COVID-19. Of course, in the wake of a global pandemic, limiting travel has become an important protective measure, but the implementation of Title 42 has also become a powerful tool for the U.S. government to deny entry to otherwise eligible asylumseekers.

Until June 2020, non-citizens also faced the "third country transit bar", which rendered all non-citizens ineligible for asylum if they had passed through other countries en route to the United States, even where they had otherwise clear cases for asylum. As such, almost all Cuban nationals who entered the United States were barred from obtaining asylum on these grounds. The policy did leave one option available: under the third country transit bar, those in fear of persecution were still eligible for withholding of removal, a benefit that forestalls deportation. For many Cuban doctors working abroad, however, this bar meant they would have to return home to Cuba, before proceeding directly to the United States to be considered for asylum. Although a federal district court vacated the third country transit bar in Capital Area Immigrants' Rights Coalition v. Trump, many asylees have already been barred from asylum on these grounds and are ingrained in ongoing legal battles to secure their rightful status in the United States.

Today, as <u>more and more Cuban</u> <u>doctors</u> defect to the United States amidst growing safety concerns and at the mercy of a broken asylum system, a unique set of hardships and legal challenges await them.

#### Cornell Law Asylum Clinic and Dr. Merlys Rodríguez Hernández

Cuban natives, Dr. Rodríguez Hernández and her husband, Dr. Almanza Paneca, were sent to Venezuela on a medical mission together in September 2015. In Venezuela, the Cuban government forced them to forge medical records, sign a war commitment to defend Venezuela, and question patients about their commitment to the re-election of Venezuelan President Nicolás Maduro. They were subjected to incredibly dangerous living conditions, including living in a neighborhood where they witnessed murders Venezuelan gangs almost weekly. Further, they were told that they would be required to work in Venezuela for three years, with no breaks and no pay from Cuba. Instead, they were "paid" the minimum wage in Venezuela. However, instead of paying them directly, the Venezuelan government sent their paychecks to Cuba, which the Cuban government placed into accounts that the doctors could access only after their medical mission was completed.

When Dr. Rodríguez Hernández and Dr. Almanza Paneca refused to attend a public celebration of an amendment to the Cuban Constitution, Cuban officials in Venezuela forcibly removed them from their home and held them captive in the jungles of Venezuela for ten days. During that period, the Cuban government not only burglarized their residence in Venezuela but drained all their bank accounts back in Cuba. The Cuban government then stripped them of their medical licenses and sent them back to Cuba, labeling them as "deserters." Fearing further punishment, Dr. Rodríguez

Hernández and Dr. Almanza Paneca fled from Cuba in July 2019.

On their journey to the United States, Dr. Rodríguez Hernández and Dr. Almanza Paneca traveled through Nicaragua, Honduras, Guatemala, and Mexico. They did not apply for immigration relief in any of these countries because they did not feel confident that the other countries could adequately protect them. When they reached the United States, both doctors immediately applied for asylum, withholding of removal, and protection under the Convention Against Torture.

After being detained for six months, Dr. Almanza Paneca was denied asylum based on the third country transit bar, because he had passed through several other countries on his way to the United States. However, he was granted withholding of removal—a less-beneficial form of relief compared with asylum—because the court found that he was "more likely than not" to be persecuted if he returned to Cuba. He was subsequently released from detention in May 2020.

On the other hand, and with a practically identical factual background, a different immigration court denied Dr. Rodríguez Hernández asylum based on the third country transit bar. The court further stated that Dr. Rodríguez Hernández would be ineligible for asylum notwithstanding the third country transit bar because she is not a political "dissident who is being targeted by the Cuban government." Of course, this is inconsistent with the fact that the Cuban regime had labeled her as a deserter. Further, the immigration denied Dr. Rodríguez Hernández withholding of removal, finding that she was unlikely to be persecuted in Cuba-a decision inconsistent with her husband's grant of withholding by a different immigration court on these same grounds.

The cases of these two doctors illustrate the uneven application of the U.S. immigration laws—even in

cases with identical facts. Further, Dr. Rodríguez Hernández's case depicts the importance of bond release for many non-citizens who pose no societal threat and should therefore not be detained while they await adjudication. Because the United States mandates that many non-citizens be detained pending the consideration of their applications for asylum, Dr. Rodríguez Hernández was forcibly detained by the U.S. government in Arizona for over a year, where she contracted COVID-19 and had to fight the virus while receiving allegedly substandard medical care.

On October 27, 2020, Dr. Rodríguez Hernández, represented by the Cornell Law Asylum and Convention Against Torture Appellate Clinic, was granted bond while she awaits the outcome of her other proceedings.

#### A Way Forward

Cuban medical professionals face a variety of legal hurdles in seeking to free themselves from exploitation. Due to COVID-19 travel restrictions, and the effective closure of the southern border until at least September 21, 2021, it has become even more difficult to enter the United States, even with the abrogation of the third-country transit bar. Moreover, even if Cuban nationals could enter under Title 42, they would still face uneven application of the laws governing asylum eligibility.

Legislators are working not only to shed light on the humanitarian crisis facing Cuban doctors but also to create a more particularized process, akin to the CMPP Program, through which Cuban doctors could apply for a special form of relief. In June 2020, a bill was introduced titled "Cut Profits to the Cuban Regime Act of 2020" which, if enacted, would require the DOS to publish the list of countries that contract with the Cuban regime for their medical missions program and to consider that contract a factor on their ranking in the DOS's annual TIP Report. Additionally, bi-partisan legislation was introduced

September 2020, and reintroduced in June 2021, that goes even further. The Combatting Trafficking of Cuban Doctors Act seeks to re-establish the CMPP Program and grant entry to eligible Cuban medical professionals and their immediate family members.

Still, it is unclear what political traction, if any, these bills will gain. Let's hope they do, because the barriers that Cuba's "white coat army" faces with regards to asylum and other forms of immigration relief, even after enduring a U.S. government-recognized form of persecution, must be eliminated—and soon—if the interests of justice are to be served.



Orginally from Tampa, Florida, **Michael Mirabella** earned his Bachelor of Science in Finance from Florida State University and his Juris Doctor from Cornell Law School where he served as an editor for the online edition of Cornell Law School's Journal of Law & Public Policy, *The Issue Spotter.* Of Cuban-American descent, Michael is a first-generation Juris Doctor and a proud member of the Cuban American Bar Association.



Originally from Chester, New Jersey, **Kayleigh Yerdon** earned her Bachelor of Science in Industrial and Labor Relations from Cornell University and her Juris Doctor from Cornell Law School. Kayleigh served as a member of the Advanced Asylum and Convention Against Torture Appellate Clinic and as a Co-Director of the Special Immigrant Juvenile Status Project at Cornell Law School.



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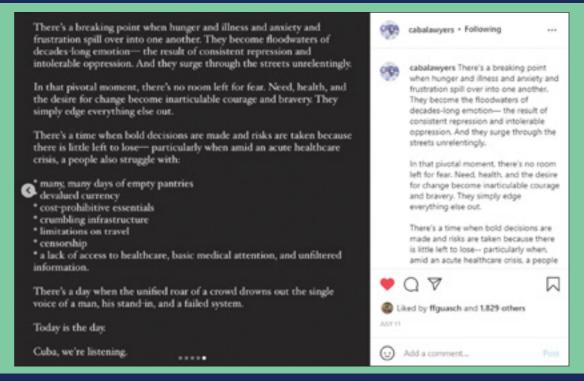
These two strategic hires further evidence AVILA's commitment to meet a growing demand for our unique combination of BigLaw sophistication and boutique firm personalization.

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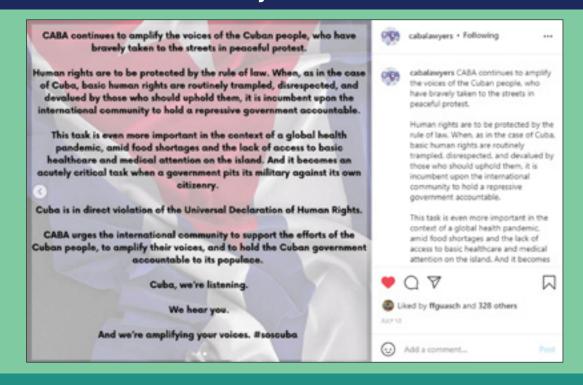
#### CABA on #SOSCUBA

Once the news regarding protests in Cuba hit Miami, CABA's "CABA on Cuba Committee" immediately took to social media to educate members and followers. As more information emerged, CABA continued to post and share. This momentum has not stopped. For those readers that do not yet follow @cabalawyers on Instagram and Twitter, below please find highlights of CABA's messages, supporting the people of Cuba in the pursue of freedom.

#### July 11, 2021



#### July 12, 2021



### July 12, 2021 RIGHT NOW THE CUBAN REGIME IS IN DIRECT VIOLATION OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS...

The Universal Declaration of Human Rights provides as follows:

#### **Article 1**

ALL HUMAN BEINGS ARE BORN FREE AND EQUAL IN DIGNITY AND RIGHTS. THEY ARE ENDOWED WITH REASON AND CONSCIENCE AND SHOULD ACT TOWARDS ONE ANOTHER IN A SPIRIT OF BROTHERHOOD.

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The Cuban Regime is in direct violation of the Universal Declaration of Human Rights The Universal Declaration of Human Rights provides as follows:

#### **Article 3**

EVERYONE HAS THE RIGHT TO LIFE, LIBERTY

AND SECURITY OF PERSON

The Cuban Regime is in direct violation of the Universal Declaration of Human Rights The Universal Declaration of Human Rights provides as follows:

#### **Article 9**

NO ONE SHALL BE SUBJECTED TO ARBITRARY ARREST, DETENTION OR EXILE

The Cuban Regime is in direct violation of the Universal Declaration of Human Rights

The Universal Declaration of Human Rights provides as follows:

#### **Article 19**

EVERYONE HAS THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION; THIS RIGHT INCLUDES FREEDOM TO HOLD OPINIONS WITHOUT INTERFERENCE AND TO SEEK, RECEIVE AND IMPART INFORMATION AND IDEAS THROUGH ANY MEDIA AND REGARDLESS OF FRONTIERS.

The Cuban Regime is in direct violation of the Universal Declaration of Human Rights The Universal Declaration of Human Rights provides as follows:

#### **Article 20**

1 EVERYONE HAS THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

The Cuban Regime is in direct violation of the Universal Declaration of Human Rights The Universal Declaration of Human Rights provides as follows:

#### **Article 21**

 EVERYONE HAS THE RIGHT TO TAKE PART IN THE GOVERNMENT OF HIS COUNTRY, DIRECTLY OR THROUGH FREELY CHOSEN REPRESENTATIVES.

