

The Voice of FilAmerica

Political empowerment is still a treasure that eludes us as a community here in America. While we are the second largest Asian American community in the United States, we have yet to harvest the power that comes from our numbers. The Voice of FilAmerica features elected and appointed officials – regardless of political affiliation – in the different US states who are of Filipino ancestry. As your Filipino American community newspaper, the Asian Journal recognizes the fact that we all have a responsibility towards bringing political empowerment to fruition, especially for our future generations. It is our hope to have our voices heard all over America.

Antonio 'Tony' Cartegena

by JOSEPH PIMENTEL
AJPress



Calamba City in the Philippines as the Sister City of Walnut, according to the City of Walnut website.

When he served as Mayor, Cartegena was part of the Mayors Against Illegal Guns Coalition, a coalition of mayors from 225 different United States cities, with a stated goal of "making the public safer by getting illegal guns off the streets."

Cartegena has also served in many different capacities besides his duties as a Council Member.

Cartegena formerly served as a member of the Executive Board of Directors of the California Contract Cities Association, an Alternate Representative to both the San Gabriel Valley Council of Governments and the Foothill Transit Authority; and served as Governing Board Member for the League of California Cities, the Los Angeles County Sanitation District, and the Lanterman Monitoring Committee.

Besides serving in a variety of professional organizations, he's also a devoted community member.

Cartegena has served as the Chair of the Walnut Family Festival Committee since 1998 and has served on the Walnut Valley Educational Foundation Board, member of the League of California Latino Caucus, Los Angeles County Filipino Employees Association (LACFAEA), Malvereno USA, Zamboanga Hermoza Club of Southern California and Lamitan Association of America.

Cartegena is the son of Major Adriano Barcelona Cartegena of Ilo-ilo and Gregoria Francisco of Leyte. ■

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ATTY. JOEL R. BANDER

GOOD news for beneficiaries of Employment-Based (EB) immigrant petitions with cases pending with the Texas Service Center (TSC)!

TSC has introduced a new streamlined inquiry procedure that is available to attorneys who are members of the American Immigration Lawyers Association (AILA). Through this procedure, AILA members can facilitate TSC processes relating to identification of EB I-485 applications and I-140 petitions through the email address Streamline.Tsc@dhs.gov.

Streamlined inquiry process for EB I-485/I-140

This procedure helps TSC identify I-485 cases that remain pending and are subject to review based on availability of visa numbers according to the Department of State Visa Bulletin. As soon as the Visa Bulletin is published, AILA lawyers can submit via email the list of all clients whose visa numbers will be available according to the Visa Bulletin. For example, AILA lawyers may now submit information on I-485 cases of EB-3 beneficiaries born in the Philippines with priority date of May 1, 2005 based on the December 2008 Visa Bulletin.

For I-140 petitions, this procedure allows identification of cases that have been pending beyond the TSC processing times posted on the USCIS website. AILA members can use this procedure when they see that the filing dates of their clients are prior

to the processing time date for the I-140 petition. The same procedure as in I-485 is followed: an email inquiry can be submitted to TSC identifying all clients whose filing dates are prior to the published timeframe for I-140. As of November 20, 2008, the processing time for I-140 petitions for EB-3 category is August 15, 2007.

AILA lawyers will receive an automatically generated reply from TSC stating that they received the email. They may receive communication from TSC such as an approval notice, request for evidence, or fingerprint notice within 90 days from submitting information through this protocol. If no communication is received within such period, TSC recommends an inquiry through the normal inquiry process.

This procedure does not replace the general inquiry process

that is in place. However, general inquiries sent to the email indicated above will not be addressed by TSC.

The immigration lawyers of Bander Law Firm are members of AILA and can facilitate inquiry on the status of your cases with TSC. Please contact us at immfiles@banderlaw.com.

Atty. Joel R. Bander is the partner of Bander Law Firm, LLP. With over 15 years of litigation and immigration experience, Mr. Bander is a leading litigator and accomplished trial strategist. He has successfully handled numerous cases before Federal, State, Civil, and Criminal Judges and has participated in hundreds of arbitrations and trials. Bander Law Firm, LLP Downtown office address: 1055 W. 7th Street, Suite 1950, Los Angeles, CA, 90017. Tel: (213) 873-4333 Fax: (213) 873-4334. San Gabriel Office address: 1045 E. Valley Blvd., #A215, San Gabriel, CA 91776. Email: info@banderlaw.com.
(Advertising Supplement)

BARRISTER'S CORNER



ATTY. KENNETH URSUA REYES

MOST couples that want out of a marriage in California usually file for divorce. There are circumstances though that allow a couple to have their marriage "voided" rather than "dissolved."

