



NEW YORK  
CITY BAR

**PRESIDENT**

---

JOHN S. KIERNAN  
PHONE: (212) 909-6692  
FAX: (212) 768-8116  
JKIERNAN@NYCBAR.ORG

**TASK FORCE ON PUERTO RICO**

---

ROGER JUAN MALDONADO  
**CHAIR**  
PHONE: (212) 907-9741  
RMALDONADO@SGRLAW.COM

September 27, 2017

The Honorable Elaine Duke  
Acting Secretary  
U.S. Department of Homeland Security  
Washington, DC 20528

**Re: Suspension of the Jones Act in Aid of Relief for Puerto Rico**

Dear Acting Secretary Duke:

We write on behalf of the New York City Bar Association<sup>1</sup> to express support for the request by several members of Congress for a long-term waiver of the Jones Act requirements for Puerto Rico, as set forth in a letter to you, dated September 25, 2017. We also share the concern of Senator John McCain in his letter to you, dated September 26, 2017, and urge you to reconsider your decision not to further waive the Jones Act for Puerto Rico. The City Bar has determined to express its support for further Jones Act relief in light of the catastrophic devastation caused by the onslaught of three successive hurricanes, the tragic impact on personal and commercial life on the Island and the urgent need for unfettered delivery of essential materials and services to help rebuild and restore life and activity to Puerto Rico and its residents.

The City Bar understands that the issue of whether the Jones Act should apply to Puerto Rico at all is a matter of intense debate and it is not the purpose of this letter to take one side or

---

<sup>1</sup> Founded in 1870, the New York City Bar Association (the “City Bar”) is a voluntary association of lawyers and law students with over 24,000 members. The City Bar regularly reviews, and sometimes addresses, complex legal issues that transcend the boundaries of New York City. The tradition of Puerto Ricans in New York City is long, proud and ongoing – around three-quarters of a million of New York City residents are of Puerto Rican heritage. Many of those New Yorkers (and others who are not of Puerto Rican descent) have loved ones who continue to live on the Island. The City Bar’s Task Force on Puerto Rico was formed in October 2016 and is comprised of members of the City Bar’s Committees on Bankruptcy and Corporate Reorganization, Inter-American Affairs, International Human Rights and International Law.

the other on that issue at this time.<sup>2</sup> Rather, the City Bar is concerned with the immediate need to rebuild damaged and destroyed property and restore activity on the Island as quickly as possible. We believe a longer-term suspension of the Jones Act for Puerto Rico is a critical component of those efforts.

We applaud your decisions on September 8, 2017 to grant a limited waiver of Jones Act compliance for Puerto Rico following Hurricane Harvey and on September 11, 2017 to extend the limited waiver in advance of Hurricane Irma. It appears that those waivers were instrumental in assuring continued delivery of fuel, energy supplies and other commodities and services to Puerto Rico. The limited waivers expired on September 22, 2017 as Hurricane Maria swept across Puerto Rico taking lives and destroying homes, businesses and communities. In the aftermath, hundreds of thousands, if not millions, of residents are without water, electricity and other essential services. Now individuals and businesses must begin the long and arduous task of rebuilding and restoring life and activity on the Island.

While the Federal Government is responding promptly to the crisis with resources and aid in various forms, we believe a longer-term suspension of the Jones Act for Puerto Rico will provide immediate and significant access not only to basic essentials to sustain life and health, but also to materials and services needed to rebuild homes, businesses and communities. These are tasks that will take many months if not years and will require delivery of materials from all available vessels – U.S. and non-U.S.

We understand that the Department of Homeland Security (“DHS”) believes there currently are sufficient numbers of Jones Act vessels to deliver commodities to Puerto Rico. We believe, however, even if that is true, it is not a reason to restrict non-Jones Act vessels willing and able to deliver additional relief and aid to U.S. citizens in distress. We also understand DHS believes that further waivers of Jones Act for Puerto Rico could create congestion at the limited number of open ports. While port capacity is a valid concern, we believe it pales in comparison to the urgent humanitarian need for commodities, materials and services to rebuild homes, schools, hospitals and entire communities. Moreover, FEMA reports several reopened ports in just days after Hurricane Maria, suggesting that capacity will increase in the next weeks and months as other damaged ports are repaired. An immediate longer-term Jones Act waiver will prompt non-U.S. vessels with relief supplies to begin sailing toward Puerto Rico now and reach the Island as additional ports become available.

Accordingly, the City Bar respectfully urges you to reconsider your decision declining the request to waive the Jones Act for Puerto Rico for one year.

---

<sup>2</sup> Compare Thomas A. Allegritti, “The Facts About The Jones Act and Puerto Rico,” American Maritime Partnership, Aug. 26, 2016, available at <https://www.americanmaritimepartnership.com/2016/08/26/the-facts-about-the-jones-act-and-puerto-rico/> with Nelson A. Denis, “The Law Strangling Puerto Rico,” The New York Times, Sept. 25, 2017, available at [https://www.nytimes.com/2017/09/25/opinion/hurricane-puerto-rico-jones-act.html?\\_r=0](https://www.nytimes.com/2017/09/25/opinion/hurricane-puerto-rico-jones-act.html?_r=0).

Thank you for your attention to this important matter.

Respectfully yours,



John S. Kiernan  
President, New York City Bar Association



Roger Juan Maldonado  
Chair, New York City Bar Association  
Task Force on Puerto Rico

CC:

New York Congressional Delegation  
Representative Luis V. Gutiérrez  
Representative Darren Soto  
Representative Joyce Beatty  
Representative Norma Torres