2 EVERYONE HAS THE RIGHT OF EQUAL ACCESS TO PUBLIC SERVICE IN HIS COUNTRY.

THE WILL OF THE PEOPLE SHALL BE THE BASIS OF THE AUTHORITY OF GOVERNMENT; THIS WILL SHALL BE EXPRESSED IN PERIODIC AND GENUINE ELECTIONS WHICH SHALL BE BY LINVERSAL AND EQUAL SUFFRAGE AND SHALL BE HELD BY SECRET VOTE OR BY EQUIVALENT FREE VOTING PROCEDURES.

The Cuban Regime is in direct violation of the Universal Declaration of Human Rights

The Universal Declaration of Human Rights provides as follows:

#### Article 25

1 EVERYONE HAS THE RIGHT TO A STANDARD OF LIVING ADEQUATE FOR THE HEALTH AND WELL-BEING OF HIMSELF AND OF HIS FAMILY, INCLUDING FOOD, CLOTHING, HOUSING AND MEDICAL CARE AND NECESSARY SOCIAL SERVICES, AND THE RIGHT TO SECURITY IN THE EVENT OF UNEMPLOYMENT, SICKNESS, DISABILITY, WIDOWHOOD, OLD AGE OR OTHER LACK OF LIVELIHOOD IN CIRCUMSTANCES BEYOND HIS CONTROL.

The Cuban Regime is in direct violation of the Universal Declaration of Human Rights The Universal Declaration of Human Rights provides as follows:

#### <u>Article 30</u>

NOTHING IN THIS DECLARATION MAY BE INTERPRETED AS IMPLYING FOR ANY STATE.

GROUP OR PERSON ANY RIGHT TO ENGAGE IN ANY ACTIVITY OR TO PERFORM ANY ACT AIMED AT THE DESTRUCTION OF ANY OF THE RIGHTS AND FREEDOMS SET FORTH HEREIN

The Cuban Regime is in direct violation of the Universal Declaration of Human Rights The Cuban Regime is in direct violation of the Universal Declaration of Human Rights.

#SOSCUBA



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#### Cuba We Hear You, We Are Listening

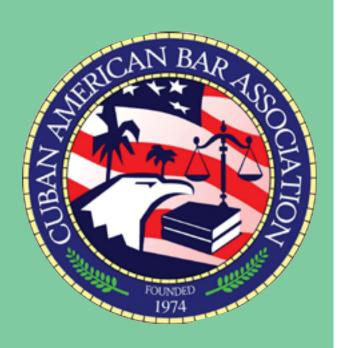
The Cuban American Bar Association (CABA) stands with the brave men and women of Cuba crying out for liberty. For more than six decades, the Cuban people have struggled against the bonds of a repressive government that denies them fundamental rights such as the right of free speech and assembly. In these historic days, Cubans across the island have sprung free of these bonds—at great peril—to exercise these rights and peacefully demand freedom and the rest of their basic human rights that should be inalignable.

As the world bears witness to their bravery, we must also acknowledge the costs of their sacrifice. In the last 24 hours, peaceful protestors have faced a brutal response from the Cuban government, which has stopped at nothing to stifle the dissert of the Cuban people, in direct violation of the Universal Declaration of Human Rights. The regime has attempted to strip Cubans of their ability to disseminate and receive information not sanctioned by the government, it has cut off access to impartial media outlets, it has caused electrical and telephone outages to deny Cubans access to the internet and to means of communication, and it has confiscated and destroyed cellphones of Cuban citizens so that their messages cannot escape the confines of the island.

The Cuban government has resorted to violence. Peaceful demonstrators have been beaten and killed in the streets by Cuban law enforcement and military actors. The government has fired into crowds of the demonstrators, killing and wounding those who cry for freedom and denied the injured the benefit of medical treatment. Unarmed Cuban citizens have been detained, arrested, beaten and killed merely for expressing their discontent in the public arena. And yet... the Cuban people persist.

Today CABA calls upon the United States of America and the international community to hold Cuba's repressive regime accountable for its actions. It has denied international humanitarian sid to its people, delayed medical treatment and care to its citizens in the midst of a pandemic, devalued its currency, and failed to provide its people with access to adequate life-sustaining nourishment. Most egregiously of all, the Cuban regime has met the peaceful demonstrations of its discontented people with beutal and unrelenting force—declaring war against its own citizens.





We are heartened by President Biden's recognition of the bravery of the Cuban people and their "clarion call" for freedom from the grip of a regime that has subjugated them for decades, denying them health, liberty, and safety. That is simply not enough; the call demands a response. Despite efforts to subdue them, the Cuban people have resolved to demand the same freedoms upon which our country was founded—what Samuel Adams called "our unalterable resolution to be free." The United States must answer the clarion call of the Cuban people with unequivocal support for their resolve to be free.

The world is watching Cuba. As an organization, CABA will continue to amplify the voices of the Cuban people, providing them with a platform to disseminate their calls for liberty, freedom, and international assistance. Those who stand for liberty should not and do not stand alone. We join the voices of our Cuban brothers and sisters demanding freedom.

Cuba, we hear you, we are listening, and we will amplify your voices in the hopes that the world will hear us and that those that profess to love liberty will come to your aid.

> A. Dax Bello, Esq. President Cuban American Bar Association

#### July 13, 2021

For days the world has heard the Cuban people's "clarion call for freedom and relief" as they took to the streets in peaceful demonstration against abusive government policies. So, now what can the world do to help?

#### Amplify The Voices Of The Cuban People

In order to shield the visibility of its brutal retaliatory tactics, the Cuban Regime has thwarted the ability of the Cuban people to share and receive information on the island. It is critical that the international community continues to share and amplify the voices of the Cuban people via social media, mainstream media outlets, and in international forums. We call upon domestic and international media agencies to join this effort immediately.

#### ISOSCUBA CABA

#### Connectivity Workarounds

The Cuban Regime has cut electricity, phone service, and internet access on the island. It is imperative that the international community assist in providing the means for the Cuban people to access, share and receive unfiltered information. We call upon the international tech community, democratic governments, and human rights organizations to find ways to reconnect the Cuban people to their global support system.

#### NSOSCUBA CABA

#### Humanitarian Relief

Contrary to the false claims of the Cuban Regime, humanitarian aid is generally exempted from U.S. sanctions. This aid includes most medicines and medical devices. However, during the current health pandemic, the Cuban Regime has 6 seized aid arriving at its ports. It has also warped the lagging development of its own vaccine into a misplaced show of force and irresponsibly neglected the largescale acquisition of effective vaccines against the COVID-19 virus for its people. #SOSCUB/

#### Humanitarian Relief

As a result of the Cuban Regime's crumbling physical infrastructure, lack of access to medical care, and its inadequate preparation, a mounting healthcare crisis is killing Cuban citizens. It is crucial that pressure be placed upon the Cuban Regime to accept humanitarian aid on behalf of its people. We call upon democratic governments and international agencies to take immediate action and to monitor the receipt and distribution of this aid directly to the Cuban people.

#### Monitoring Human Rights Violations

The Cuban Regime is unlawfully detaining citizens of all ages (including minors) with no formal charges pending, in direct contravention to all recognized notions of due process in international law. The Cuban Regime has sanctioned violence-led retaliation efforts against its citizens-participants of peaceful demonstrations. It is forcibly removing Cuban citizens of all ages from public streets and from their homes without informing their families of their intended relocation. It is paramount that documentation of the multitude of human rights abuses committed against the Cuban people by the Cuban Regime and its actors is undertaken.

#### #SOSCU

#### Monitoring Human Rights Violations

We call upon the international community, human rights commissions, democratic governments, and international agencies to continuously monitor and document these human rights abuses with the express intent of holding the Cuban Regime accountable for its actions.

CABA

#SOSCUBA

#### Solidarity

The Cuban Regime obligates its citizens to support its endeavors under threat of force, violence, and compulsion. Its practices thrive in an environment of fear of retribution that has existed for more than 6 decades. It is essential to note that in its desperation to regain control of a discontented populace, the Cuban Regime will continue to pit neighbor against neighbor, father against son, mother against daughter, and brother against sister.

#### Solidarity

We call upon members of the Cuban police, militia, military, and regime-sponsored neighborhood watch committees to put down their weapons—their guns, their batons, their wooden bats, their rocks, their radios, their telephones, their fears—and to join their neighbors, their fathers, their mothers, their brothers, and their sisters in the peaceful resolution of acute discontent, mistreatment, abuse, neglect and criminal action by the Cuban Regime against its citizens. Enough is enough.



#SOSCURA

#### July 18, 2021

An Open Letter Regarding the Deteriorating Humanitarian Situation in Cuba

We, the undersigned voluntary bar associations of the Florida Bar, are increasingly concerned about the deteriorating humanitarian situation in Cuba. As President Biden stated, the Cuban people—at great peril to themselves—are sounding a "clarion call for freedom and relief." The Cuban Regime has responded to this call by resorting to violence and systematically violating human rights. As a result, and as associations promoting the rule of law, we too respond to the call and ask that those freedom-loving individuals in positions of power do the same.

While the question of what can be done is daunting, after more than a half century of brutal dictatorship, the time to act is now. Below is what we ask of those seeking to support the Cuban people.

First, we must amplify the voices of the Cuban people. It is important that the clarion call be heard worldwide. Indeed, in order to shield the visibility of its brutal retaliatory tactics, the Cuban Regime has thwarted the ability of the Cuban people to share and receive information on the island. It is critical that the international community continues to share and amplify the voices of the Cuban people via social media, mainstream media outlets, and in international forums. We call upon domestic and international media agencies to join this effort immediately.

Second, we petition the international tech community, democratic governments, and human rights organizations to find ways to reconnect the Cuban people to their global support system. The Cuban Regime has cut electricity, phone service, and internet access on the island. It is imperative that the international community assist in providing the means for the Cuban people to access, share, and receive information that is not filtered through the repressive governmental apparatus.