There is a big difference between the two concepts. With a voided marriage, it restores the couple to status of unmarried person as if they have never been married before. In a divorce, the couple would always be regarded to as married during the period of the marriage.

Unlike divorce, which can be obtained regardless of the reason, voiding a marriage may only be obtained based on certain grounds. It is void in cases of incest and bigamy. It is voidable in cases of minority, Unsound Mind, Fraud, Force, or Physical Incapacity. Marriages between parents, children, ancestors and descendants, brothers and sisters, half brothers and sisters, uncles and nieces, and aunts and nephews are incestuous and are void from the beginning. So are bigamist marriages where either party was still married to another person when they entered the marriage. Nevertheless, it is best to obtain a Nullity Judgment to clarify the legal status of the parties under these circumstances.

Certain situations do not necessarily make a marriage void but makes it voidable on the parties option. One such circumstance is when the petitioner was under 18 years old when the petitioner married and the parents did not provide their consent. The Nullity petition based on this ground has to be filed within four years after the party turns 18. The par-

Grounds for annulling a marriage

ent of the minor may also file the Petition provided it is filed prior to the minor turning 18. Another situation is a bigamist marriage where the first spouse has been absent and not known to be living for 5 years prior to the second marriage or if the party believed the spouse to be dead at the time of the second marriage. A nullity based on this ground may be filed during the life of the other party.

A marriage may be voided if either party was of unsound mind at the time of the marriage. Unsound Mind means a person is incapable of understanding the nature of the marriage contract and the duties and responsibilities it creates which depends on the degree of mental capacity of the party. This may not be a ground if the party later on came to reason yet continued to freely cohabit with the spouse.

Fraud is another ground for voiding a marriage. The false representation or concealment must relate to a substantive matter and directly affect the purpose of the party deceived in entering the marriage. The fraud must go to the very essence of the marital relation before it is sufficient for an annulment. It is not sufficient simply to contend that your spouse turned out to be a lazy, drunken disappointment. Nullity based on fraud has to be filed within four years of discovering the fraud.

Certain marriages that are entered into by force are voidable. Circumstances that meet these standards require that the forced party's free will to have been overcome by the spouse such as through the use of threats. These type of nullity must be filed within four years from the date of marriage. A marriage where the spouse was found to be incapable of physically engaging in copulation may be voided. It can only be filed by the spouse that does not have the physical incapacity and must be filed within four years of the marriage. Before

deciding weather a divorce is the appropriate avenue to end your marriage, parties should evaluate if a Nullity is a viable alternative and weather it serves their best interest.

Atty. Kenneth Ursua Reyes was President of the Philippine American Bar Association. He is a member of both the Family law section and Immigration law section of the Los Angeles County Bar Association. He has extensive CPA experience prior to law practice. LAW OFFICES OF KENNETH REYES, P.C. is located at 3699 Wilshire Blvd., Suite 700, Los Angeles, CA, 90010. Tel: (213) 388-1611 or e-mail kureyeslaw@aol.com. Visit website Kenreyeslaw.com.
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COUNCIL Member FilAm Antonio "Tony" Cartegena has been overseeing the residents of the City of Walnut for the past eight years and will continue to do so for the next few years. Earlier this year, Cartegena won his reelection bid to serve as a member of the City Council of Walnut.

In 2000, Cartegena was the first person of Philippine ancestry to serve as a member of the City Council, and the first to serve as Mayor of Walnut.

The City of Walnut is about 25 miles East of Los Angeles. The city has a population of about 30,000 and has a large FilAm population base.

Cartegena was first elected to the Walnut City Council to a four-year term in April 2000 and re-elected again to another four-year term ending in 2008.

In 2001, his peers elected him to serve as Mayor Pro Tem and the following April 2002 he was elected Mayor through April 2003 and again in September 2006 through June 2007.

Prior to his election, he served the City of Walnut as an appointed Planning Commissioner Vice Chair, an appointed member of the Walnut Transportation Committee, and an appointed member of Walnut C.A.R.E. Law and Code Enforcement Chairperson.

Since being a member of the Walnut City Council, Cartegena has been instrumental in the passage of important policies and ordinances for the city.

During his term, he has prohibited car racing and subjecting vehicles for forfeitures, prevention of loitering of criminal street gangs, banning smoking in all city parks, creation of Public Safety Committee, increasing the number of Youth Commissioners to 15, Adapted Election Campaign and Ethic Reforms, inclusion of Cultural Diverse Groups during the Concerts in the Parks, and adapted

When to file appeals to the board of immigration appeals

novo" or taking a new look on decisions rendered by USCIS or DHS officers. If an immigrant petition Form I-130 is denied, the BIA may look at the application of law and the existing facts as if the petition is newly submitted to them for review.