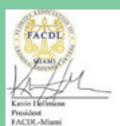
Third, we ask democratic governments and international agencies to take immediate action and send, distribute, and monitor the receipt and distribution of humanitarian aid directly to the Cuban people. To the extent possible, we ask that individuals make charitable contributions to those entities which take up this call. During the current health pandemic, the Cuban Regime has seized aid arriving at its ports. It has also warped the lagging development of its own vaccine into a misplaced show of force and irresponsibly neglected the large-scale acquisition of effective vaccines against the COVID-19 virus for the Cuban people. As a result of the Cuban Regime's crumbling physical infrastructure, lack of access to medical care, and its inadequate preparation, a mounting healthcare crisis is killing Cuban citizens. It is crucial that pressure be placed upon the Cuban Regime to accept humanitarian aid and provide it directly to the Cuban people under the watchful eye of appropriate Non-Governmental Organizations.

Fourth, we call upon the international community, human rights commissions, democratic governments, and international agencies to continuously monitor and document these human rights abuses with the express intent of holding the Cuban Regime accountable for its actions. The Cuban Regime is unlawfully detaining citizens of all ages (including minors) with no formal charges pending, in direct contravention to all recognized notions of due process in international law. The Cuban Regime has sanctioned violence-led retaliation efforts against its citizens - participants in peaceful demonstrations. It is forcibly removing Cuban citizens of all ages from public streets and

from their homes without informing their families of their status or intended relocation. It is paramount that documentation of the multitude of human rights abuses committed against the Cuban people by the Cuban Regime and its actors is undertaken.

Fifth, we entreat members of the Cuban Regime's police, militia, military, and regimesponsored neighborhood watch committees to put down their weapons-their guns, their batons, their wooden bats, their rocks, their radios, their telephones, their fears-and to join their neighbors, their fathers, their mothers, their brothers, and their sisters in the peaceful resolution of acute discontent, mistreatment, abuse, neglect and criminal action by the Cuban Regime against the Cuban people. The Cuban Regime obligates the Cuban people to support its endeavors under threat of force, violence, and compulsion. Its practices thrive in an environment of fear of retribution that has existed for more than 6 decades. It is essential to note that in its desperation to regain control of a discontented populace, the Cuban Regime will continue to pit neighbor against neighbor, father against son, mother against daughter, and brother against sister. It is imperative that people peacefully unite to bring an end to this hateful regime. Enough is enough.

As members of the Florida Bar, we owe much to the freedoms and opportunities that the United States has provided. As practitioners, we recognize the importance of, and value respect for, human rights and the rule of law. We cannot and should not turn a blind eye to what is happening so close to our shores-where these fundamental democratic ideals are in such short supply. We ask that action be taken consistent with what we have outlined above, and welcome further engagement from those who likewise hear this clarion call for freedom and relief.





Laura Sanchez President Hispanic Bar Assoc, of Central FL



Melanie Griffen

Melanie Griffin President.

Hillsborough Assoc. for Women Lawyers



Vivian Cortes Hodz President Florida Hispanic Bar Association



A. Dax Bello, Esq Prevident Cuban American Bar Association



Jamie Finizio Jamie Finizio President Broward County Bar Association



P.J. Mitchel Jr. President Coral Gables Bar Association



Sabrina Puglisi Miami Dade Bar Association



Brenda Gitchev Guerrero Dominican American Bar Association

Faorua Khan

Florida Muslim Bar Association

President



Kristin Drecktrah Paz President Miami Dade FAWI



Thomas Graham Secretary Russian American Bar Association



Kristen Palacio President. Broward County Hispanic Bar Assoc.



Cynthia Hernandes Cynthia Hemandez President Pinellas Latin Bar Association



Augusto Perera, Cog.

Augusto Perera, Esq. South Miami Kendall Bar Assoc.



Migdalia Perez Osceola County Bar Association



Licca Constantine Lizza Constantine President



Astrid Guardade Astrid Grandado President Palm Beach County Hispanic Bar Assoc. Tampa Hispanic Bar Association



Joshua J. Hests Joshua J. Hertz President Miami Lakes Bar Association

#### July 20, 2021

A. Dax Bello President

Frances G. De La Guardia Immediate Past President

> Miriam Soler Ramos President-Elect

> > Giselle Gutierrez Vice President

Javier A. Ley-Soto Vice President

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Nory Acosta-Lopez

Diana Arteaga

Candice Balmori Daniel Buigas

Yara Lorenzo Klukas

Jordi Martinez-Cid

Daniel Mendez

Augusto Perera

July 20, 2021

VIA USPS President Joseph R. Biden, Jr. The White House 1600 Permoylvania Avenue, N.W. Washington, D.C. 20500

With copy to: U.S. Department of State Bureau of Western Hernisphere Affairs Attr: Mr. Juan Sebastian Gonzalez 2201 C Street, NW Washington, D.C. 20520

U.S. Department of State Bureau of Western Hemisphere Affairs Attr. Ms. Emily Mendrala 2201 C Street, NW Washington, D.C. 20520

Dear President Biderc

We, the undersigned Cuban American Bar Association ("CABA"), a voluntary bar association of lassyers across the United States, write to you today with urgency in relation to the deteriorating human rights situation taking place in Cuba. We appeal to you, as President of the United States, to review this correspondence in your analysis of the events taking place in Cuba, and to take swift and meaningful action in relation herewith.

The recent uprisings in Cuba that began on July 11, 2021, present a historic opportunity to assist the Cuban people in their quest for freedom from the authoritarian regime that has oppressed and brought wide-spread misery to its citizens since 1959. As you well know, Cuba is a totalitarian state, where basic principles of rule of law, like self-determination, free and fair multiparty elections, freedom of speech, the right to freely associate, and the right to freely travel are lacking. Cuba is a failed state, whose leadership condemns the island's inhabitants to a dismal existence, where many of its citizens routinely go hungry and need basic medications and medical supplies. Naturally, such a failed system has only been able to stay in power for 62 years by implementing a police state that quickly and mercilessly suppresses any dissent. The Cuban regime engages in systemic human rights violations, which have been documented and denounced for decades by leading international human rights organizations. Moreover, it muzzles dissent by imposing absolute control over all forms of communications, both among Cuban citizens and with the outside world. In place of free expression, the Cuban regime consistently espouses the



false narrative that it enjoys near total support from the Cuban people. Over the course of the last week, the world has borne witness to this falsehood repeatedly, and via video recordings.

Last Sunday, July 11, 2021, the Cuban people spontaneously fomented a national movement of protest against their government, using technology (including WhatsApp and social media) to communicate with one another and with the international community. Knowing full well that the likely repercussions of openly manifesting disagreement with the Cuban regime would lead to repressive and punitive action, thousands of Cubans nonetheless joined the multi-city movement of peaceful demonstrators and, for the first time in over 60 years, were organized and mounted a coordinated peaceful protest that spread across Cuba from coast to coast within hours. The world watched as these brave men, women, and youth marched in the streets throughout Cuba and risked their lives to call for freedom and an end to their repressive government, as so many other nations have done.

You have rightly recognized that the Cuban people have put forth a "clarion call for freedom and relief from the tragic grip of the pandemic and the decades of repression and economic suffering to which they have been subject by Cuba's authoritarian regime." The Cuban regime likewise heard that call and responded with violence. The regime-sanctioned savage beatings of peaceful demonstrators and its subsequent arbitrary arrests of citizens of all ages (including youth) have been captured, recorded, broadcast, and shared repeatedly. Over the last week, the United States and the international community as a whole have finally seen Cuba's narrative through the eyes of its people. It is a jarring narrative indeed.

As President of the United States of America, we believe that you now have a historic opportunity to help the Cuban people rid themselves of their oppressive government. These have been turnultuous times, and you have told our allies in Europe that "America is back,]." What has perdured, however, is that the United States is seen as the best and sometimes last hope for democracy, freedom, and the rule of law. Consistent with these ideals, we ask that you seize this opportunity in statement and action. The Cuban people's clarion call demands a response that is not brutal repression. Time is of the essence and lives are at stake.

As members of the Cuban American Bar Association, and attorneys sworn in our own legal practices here in the United States of America to the rule of law, inclusive of freedom of expression, movement, association, and notions of due process and self-determination, our organization has been and will continue to be a fierce advocate of these basic tenets for the Cuban people. With that in mind, we urge you to take the following constructive and strategic measures to provide crucial support to the cause of freedom in Cuba:

Empower and support the Cuban people by restoring internet access. First and foremost, we urge you to use any and all available technical means to counter efforts by the Cuban dictatorship to shut down or limit internet access in Cuba. As noted above, the island-wide demonstrations in Cuba were possible only because of the relative ease with which Cubans were able to rapidly communicate and coordinate peaceful demonstrations against the regime. The vital importance of this tool to the Cuban people is evident in the speed with which the Cuban government has shut down and limited internet access in Cuba.



COVID vaccines and food and medical supplies. Additionally, we urge you to follow through with your commitment announced last week for the United States to alleviate the suffering of the Cuban people by immediately sending COVID vaccines and humanitarian aid, including food and medical supplies, to Cuba—provided that the United States can be assured that recognized international organizations will distribute the same directly to the Cuban people, without interference from the Cuban regime. In the event that the Cuban regime refuses such aid, it is critical for the United States to let the world (and the Cuban people) know that the regime has once again placed it historical animosity of the United States over the welfare of its own people.

Support for Cuban dissidents. We urge you to increase all forms of support for Cuban dissidents who are risking their lives to fight the communist regime in Cuba. Today's dissidents are not only political dissidents, but they are also artists, musicians, and writers, who have helped maintain a culture of self-expression and self-determination in Cuba, and whose music lyric, "Patria y Vida" (Homeland and Life), has been a rallying cry at the national protests. As further stated below, the Cuban exile community is a resource at your disposal for more information on the work that individual dissidents and their groups have and continue to undertake on the island.

Meet with and address Cuban exiles in Miami. We urge you to come to Miami and meet with Cuban exiles to learn first-hand of the plight of the Cuban community. Several organizations are keeping track of those peaceful demonstrators who have been disappeared, detained, or otherwise forcibly removed by the Cuban regime and held without charges. We believe that it is vital that you take into account the will of the Cuban people. The exile community within the United States provides a strong link to our Cuban counterparts for you to do so. We also urge you to address the Cuban exile community and, by extension, the Cuban people on the island. Directly communicating your commitment to helping the Cuban people reestablish freedom in Cuba is paramount to supporting their sustained effort. As the international community works to amplify the voices of the Cuban people, no singular voice could amplify their calls for freedom louder or more rescunding than yours.

International diplomacy. As the leader of the free world, the United States has extensive influence around the globe. We ask that you press our allies in Europe, Latin America, and around the world to work together towards the establishment of a free Cuba. Many of these allies have close relationships with the Cuban government and can be of critical assistance in reaching out to Cuban officials and/or members of the military that recognize the need for and are open to a change of government in Cuba. This will, of course, need to be a sustained effort and it must be made clear to our allies that this is and, most importantly, will remain a top priority of your administration.

Accountability. We urge the United States to work with international actors and organizations to hold the Cuban regime accountable for its actions. Apart from inciting, sanctioning, and rewarding violence against Cuba's thousands of peaceful demonstrators, the Cuban regime is also arbitrarily detaining its citizens (including minor children) without formal pending charges, in direct contravertion to all recognized forms of due process in international law. The Cuban regime is foecibly removing citizens of all ages from their homes and public streets without informing their families or next of kin of their intended relocation. It is requiring counter-demonstration efforts under penalty of loss of livelihood, economic benefit, and/or





imprisonment. These efforts, and so many others, are in direct contravention to international law. Documenting and holding the Cuban regime accountable for their actions is paramount to supporting the Cuban people's cause for freedom.

Transitional Law for the Republic of Cuba. It is important that the Cuban people know that their right to self-determination and freedom will ultimately be their own; the assistance and support of the United States and its Cuban exile community should and will empower the Cuban people's right to govern themselves through free and fair multiparty elections.

As part of its efforts to help reestablish the rule of law in Cuba, CABA worked several years ago with other groups of exiled Cuban lawyers and dissident lawyers in Cuba to prepare a draft Transitional Law for the Republic of Cuba ("Transitional Law"). The Transitional Law was developed after studying other transitional laws used to guide a society transitioning from dictatorship to democracy and adapting those principles to Cuba's legal system and circumstances. It provides for the protection of basic freedoms during the period of transition, seeks to promote stability and prevents chaos, and contains a roadmap for conducting a census, establishing political parties, conducting a free and fair election, and subsequently holding a constitutional convention.

The Transitional Law was collaboratively and cooperatively developed for Cubans by Cubans, both in exile and in Cuba, as part of an ongoing exchange with dissident Cuban lawyers. The purpose of the Transitional Law is not to impose upon the people of Cuba, rather it is a tool at their disposal, to use in its entirety or in part, as they transition from a dictatorship to a democracy. Enclosed is a copy of the draft Transitional Law in its original Spanish language form, along with an English translation for your review. We would appreciate any opportunity to speak further with your administration or the international community with reference to this Transitional Law, so that it can be widely shared as a basis for the Cuban people to build upon.

There is a viable path for the Cuban people towards freedom, self-determination, free and fair multiparty elections and due process, but there is only so much that Cuba's citizens can do under the heavy hand of their armed and repressive regime. Their efforts over the last week have been exceptional. The United States and the international community must come together to support those efforts.

We look forward to the opportunity to discuss the substance of this letter soon.

DV

A. Dax Bollo, Esq. President

Cuban American Bar Association

ADB:vs

Enclosures as stated

CARA

Senator Robert Menendez Senator Marco Rubio Congressman Carlos Gimenez Congressmorman Maria Elvira Salazar Congressman Mario Diaz-Balart Juan Sebastian Gonzalez Emily Mendrala Manuel Diaz,

#### July 22, 2021

CABA's Co-Vice President, Giselle Gutierrez, spoke at today's City of Miami's Commission Meeting on behalf of CABA in support of resolution 9366, which urges president Biden to take any and all actions necessary to assist the Cuban people in their call for freedom. CABA thanks the commissioners for unanimously passing this important resolution.



### "I stand with the Cuban Feople"

Politicians, celebrities and community leaders united in solidarity with the Cuban people in the wake of the July 11, 2021 demonstrations, which took the island of Cuba by storm.























































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### CABA Files Petition on Behalf of Detained Cubans



#### CUBAN AMERICAN BAR ASSOCIATION

1825 Ponce de León Boulevard, #399, Coral Gables, FL 33134 info@cabaonline.com | www.cabaonline.com | (305) 857-7229

#### Navember 17, 2021

Cuban American Bar Association Files Petition on Behalf of Detained Cubans in the Inter-American Commission on Human Rights

Dear CABA Members,

The Cuban American Bar Association (CABA) filed a petition today with the Inter-American Commission on Human Rights (IACHR) on behalf of 41 Cuban activists, artists, dissidents, and citizens who have been arbitrarily detained and/or unjustly imprisoned since the peaceful demonstrations for freedom and democracy took the island by storm on July 11, 2021. The IACHR is an autonomous arm of the Organization of American States (OAS) headquartered in Washington, D.C., and examines allegations of human rights violations in the Americas. The filing came on the heels of the much-anticipated demonstrations planned for November 15, 2021, which was planned by the Cuban people in response to the Cuban regime's brutal reaction to the historic July 11<sup>th</sup> demonstrations, and to bring attention to Cuban citizens that have been unjustly detained or imprisoned as a result.

Among those represented by CABA in the pending petition are prominent members of Cuban human rights and pro-democracy organizations, including Luis Manuel Otero Alcantara, Jose Daniel Ferrer Garcia, and Daniel Roel Cardenas Diaz. Since July 11, 2021, attorneys and members of the CABA on Cuba Committee, including CABA directors and members. A. Dux Bello, Aldo Leiva, Gladys Perez Villamueva, Eduardo Palmer, Daniel Bulgas, Candice Balmoni, Diana Arreaga and Antonio Castro, worked with a dedicated team of volunteers and Omar Lopez Montenegro, Human Rights Director of the Cuban American National Foundation, as well as members of the Cuba Decide organization to compile information from communications authored by dissidents themselves, family members, or other activist dissident interviews, and other sources to identify and document human rights violations by the Cuban regime against its own people.

CABA's advocacy for Cuba's freedom and the rule of law dates to its founding in 1974. In 2003 CABA successfully filed a petition (Petition 771.03) with the IACHR on behalf of 75 Cubans following the Cuban regime's attack on dissidents in March of 2003. IACHR, Oscar Elias Biscet, et. al. v. Cuba, Case No. 12.476. Following hearings which included testimony of witnesses before the Commissioners, the IACHR concluded that the Cuban regime was guilty of violating various Articles of the American Declaration which enumerate the most basic human rights. The IACHR recommended that the Cuban regime: (I) Immediately and unconditionally release the victims; (2) Overturn the victims' convictions The IACHR recommended that the Cuban regime: (1) (3) Adopt measures necessary to adapt its laws, procedures and practices to conform with mational human rights laws; (4) Redress the victims and their next of kin for the pecuniary and non-pecuniary damages they suffered as a result of the violations of the human rights afforded by the American Declaration; and (5) Adopt measures necessary to prevent a recurrence of similar acts. Cuba has yet to comply with its international hur obligations and CABA will continue to monitor the developments on the island of Cuba and advocate on behalf of the Cuban citizens.

(Viva Cuba Libre!



A. Dax Bello President, Cuban American Bar Association

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Frances G. De La Guardia Immediate Past President

> Miriam Soler Ramos President-Elect

> > Giselle Gutierrez Vice President

Javier A. Ley-Soto Vice President

Amanda Fernandez Treasurer

> Haydee Sera Secretary

> > Directors

Nory Acosta-Lopez

Diana Arteaga

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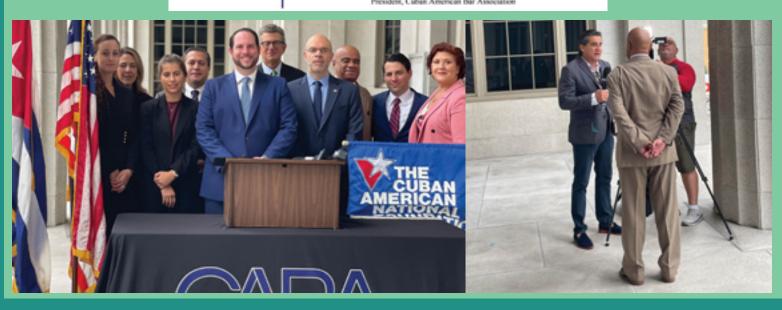
Daniel Buigas

Yara Lorenzo Klukas

Jordi Martinez-Cid

Daniel Mendez

Augusto Perera



# Cuba's July 11th Protests and the Road to *¡Libertad!*

By Daniel I. Pedreira



The protests that erupted throughout Cuba on July 11<sup>th</sup> caught the world by surprise. For the first time in 62 years, large, spontaneous, and simultaneous protests took place throughout Cuba with one overarching message: *¡Libertad!* The word itself has different meanings in the Cuban context that amalgamated on July 11<sup>th</sup> to form a perfect storm.

While the events of July 11<sup>th</sup> were different in their apparent spontaneity and national scope, they were not the first protests that took place within the past year. In November, artists protested an increase in the limits of freedom of expression in Cuba. These limits on freedom of expression occurred

under, but were not limited to, the framework of Decree-Law 370 of 2018 and Decree-Law 349 of 2019, through which the Cuban dictatorship increased its repression against all intellectual freedom. Most prominent among those organizations protesting was the San Isidro Movement, whose members, including leader Luis Manuel Otero Alcántara, were violently beaten and detained. A peaceful sit-in by Cuban artists in front of the Cuban Ministry of Culture in November 2020 raised the protester's hopes of establishing a dialogue with the Cuban government's cultural authorities; promises that were broken a few days later.

Calls for *¡Libertad!* also extend to Cuba's state-run economy. In January, Cuba devalued its hard-currency convertible peso (CUP), used mostly by tourists and foreign firms. This change in economic policy has caused inflation to skyrocket and has further deepened Cuba's economic crisis. In addition, Cuba's economy was hit hard by the effects of the Covid-19 pandemic and the resulting reduction in travel to and from the island.

The Covid-19 pandemic also put pressure on the already-weak state of freedom of expression in Cuba. According to Johns Hopkins University, as of October 31st there were 951,325 confirmed Covid-19 cases reported in Cuba. It is

important to note that the figures reported by the Cuban government are unreliable, and underreporting is common. Covid-19 has been used as a new, additional excuse to repress freedoms, including freedom of expression and assembly. In late November 2020, Cuban authorities violently broke up a hunger strike held by members of the San Isidro Movement at the organization's headquarters. According to the Cuban government, the hunger strike was broken up to prevent the spread of Covid-19. However, Cuba continues to face serious public health and hygiene issues that, along with pervasive lines to purchase food and other items, are not addressed as more significant contributing factors in spreading Covid-19 in Cuba.

The pandemic is also used to prevent sympathizers and supporters of those denouncing human rights situation in Cuba from visiting or meeting with the protestors. During Luis Manuel Otero Alcántara's hunger strike early this year, supporters tried to visit his home to show solidarity for his cause. Cuban police blocked off a large perimeter around his house and neighboring streets, alleging that there was a significant number of Covid-19 cases in that area.