Question: When should an appeal to BIA be filed?

Answer: The Notice of Appeal (Form EOIR 26) must be filed within 30 days of the oral decision of the Immigration Judge or the mailing of the written decision. It must be received at the EOIR clerk's office within that 30-day period. If the 30th day falls on Saturday, Sunday or legal holiday, the due date falls to the following business day. If the appeal is not filed within the specified time, the decision of the Immigration Judge becomes a final decision.

Question: What should an alien do so that the case will have a better chance of getting approved on appeal?

Answer: Cases on appeal are decided solely on the basis of the "record" in the case. The records include only those materials offered by the alien and admitted by the USCIS or the Immigration Judge.

Hot news of the week
We again have successfully obtained a waiver of fraud or misrepresentation in Immigration Court for a green card holder who entered as single but is actually married. The green card holder who has been in the United States for 17 years has a mother who is a US citizen.

We have just received approval from Administrative Appeals Office of I-601 Waiver. The appli-

cant entered with an assumed name but she has a US citizen spouse and a US citizen child. The I-601 waiver application was initially denied by the USCIS District Office but the denial was reversed on appeal. She now has received her green card.

Green cards without expiration date should be renewed. They have the alternative of applying for naturalization. Please call our office for questions about renewing green cards.

Tips of the week

Waiver for misrepresentation at the time of entry (entered as single but is actually married) may be waived if you have a parent, spouse, son or daughter who is a US citizen or lawful permanent resident. Once approved you may be eligible for naturalization. You should apply now before your personal situation or the law is changed.

Denied adjustment of status and Naturalization applications are now being sent to the Immigration Court.

Income tax filing is required in the proposed legalization. Individual Tax Identification Number (ITIN) can be used for filing tax returns and is required before bank accounts can be opened. Our office assists clients in obtaining ITIN.

Crispin Caday Lozano is an active member of the State Bar of California and he specializes in immigration law. He earned his Juris Doctor at Western State University in Fullerton, California. His offices are located at 17057 Bellflower Blvd, Suite 205, Bellflower, CA 90706 and 1290 B Street, Suite 205, Hayward, California 94541 and at 777 N. First St., Suite 333, San Jose, CA 95112. You can contact him at telephone (562) 461-1355 and (510) 538-7188.
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IMMIGRATION HIGHLIGHTS



ATTY. CRISPIN LOZANO

THE order of an Immigration Judge to remove an alien can be appealed to the Board of Immigration Appeals (BIA). If there is strong argument in favor of the alien, the BIA will send the file back to the Immigration Judge to reconsider its decision.

Question: What are the cases that may be appealed to the BIA?

Answer: The following may be appealed to the BIA:
Denial of a family based petitions.

Decisions by an Immigration Judge in exclusion cases, removal proceedings, asylum proceedings and waiver request that is denied by the Immigration Judge.

Question: How does the BIA review a case filed on appeal?

Answer: The BIA reviews questions of "law, discretion, and judgment" affecting an alien "de novo" or taking a new look at the case. Questions of law include what specific statutory or case law applies to the case. However, if the question is about facts of the case (what is an alien's personal circumstances), the BIA defers to the Immigration Judge's factual and discretionary findings, including finding on credibility unless they are clearly erroneous.

Question: What is the scope of review by the BIA on denial of an I-130 petition by USCIS officers?

Answer: The BIA may review all questions of fact or law "de



Message to all Wildfire Victims!

Our hearts go out to those families who lost their homes in the recent wildfires. As you start the process of rebuilding, we urge you to be vigilant of your rights as policyholders in dealing with your **Insurance** companies. These companies are represented by trained adjusters who will protect their bottom line. Who is going to represent YOU?

Understanding your difficult situation, we at the **Law Offices of C. JOE SAYAS, Jr.** are ready to provide experienced legal representation to homeowners. Services will be provided on contingency, popularly known as "No recovery, No fee". With 22 years of experience in insurance law, we know policyholders do not get what they deserve. **Policyholders get what they fight for!**

Your inquiries are welcome and at no cost to you. Call us at **818-291-0088** or visit our website at www.joesayaslaw.com

LAW OFFICES OF
C. JOE SAYAS, JR.
Attorneys for Policyholders & Consumers
700 N. Central Avenue, Suite 235
Glendale, CA 91203
818.291.0088