Cuba's recent leadership changes also contributed to setting the stage for the events of July 11<sup>th</sup> to unfold. On April 19<sup>th</sup> of this year, Raúl Castro retired from public office by stepping down from his post as First Secretary of Cuba's Communist Party. Miguel Díaz-Canel Bermudez, appointed president in 2019, also replaced Castro as Party Chief. Díaz-Canel's accession to power represents a generational shift in Cuban politics that has demonstrated to have profound

consequences. For the first time in 62 years, a Cuban leader does not bear the last name "Castro" and is not shrouded by the myth of the Sierra Maestra and the revolutionaries that came to power in 1959. This lack of respect and fear is best embodied in the derogatory (and unprintable) term that many Cubans use to publicly describe Díaz-Canel. A similar description of the Castros in public would have been unthinkable for most Cubans.

In spite of Díaz-Canel's affirmations of "continuity" with the ideals of the Cuban revolution, he has faced significant challenges from growing sectors of Cuban society. While Díaz-Canel's government has doubleddown on its repressive tactics, it has not been able to instill or maintain the same level of fear that the Castro brothers commanded during their dictatorship. It is worth noting that the fallout of the July 11th protests demonstrated Raúl Castro's current role in the Cuban government when he participated in a meeting between Díaz-Canel and high-ranking Communist Cuban government officials.

Clearly, access to the Internet has been a gamechanger for Cuba's anti-government opposition. The nation-wide protests of July 11th would have not taken place were it not for the Cuban people's growing access to the Internet, particularly to its social media platforms like Facebook, Twitter, and WhatsApp. The events of July 11th demonstrated a weakness in the Cuban dictatorship's "Big Brother" approach to governance. Allowing protests to slip under its security radar has put the dictatorship in a defensive position, from which it has chosen to double down on its repression. Over 600 protesters were detained following the July

protests, many of which have been summarily tried and sentenced to prison terms. In August, the Cuban dictatorship approved Decree-Law 35, which introduces tighter controls on social media. It is likely that this new law will lead to an increase in political detentions, as the Cuban dictatorship's definition of "cybercrimes" is subjective and Orwellian

As many Cubans called for antigovernment protests on November 15<sup>th</sup>, it is clear that demonstrations Cuba's against communist dictatorship will become more frequent. At the same time, it is difficult to gauge the long-term effects that these protests will have on Cuba's political system. Yet their role in breaking the Cuban dictatorship's repressive control brings Cubans a few steps closer to their much-desired Libertad. As recent events demonstrate, *Libertad* embodies the Cuban people's desires for basic freedoms that will allow them to take stock in their country's progress in multiple spheres.



**Daniel I. Pedreira** s a PhD candidate in political science at Florida International University's Steven J. Green School of International and Public Affairs.

# The Embargo Against Cuba: Past, Present, and Future

By Kristen L. Palacio

For many, Cuba is a distant memory filled with images of tropical landscapes, white sandy beaches, and streets lined with 1950s Cadillacs. They hold on to those memories, knowing that the country no longer resembles the home they knew. On January 7, 1959, Fidel Castro and his "guerrilla fighters" took over Cuba. The Castro regime then nationalized American-owned property. Castro's institution of Communist ideals and seizure of property owned by Americans, triggered the U.S. to sever ties with Cuba. In February 1962, President John F. Kennedy declared an embargo on trade between the U.S. and Cuba.1

As grounds for the embargo, President Kennedy stated concerns that Cuba was incompatible with the principles and objectives of the Inter-American system.2 The purpose of the embargo was to promote national security by isolating the Cuban government, which in turn would reduce the threat posed by the government's alignment with the Communist party. The effect of the embargo was a prohibition of all importation of goods from or through Cuba and exports of goods from the U.S. to Cuba.

The embargo—a hotly contested topic—is still in place today. Cuban politicians blame the economic, commercial, and financial embargo for the severe oppression throughout the country. While it is easy to use the U.S. embargo as a scapegoat, Cuba's troubles are a consequence of their own dictatorship and failures. The

embargo does not bar Cuba from trading with other countries. In fact, there are plenty of exceptions to the embargo—intended to benefit the Cuban people, individually, and not the government. Exceptions include gifts, donations of food, donation or sale of medicines, telecommunication items, services related to developing the Cuban infrastructure and more.<sup>3</sup>

Ironically, while the U.S. is criticized as causing the Cuban people's suffering, it is simultaneously condemned for offering refuge on an apparent preferential system. For decades, the U.S. allowed Cubans to remain in the U.S. based on the "wet foot, dry foot" policy, which was revoked in 2017. The U.S. allows Cubans to obtain permanent residency after one year, through the Cuban Adjustment Act of 1966. Since 1959, the commencement of Castro's regime, more than 270,000 Cubans have arrived in the U.S. 4

With the recent uprising by the Cuban people proclaiming concerns over the lack of leadership with COVID-19 and fighting to take back their freedom, debates over the embargo have resurfaced. Do we maintain or lift the embargo? There are valid arguments on both sides.

Will maintaining the embargo ultimately destroy the Cuban communist regime? Both the regime and embargo have been ongoing for five decades. If the embargo is lifted, how can we be certain that the Cuban people are receiving the goods and that they are not

seized, monopolized, or used for the government's own enrichment? Only time will tell, but in the interim we must support the Cuban people as best we can.

- <sup>1</sup> *Cuba Sanctions*, https://www.state.gov/cuba-sanctions/ (last visited September 5, 2021).
- <sup>2</sup> 22 U.S.C. § 2369 (1962), https://www.govinfo.gov/content/pkg/STATUTE-76/pdf/STATUTE-76-Pg1446.pdf (last visited September 5.2021).
- <sup>3</sup> Bureau of Economic and Business Affairs, *Fact Sheet: Provision of Humanitarian Assistance to Cuba*, July 23, 2021, https://www.state.gov/fact-sheet-provision-of-humanitarian-assistance-to-cuba/
- <sup>4</sup> U.S.-Cuba Relations 1959-2021, https://www.cfr.org/timeline/uscuba-relations (last visited September 5, 2021).



Kristen L. Palacio is an attorney at Kim Vaughan Lerner LLP, a minority-owned law firm, and focuses her practice on litigating and resolving complex commercial, tort, and insurance disputes. Kristen is President of the Broward County Hispanic Bar Association and a member of the CABA Brief's Committee and Florida Bar Diversity and Inclusion Committee.

### CABA's Continuing Legal Education Programming



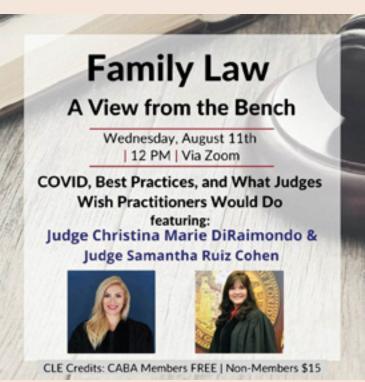


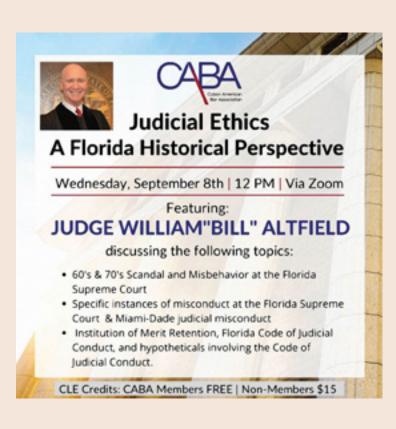


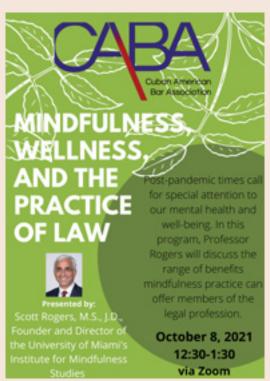


### CABA's Continuing Legal Education Programming









### CABA's Continuing Legal Education Programming





On June 10, 2021, Cuban Patriot, Lawyer, and Professor Emeritus Dr. Eduardo Zayas-Bazan provided his first-hand account of his involvement in the Bay of Pigs Invasion, and why it is important to fight for democracy and the rule of law.

### "Recollections of 'la jueza cubanaamericana pionera', as recalled by her son."

By Judge Michael C. Baggé-Hernández



"Decomiso." "What?" I thought. At seventeen, I had never heard this word. I wasn't focused on the word's context as my mother discussed training programs for judges and prosecutors with Venezuela's pre-Chavez Attorney General. I was dressed in shorts and a polo shirt for this unexpected parlay. While my seventeen-year-old self felt self-conscious, my mother said not to worry.

Our story didn't start in our hometown of Tampa, Florida, but as that of many other "Tampeños," in Cuba. Because of Cuba's political situation, my family fled to Tampa. Like so many others, my family lost everything in Cuba, including one cousin who died in a Cuban prison for speaking out against the regime.

My mother's upbringing in Tampa mirrors that of many children of exiled Cubansdevoted to family and to helping one another. She translated for her Spanish-speaking mother and others, a task that fell to me as I got older. Guaranteeing that our family maintained the culture "de nuestra isla," my grandmother regularly gathered with many "doñas" for canasta games and roasted a lechon all day for Noche Buena and other special events. My family regularly attended social gatherings at El Club Civico Cubano de Tampa. As members of El Club 15, founded by Cuban women in Tampa to help newly arrived refugees from Cuba, my mother

refugees from Cuba, my mother and grandmother helped others settle in. Our modest family house became the starting point of life in the United States for many relatives as they came seeking freedom. Perhaps the most memorable guests were eight Dominican nuns who stayed at my mother's home for months after fleeing Cuba, until they could find space in a regular convent.

My mother credits my grandmother with instilling in her a strong work ethic. A Cuban mother can

be a great motivator for success. As the first female chief at the U.S. Attorney's Office for the Middle District of Florida, my mother became an expert in asset forfeiture and travelled thoroughout the world teaching the subject. Working with prosecutors and judges in Latin America, my mother played an instrumental role in many educational programs as Latin American countries transitioned to the accusatorial system. With her appointment to the Second District Court of Appeal, my mother become the first Cuban American woman appointed to any appellate court in the State of Florida, and she became the first Hispanic female United States District Court Judge in the Middle District of Florida.

My mother continues teaching and working with judges throughout the world. Right before her Florida Women's Hall of Fame 2021 induction ceremony, she spent a week working, primarily with women judges, in the Republic of Georgia.

Twenty-five years after that meeting in Venezuela, I still remember sitting there in my shorts as my mother spoke. Today, when I present training programs on behalf of the United States, I make sure I bring long pants. "What does 'decomiso' mean?" I asked my mom after the meeting. "Asset forfeiture," she responded. Knowing her, I should have guessed.

#### **BITCOIN FOR CUBA**

# Cuba: A Country Primed for Bitcoin Adoption.

By William Mueller and W. Aaron Daniel

Cuba's economy is imploding due to a pandemic-induced halt on tourism and a precipitous drop in remittances from abroad (both of which were papering over the dysfunction inherent in Cuba's centrally-planned economy). Now, "many Cubans are looking for a way to both receive money from abroad and preserve the value of their savings," observes Boaz Sobrado, an entrepreneur and activist with experience doing business in Cuba.<sup>1</sup>

Because Bitcoin elegantly solves these two problems, Cubans are increasingly using it as a lifeline. Increased adoption on the island could serve as a bulwark against the Cuban authoritarian regime's financial tyranny — and perhaps even sow the seeds of future freedom.

#### Why Bitcoin?

"Bitcoin is a peer to peer electronic cash, a new form of digital money that:

- can be transferred between people or computers without any trusted middleman (such as a bank), and
- 2. whose issuance is not under the control of any single party."<sup>2</sup>

As explained below, these two properties make Bitcoin a uniquely effective solution to Cuba's economic woes.

Digital Transfers Without an Intermediary.

Instead of funneling transactions through an intermediary, like Visa or Mastercard, that keeps a centralized ledger of debits and credits, Bitcoin uses a *decentralized* ledger that timestamps each transaction in the proper order (the blockchain). Bitcoin's decentralized ledger is maintained by thousands of computers connected in a global network, each running the Bitcoin protocol software that synchronizes all copies of the ledger.

But what's wrong with Visa or Mastercard? We trust intermediaries with our money every day.

Cuba, unfortunately, is a cautionary tale. For starters, most payment networks or processors are simply not available to Cubans due to sanctions placed upon the regime. Until 2020, almost \$3.5 billion was remitted to Cuba each year, much of that through Western Union.<sup>3</sup> But Western Union ceased operations on the island after a new round of sanctions from the United States government, painfully demonstrating how intermediaries are subject to evershifting geopolitics.

In addition to making everyday goods difficult to come by, sanctions and regime-imposed restrictions prevent "Cubans from doing the things we take for granted online,"

says Sobrado. "They have no way to pay for Netflix subscriptions or website hosting or a VPN (to avoid censorship), unless they use Bitcoin."

With centralized intermediaries closed, some Cubans are now using Bitcoin for remittances. A Cubanbased startup called BitRemesas is facilitating transfers to Cuba through the bitcoin network.<sup>4</sup> Someone in Miami can buy bitcoins and send them to friends and family on the island, who then sell them for Cuban pesos to buy goods, or use them for online services.

That brings us to another, more fundamental, reason Cubans stand to benefit from using Bitcoin's decentralized network: Bitcoin's decentralization allows Cubans to transact outside the permission of the regime.

"[P]ayment through intermediaries leaves the parties vulnerable to surveillance and bans by political authorities."5 In contrast to the United States, where our trust in institutions is grounded in the rule of law, strong property rights, democracy, and (relatively) free markets, in Cuba such freedoms are wholly protections absent. Political favorites receive preferential treatment in Cuba's financial system, including better exchange rates for foreign currency and cheaper services.6 In contrast, the politically disfavored are subjected to predatory exchange

rates and live at risk of total financial exclusion. Bitcoin fixes this.

Set Monetary Policy Beyond the Control of a Single Party.

Bitcoin's decentralization also makes its issuance rate practically immutable, thus eliminating the risk of inflation. Unlike fiat currencies (the U.S. dollar, euros, pesos, etc.), which are issued by central banks on a variable schedule at the whim of government bureaucrats often with very little notice, Bitcoin's code sets the issuance rate of new bitcoins and caps the overall supply at 21 million.<sup>7</sup> Thus, because no central authority can produce more bitcoins at will, Bitcoin is immune to the inflationary debasement to which fiat currencies are prone.

Consider Cuba's inflation rate, which is estimated to reach 500% by the year's end.8 This inflation is largely a result of the regime's dual-currency system. Cuba's official currency is the peso, the CUP, which the regime issues to pay government employees (the majority of the population) and cover other obligations.9 The peso can purchase basic, low-quality goods and services (which are often rationed), but not much else.10 For "luxury" items, including quality foods, medicine, appliances, and other essentials, Cubans must use moneda libremente convertible, or MLC, which can only be purchased with hard foreign currency remitted from abroad — not the peso.11

This dual-currency scheme allows the regime to print pesos to cover its liabilities, while stockpiling hard foreign currency assets it seizes from its people through the MLC exchange. The regime is enriched, while its citizens are driven further into poverty through inflation.

Bitcoin offers Cubans an exit from this predatory monetary policy. By accepting remittances in Bitcoin, rather than foreign currency or MLC, Cubans are denying the regime the hard assets that support it. And Cubans are increasingly choosing to opt out of the peso/MLC system altogether by living on Bitcoin. Though services such as Bitrefill.com, Cubans can buy gift cards for goods and services directly with Bitcoin, including minutes for the popular cell phone service, Cubacel.<sup>12</sup>

Conclusion: Hope for the Future.

Unlike other hard currencies or assets, *Bitcoin is unseizable*. Cubans who hold this emerging store of value stand to gain increased financial sovereignty by accumulating their wealth outside the reach of the current regime. In turn, that permissionless, private, and unseizable wealth can be used as "a tool that allows one to contribute to advocacy groups that have powerful political enemies," such as Archipielago or the San Isidro movement, and "that dissidents can use to resist authoritarian states." 13

Which is all to say, Bitcoin provides hope for a free Cuba. 14

- <sup>1</sup> Boaz Sobrado, *Why Cuba Is Primed for Bitcoin Adoption*, Decrypt. co (Dec. 4, 2020), https://decrypt.co/50491/cuba-bitcoin-adoption.
- <sup>2</sup> YAN PRITZKER, INVENTING BITCOIN: THE TECHNOLOGY BEHIND THE FIRST TRULY SCARCE AND DECENTRALIZED MONEY EXPLAINED 1 (2019).
- <sup>3</sup> Hank Tester, With Western Union Offices Closed, Cubans Find Informal Ways to Get Cash to Relatives on the Island, CBS MIAMI (Nov. 25, 2020), https://miami.cbslocal.com/2020/11/25/with-western-union-offices-closed-cubans-find-informal-ways-to-get-cash-to-relatives-on-the-island/;
- <sup>4</sup> Andreas Knobloch, *Cuba's Digital Startups Sidestep US Remittances Blockade*, DW.COM (Dec. 12, 2020), https://www.dw.com/en/cubas-digital-startups-sidestep-us-remittances-blockade/a-55793931.
- <sup>5</sup> Saifedean Ammous, The Bitcoin Standard 170 (2018).
- <sup>6</sup> Boaz Sobrado, *A Day Using Money in Cuba*, BoazSobrado.com (May 22, 2020), http://boazsobrado.com/blog/2020/05/22/a-day-using-money-in-cuba/.

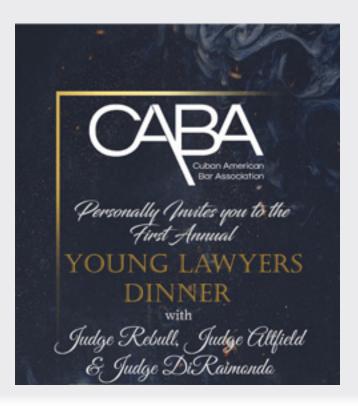
- <sup>7</sup> Pritzker, *supra*, at 8.
- <sup>8</sup> Nic Carter & Ross Stevens, Bitcoin Net Zero 8 (Sept. 2021), https:// nydig.com/research/report-bitcoinnet-zero.
- <sup>9</sup> See Sobrado, A Day Using Money in Cuba, supra. See also Alex Gladstein, Inside Cuba's Bitcoin Revolution, Bitcoin Magazine (Aug. 11, 2021), https://bitcoinmagazine.com/ culture/cubas-bitcoin-revolution.
- <sup>10</sup> Id.
- 11 Gladstein, supra.
- 12 Gladsten, supra.
- 13 See, e.g., Jerry Brito, The Case FOR ELECTRONIC CASH: Why PRIVATE PEER-TO-PEER PAYMENTS ARE ESSENTIAL TO AN OPEN SOCIETY 22 (Feb. 2019), https://www.coincenter.org/app/uploads/2020/05/the-case-for-electronic-cash-coin-center.pdf.
- <sup>14</sup> For more information on Bitcoin, see BITCOIN Is HOPE, https://www.hope.com (last visited Nov. 3, 2021).



Appellate attorney **William D. Mueller** of Kula & Associates, P.A., works collaboratively with great trial lawyers to provide appellate services and trial strategy consultation. Visit the Firm's website at www.KulaLegal.com.

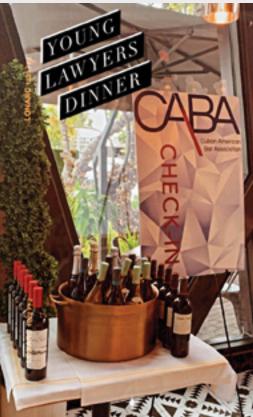


Appellate attorney **W. Aaron Daniel** of Kula & Associates, P.A., works collaboratively with great trial lawyers to provide appellate services and trial strategy consultation. Visit the Firm's website at www.KulaLegal.com.



On July 1, 2021, CABA hosted the Young Lawyers Dinner at Mi'Talia Kitchen + Bar with esteemed members of the Eleventh Judicial Circuit of Florida, Judges Altfield and Rebull in the Circuit Criminal Division and Judge DiRaimodo in the Circuit Family Division. The goal of the event was to promote extended conversations with local judges. The successful event was made possible by a grant awarded to CABA at the 2021 Florida Bar Young Lawyers Division Affiliate Outreach Conference.



























Frances De La Guardia



State Attorney Katherine Fernandez Rundle



Judge Bertlia Soto



A Dax Bello



Lynn Carrillo



Aida Rodriguez

On August 26, 2021, Frances De La Guardia, president of the CABA Foundation, hosted the CABA Foundation Scholarships Awards Reception. Over \$35,000 in scholarships were awarded to selected law school students. The student recipients, representing a variety of Florida and out of state law schools, were presented their scholarships by notable guest speakers.

Lynn Carrillo presented the Honorable Judge Margarita Esquiroz Scholarship to Daimaris Garcia from Colombia Law School.

The Honorable State Attorney Kathy Fernandez Rundle presented the CABA Juez Carlos "Benito" Fernandez Scholarship to Danielys Cardoso Cervantes from St. Thomas University College of Law.

The Honorable Judge Bertlia Soto of the 11th Judicial Circuit Court of Miami-Dade County presented the Osvaldo Soto Scholarship in memory of her father to Casey Amaya from St. Thomas University College of Law.

This year, CABA offered sponsored scholarships as part of its "outside of the box" REGALA fundraising efforts. CABA's President, Dax Bello, presented two of those scholarships. One was awarded to Amalia Castro, of St. Thomas University College of Law, on behalf of the Bello Family; and another to Carlos Larrauri, of University of Michigan Law School, presented on behalf of the Carro Family, Dax's in-laws.

Aida Rodriguez presented the Ascension Global Staffing & Executive Search Scholarship to Gilbert Orbea from Yale Law School.

Two of the at-large scholarships were presented by Assistant Dean Georgina Angones to University of Miami School of Law students Jessica Nunez Munoz and Chelsea Olivera.

The other at-large scholarships were presented by Miriam Ramos and Frances De La Guardia to Anthony Cruz from New York University School of Law, Isabella Dominguez from University of California Berkley School of Law, and Alejandra Gancedo from Florida State University College of Law.

# Congratulations! 2021 CABA FOUNDATION SCHOLARSHIP RECIPIENTS



Daimiris Garcia JUDGE MARGARITA ESQUIROZ SCHOLARSHIP



Casey Amaya OSVALDO SOTO **SCHOLARSHIP** 



**Danielys Cardoso Cervantes** JUEZ CARLOS "BENITO" FERNANDEZ SCHOLARSHIP



Amalia Castro **BELLO FAMILY SCHOLARSHIP** 



Gilbert Orbea ASCENSION GLOBAL STAFFING & EXECUTIVE SEARCH SCHOLARSHIP



Carlos Larrauri **CARRO FAMILY SCHOLARSHIP** 



Jessica Nunez Munoz AT LARGE **SCHOLARSHIP** 



Isabella Dominquez AT LARGE **SCHOLARSHIP** 



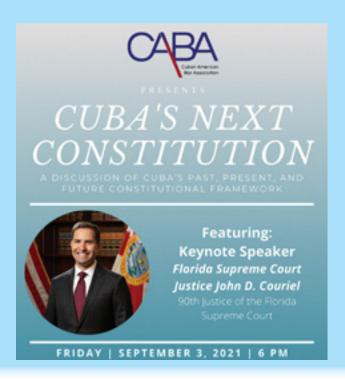
**Anthony Cruz** AT LARGE **SCHOLARSHIP** 



Alejandra Gancedo AT LARGE **SCHOLARSHIP** 



Chelsea Olivera AT LARGE **SCHOLARSHIP** 



## Honorable Justice Couriel's Keynote Adress: Cuba's Next Constitution.



On July 4, 1776, the Marquis de Lafayette was eighteen years old. So was James Monroe. Aaron Burr and John Marshall were twenty. Alexander Hamilton was twenty-one, so far the only one on the list old enough to have a mojito with us here tonight. Gouverneur Morris, who wrote the magical first fifty-two words of our Constitution, was twenty-four. James Madison was twenty-five. John Paul Jones, twenty-eight, would soon command the *Bonhomme Richard*, and would say upon his defeat of the HMS Serapis in the North

Sea, "I have not yet begun to fight," which sounds about right for a man of his age. John Jay was thirty. Thomas Jefferson was perhaps more complicated then, at thirty-three, than other future presidents combined. Paul Revere made his midnight ride at the ripe old age of 40. And George Washington, the most consequential American, whom I have a hard time seeing as other than silvery and distinguished, was forty-four that stifling summer. By the time they gathered in Philadelphia to shape our government twelve years later, braced but not lessened by the revolution they had led, they, and their country, were still young.

These people came to mind 245 Julys later this summer, one as hot with potential as Cuba has seen in my lifetime. What impressed me most about the people I saw on the streets of Havana on July 11, after their bravery, was their youth. It struck me that I was witnessing an act of mass optimism. It was a refusal to let past forever be prologue, though the repression they met, as they have met for sixty years, they could of course have foreseen. This was a very young thing they were doing, and it gave me hope.

Tonight, I'd like to ask you to consider that the people we saw on the streets of Havana this summer are a constitutional generation. During their lifetime, they will choose the kind of place Cuba will be. They, the people, will have a say in what kind of government they will have, what it will and will not have the power to do, and, we dare to hope, how it will establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity.

Cuba's next constitution will not, of course, be its first. I hope it fares better than the others. The case I'd like to make briefly here tonight is that, for that to happen, Cuba's next constitution must focus more on the structural separation of powers than on any declaration of rights or promised privileges of citizenship.

Considering our own Constitution, Justice Gorsuch has written that "the Bill of Rights is vital . . [b]ut without limits on the powers of government, the promises of individual rights contained in these provisions are just that: promises." There is, of course, everything to love about our Bill of Rights, framed as it is in an eloquence so easy to our ears that it washes over us like a familiar song. Our brothers and sisters

who took to the streets of Havana this summer would love "the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." They'd take the right of the people to keep and bear arms, to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures. Many of them now languish in jail, with no hope of a "speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, or to have been "informed of the nature and the cause of the accusation; to be confronted with the witnesses against [them]; to have compulsory process for obtaining witnesses in their favor, and to have the assistance of counsel for [their] defense."

But while they're at it, why not aim for a constitution that promises more? How about free public education, through university studies? A national commitment to the development of science and technology? Guaranteed participation in the production of artistic works, literary, and artistic activities? Free preschool? Access to facilities for mental and physical improvement? Even a right of relaxation? Well, there is a constitution that promises these things: the constitution of North Korea. Much like, I would submit, Cuba's current constitution, that one promises more than any of us tonight would like to receive from the government. For the more a government promises you, the more power it will tell you it needs to deliver on those promises. And so I'd argue the nature of the state that is to keep its promises—its structure and limitations is ultimately more important than what those promises may be.

Cuba's constitutional history has been tumultuous. They've had eight since 1869. The Guáimaro Constitution of the Ten Years' War contained civil rights guarantees, but gave the legislature power to appoint the President of the Republic. It was replaced just nine years later by the Baragua Constitution, which provided for just one branch of government: a four-person junta with legislative and executive powers. The Jimaguayu Constitution of 1895, written shortly after the death of José Martí, was meant to last only two years-and didn't disappoint, in that regard. It divided the government into two branches: civil and military, again with a four-person council of government to exercise legislative and executive power in all civil affairs, and a unitary General in Chief with full power over military operations, including the power to maintain domestic order. The La Yaya Constitution of 1897, meant to replace this temporary state of affairs, promised many individual and political rights—and lasted only one year.

Cuba's Constituion of 1901 was largely written by the United States, enacted as it was during our military occupation of the country. It contained the Platt Amendment, which restricted government's ability to "impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power to obtain by colonization or for military purposes lodgment in or control over any portion of the island"; contract public debt that it could not, with its own domestic revenues, repay; and affirmatively granted to the United States "the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty."

That constitutional order persisted through the rule of Gerardo Machado and the provisional government that replaced him, until 1940, when it was superseded by the constitution of President Federico Laredo Brú. Philip Bonsal, the man who would be our last ambassador to Cuba until 2015, described this constitution as enlightened and progressive, containing as it did a commitment to land reform—which, of course, was never fully realized. Fulgencio Batista suspended this constitution in part in 1952, and altogether in 1959.

Cuba's 1976 Constitution was expressly modeled after the Soviet Constitution of 1936, and centralized control of the market under state plan. It expressly subordinated all courts to the National Assembly and Council of State, a feature Cuba retained in its amendments to that constitution in 1992 and 2002. Cuba's current constitution dates to 2019. That charter undertook to ban discrimination on the basis of new categories, including gender identity and sexual orientation. It also purported to vest in the people, for the first time since 1940, the right to petition for a writ of babeas corpusalthough, in the wake of the crackdown that followed this summer's protests, the availability of the writ seems debatable.

I credit CABA with having had the foresight to prepare a draft transitional law. That ambitious document focuses mainly

on the creation of an effective transitional government that would provide for a fair election of representatives, who, in turn, would form a more durable state. It envisages as a temporary executive a pro-unity national council, with members selected proportionately from various groups, a court system predicated on civil law traditions, and the creation of a national election council to conduct a census and hold general elections.

Cuba's constitutional generation is, I believe, abundantly up to those tasks, and up to them without very much help from us. Now more than ever in my lifetime, and certainly more than at the turn of the twentieth century, the people of Cuba have, through social media, access to a global community of the concerned. They have more to gain, infinitely more quickly and costlessly, from ideas that not long ago would have been easily silenced, totally blocked. And therefore they have more to lose than ever before when their freedom of expression is restrained. The constitutional generation now coming of age in Cuba will, in short, demand more freedom than any previous generation dreamed possible.

For this reason, they will not need a treaty with the United States to demand and protect their independence for them, not if they take upon themselves the task of creating reliable bulwarks against tyranny: functional and well-funded courts, with independent and apolitical judges, charged with resolving cases and controversies involving the state. A legislature of enumerated powers. An executive with regular accountability at the ballot box, with a fixed number of terms. A military under civilian control, with funding determined by representatives answerable to the electorate. Universal franchise. If Cuba's next constitution has these as its structural components, even without a bill of rights, it would be the surest safeguard against tyranny in the island's history.

I am, tonight, hopeful that all this can be. The people of Cuba are, as a matter of natural right, too free to endure repression forever, and now, too connected to the rest of the world to be repressed much longer. They are too young of heart not to be free, and just young enough to do as well as our Founders did in setting the terms of their freedom.

# Getaway with CABA Cubon American Bar Association The Ocean Reef Club

## Keynote Address and Welcome Reception















































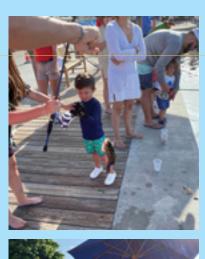










































# Farewell Reception











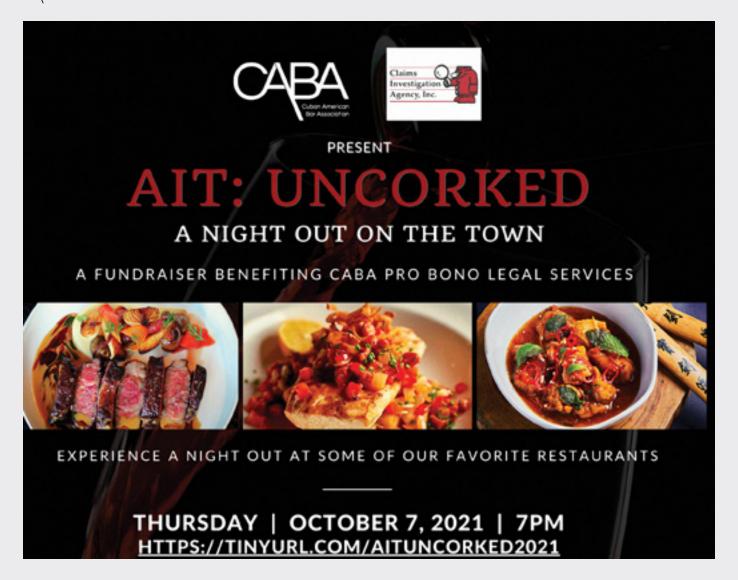






On September 22, 2021, CABA hosted the annual Mentor/Mentee Sign-Up Happy Hour. This annual event furthers CABA's mission to provide mentoring to law students. In celebration of those who had passed the Florida Bar, CABA Student and Law School Chapter Members had the opportunity to be virtually sworn in by the Honorable Chief Judge Nushin Sayfie.





On October 7, 2022, CABA hosted AIT: Uncorked a Night on the Town. This annual event raises funds for CABA Pro Bono Legal Services. The event, in its 17th year, featured curated dining experiences at various restaurants in Miami.

The participating restaurants included renowned chef-driven, restaurants Stubborn Seed, Glass and Vine, CH'I, Public Square, and Gaucho Ranch. All event ticketholders went home with full stomachs and CABA swag. In addition to the funds raised for CABA Pro Bono from dinner ticket sales, raffle tickets were sold for an Italian-theme dinner basket donated by Bercow Radell Fernandez Larkin & Tapanes, and an Argentine Grill donated by Grill Gauchos. The event was made possible by the Title Sponsor, Claims Investigation Agency, Inc., and participating sponsorship from Weiss Serota Helfman Cole & Bierman, Akerman, Bacardi, Mercedes M. Selle, PA, Rivero Mestre, Garrido Foundation, and IN THE CRU.





























## Membership Cocktails and President's Awards Ceremony

CABA's President, A. Dax Bello, recognized community leaders at the Venetian Pool in Coral Gables for their outstanding contributions to the Cuban exile community and dedication to furthering ideals consistent with CABA's mission. CABA's Presidential Award was presented to former CABA Board Member Roberto "Bob" Pardo, in recognition of his wholehearted support of CABA's initiatives and mission. The Amigo Award was presented to the late Jorge Mas Canosa, posthumously, in recognition of his dedication to the advancement of the Cuban exile community and his promotion of ideals consistent with CABA's mission. The Honorable Mario P. Goderich Paver Award was presented to the Honorable Miami-Dade State Attorney, Katherine Fernandez Rundle who accepted the award on behalf of her father, the late Judge Carlos Benito Fernandez, in recognition of his success in laying the groundwork for the advancement of CABA members and the community leaders that followed him. CABA's Osvaldo N. Soto Legacy Award was presented to the Honorable Chief Judge Emeritus Bertila Soto, the daughter of the award's namesake and Miami-Dade's first female and Hispanic Chief Circuit Judge, in recognition of her vision, tenacity and achievements in overcoming adversity and helping others overcome adversity.





















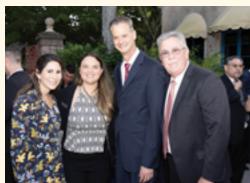




















































#### Investiture of Florida Supreme Court Justice John Couriel

CABA was asked to make remarks at the investiture of Florida Supreme Court Justice John Couriel. Dax Bello, CABA's President, noted that Justice Couriel's father, John Sr., was a refugee from Cuba who came to Miami in 1961 at the age of 10 as part of Operation Pedro Pan, which brought 1400 Cuban children to the United States without their parents.

"This nation gave Justice Couriel's father every opportunity he needed to live a successful life, to raise a successful family, and we're here today for the son of a refugee's appointment as the 90<sup>th</sup> Supreme Court justice of the great State of Florida," Bello said.

It was an honor to witness and be part of Justice Couriel's investiture. We are thankful for his continued support of the organization.

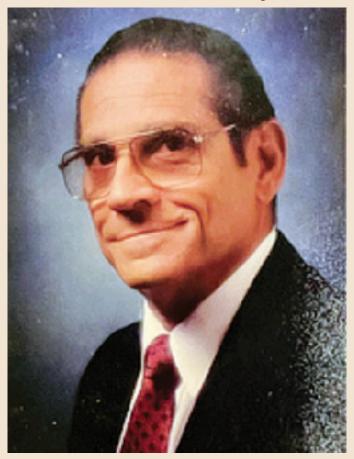








## In Memorial of Past President Luis Figuerora



It is with great sadness to share the passing of CABA Past President, and founding member, Luis A. Figueroa. Luis served as President of CABA in 1978. Luis is survived by his wife, Alicia Delgado, and four children; Lourdes Figueroa, Luis Figueroa, Sofia Figueroa, Alica Figueroa, and Natalia Figueroa. CABA has lost a great leader and a dear friend. We share our deepest condolences with his family and friends. Please keep them in your thoughts and prayers







#### Florida Bar Young Lawyers Division Affiliate Organization of the Month CABA's Instagram Take Over

On October 26<sup>th</sup>, 2021 CABA was highlighted as the FL Bar YLD's Affiliate of the month. Every Month the Florida Bar YLD highlights an affiliate organization who's brings forward a sense of inclusion and equality. This campaign highlights affiliate organizations statewide who are supporting diversity and inclusion among their members. We spent the day engaging with the FL Bar members about CABA Pro Bono, CABA Foundation, our mental health awareness initiative, free CLE's we provide free of cost to our members, and much more! Our social media takeover also emphasized some of the many things CABA has done to date to highlight diversity, inclusion and equality in our community.

When CABA was initially founded, there were very few opportunities for minority lawyers in the profession, and there were virtually no Hispanic or African-Americans within the judiciary. In our organization's initial years, community service and advocacy efforts, coupled with leveraging personal and professional relationships, helped to strengthened support for diversity in the practice of law by encouraging the appointment and election of minority judges to the bench. In doing so, CABA emboldened young people of diverse backgrounds to enter into the practice of law, effectively encouraging a new cross-section of available candidates for hire for private law firms.

Currently, CABA continues to focus on ways to increase the diversity, inclusion, and equality of its membership. For example, our Mental Health Committee frequently hosts programming and events that provide resources for our members and the legal community relating to prioritizing mental health in the profession, as well as raising awareness about the importance of safeguarding mental health in practice. Just this week, the Mental Health Committee hosted "Mindfulness, Wellness, and the Practice of Law," a CLE focused on discussing the benefits of incorporating a mindfulness practice into the professional and personal routines of all attorneys.

Additionally, CABA's Mentorship Committee includes young lawyers and law students. By providing numerous mentorship opportunities with our more seasoned members, CABA's mentorship program is another example of CABA's commitment to encouraging professionalism, the highest of ethical standards, and a network of support for our attorney membership. CABA recognizes the importance of mentorship in the legal profession and of forging relationships and supporting law students and young attorneys as they begin to build their legal practices.

CABA's diversity, inclusion and equality initiatives extends beyond its unilateral programming efforts and spills into the comradery essential to reaching more members of the legal profession through

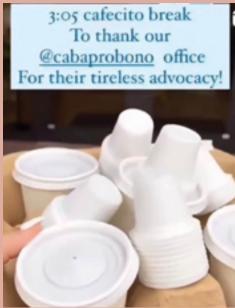


joint initiatives with other organizations. Yesterday, CABA partnered with the law firm of Weiss Serota Helfman Cole + Bierman, as well as the Broward County Hispanic Bar Association and four South Florida-based law schools (FIU, UM, St. Thomas, and NSU) to offer a Hispanic Heritage Month Presentation with Florida Supreme Court Justice John D. Couriel. Justice Couriel provided valuable insight to membership for all organizations involved, including the value of mentorship and harnessing Hispanic heritage and/or additional language skillsets as a tools for relatability and success in the profession.

In the true CABA fashion we wanted to make this takeover unique to our personality. We created an executive board introduction video to the theme of the 1970's sitcom Que Pasa USA, showed the 'proper' way to make a cup of Cuban coffee, delivered Cafesitos to our Probono office at 3:05pm and had some fun creating informative Instagram reels. If you want to take a look at CABA's YLD takeover visit their Instagram page @flabaryld.









































#### **Recipients Not Photographed**

Michael Pineiro Alex Tirse Eddie Palmer Jonathan Vita Pro Bono Award — Ricardo Martinez-Cid















































### Congratulations to the 2022 Board of Directors





At the Women in Power Event: The Legal Trailblazers, CABA honored five distinguished legal trailblazers for their service to the profession and their advancement of women in the legal profession. The honorees included Chief Judge Cecilia Altonaga of the US District Court in the Southern District of Florida, Chief Judge Laurel Isicoff of the US Bankruptcy Court in the Southern District of Florida, Chief Judge Nushin Sayfie of the Eleventh Judicial Circuit of Miami-Dade County and Chief Judge Emeritus Bertila Soto. CABA also honored State Attorney Katherine Rundle Fernandez. The event recognized the contributions of the honorees and marked the historical milestone of an all-female chief judges in South Florida courts. CABA thanks its title sponsor Holland & Knight, as well as sponsors Kozyak Tropin & Throckmorton, Stewart Tilghman Fox Bianchi & Cain and Leon Cosgrove.





























PROUD SUPPORTER OF

## The Cuban American Bar Association

#### WE CONGRATULATE OUR ALUMNI

Dax A. Bello ('08)

Immediate Past President

Yara Klukas ('09)

2022 Director

Javier A. Ley-Soto ('05)

2022 Director

Daniel Mendez ('14)

2022 Director

#### AND ALL THE INCOMING OFFICERS AND DIRECTORS

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