>> Maria: Good afternoon. Thank you for attending our seminar today. It is a panel entitled accountability, reliance and justice, examining impact of Supreme Court's DACA decision. Policymakers and future of Immigration of the United States.

Today's event is sponsored by the ABA Commission on Immigration and section of civil rights social justice.

And as part of the series of rapid response webinars that the ABA is planning on variety of issues.

So, please keep checking ABA website for updates on these rapid response programs.

Little bit of housekeeping.

We're going to be taking questions through Q and A not chat function.

So, make sure your screen is not I would we'll be able to see Q and A section.

We're going to healed off on questions and answers until the end. We'll leave 15 or 20 minutes for Q and A.

Then when done, we'll share the recording with everyone that registered.

Then you can distribute it to your networks.

With that, let me just say a little bit about today's panelist and who we are.

Today's panelists are Thomas Saenz, President and Feneral Council of Mexican American Legal Defense and Education Fund.
Pedro Villalobos. The first DACA recipient to be admitted to Texas bar. Daniela Alulema, authored report on DACA.


Myself, Maria Bianco, Director of University of California Immigrant Legal Services Center and I will be moderating today's panel.

So, we really hope to make this a conversation.

So, it will be little free flowing.

But we wanted to make sure to touch on just could give you a sense of what we're going to go through today.

We're going to talk about the background of what creates DACA in terms of prosecutorial discretion.

Legal underpinnings of deferred action program.

We're going to talk about the litigation surroundings DACA both past and where it is now after the Supreme Court decision.

Also talk about the background of DACA, political and policy background of how DACA came about.

And what that landscape looks like today.

We'll also I think it's important to talk about that real life impact of DACA on people's lives.

And finally, what we see coming down the road both legally and policy-wise in terms of future. Not just DACA but some kind of citizenship for the persons known as. A lot to cover, but we have a great panel.

And so, let's talk a little bit about the background of DACA and its underpinnings.

Maybe you can talk about what it means to have deferred action, it stands for deferred action for childhood arrivals.

We thought we would start with definition of the deferred action.

>> Allen: Most people believe DACA was executive order president signed when in fact that's not what it was.

Happened during Obama Administration.

 Came from Homeland Security Director and she basically sent a memorandum out to different parts of DHS.

To CVP, ICE, this is going do be the new layout.

Always been around.
Concept of deferred action was something that happened way before the Obama Administration. What the Obama Administration did was activate to a larger number. That was done through the memorandum that she issued to the different departments, all these people who are low on the totem pole should not be a party. Communication between her camp.

What it does, is for two years which was subject to renewal, allowed someone to have work authorization. Adjudicated is case by case. What happened to deferred action in the beginning.

What deferred action is not a status, doesn't make everything go away.

Allows you to participate in society that's what tack can deferred action became to be.

>> Maria: So, I know that when you mentioned case by case, with DACA, that there were some challenges to whether it was in fact case, people wanted to know whether in fact it was case by case.

Or whether it was just a blanket program. Maybe you or Tom could talk a little bit about why it is not considered just a program that they can fill attaining application.

Why is it really individualized determination?

>> Allen: From my end and Tom will do a greater job. Individual so it can't be something so broad it paints a picture, deferred action based on individual circumstances of each person that applies.

>> Maria: Tom?

>> Thomas: That's absolutely right. When DACA was established actually important to noted there were two ways one if you in proceedings already you could request protection if you qualified. That very much akin to deferred action throughout the years as Allen indicated deferred action has been around for decades.

Is an individualized determination made by attorneys involved in pursuing removal of someone who would qualify.

For those who affirmative applied for DACA, we know that was three quarters of a you million plus people, each were adjudicated.

Had to meet basic criteria established blew memorandum that secretary issued.

But individual officers making determinations about whether each applicant should be granted deferred action what in the case decided little over 10 days ago to Justice Roberts referred to.

Forbearance be put into deportation and associated work authorization that comes with that.
It was individual adjudication so there were of course a substantial number as I said ul that mal because a million FEMA were able to be provided protection.

And work authorization through DACA.

>> Maria: And work authorization exists for other deferred action programs, correct? And for other areas of Immigration law while you are waiting for adjudication?

>> Thomas: In fact, work authorization for deferred action recipients long ago went through rulemaking notice and comment decades ago.

So, it is available as a result of longstanding federal regulation to anyone who receives deferred action whether under DACA or through somebody else.

>> Maria: In fact, when you apply for DACA, I know this because our office handles many many DACA initials and renewals, you actually apply separately for DACA and work authorization it’s two different applications.

It it’s not automatic in that sense.

We’ll probably end up coming back to this when we dust is the litigation. I thought it would be important to talk about what is DACA.

There are a lot of misconceptions about it that have led to legal, about the program.

Daniela, maybe starting with you we can talk about how did DACA come about.

I know other folks on the panel were involved.

Not so much the memo from DHS the groundswell and activism and politics of how DACA came about.

>> Daniela: Absolutely. I’m going to share my screen. I have very short PowerPoint presentation.

So, before I begin, I just wanted to share a little bit about my personal story.

As you know documented immigrant. Born in Ecuador.

My parents and I had to leave because of political instability and economic crisis forced almost 10% of entire Ecuadoran population to migrate.

Arrived in New York when I was 14 years old.

I knew I was undocumented I realized implications of my status when I was applying for college.

I was able to pursue and obtain Bachelor’s Degree in business administration in 2007.

When it came time to start a career, I had no options due to lack of work permit.
I had to sit by side lines to watch my peers secure internships and job offers in companies I could only dream about.

Strong desire to gain control and determination over my future.

That's when I came across the New York State youth council. One of the first ones in the country fighting for equal access to opportunities for all regardless of Immigration status.

At the YLC learn to organize, advocate and own your voices and our stories.

Many groups organized themselves hallways of colleges, cubicles of immigrant rights organizations and virtual forums.

This effort led to fight for the federal dream act in 2010.

Following the lead of brothers and sisters in Chicago we started to come out publicly and declare ourselves undocumented unafraid and unapologetic.

Hunger strikes, marched in the streets, lobbied.

Engaged in acts of dis obedience including sit ins at congressional offices.

By overcoming fierce and sharing stories, we were able to gather support from unions, faith leaders and many more.

Although the dream act failed in 2010 through this fight we learned the power of or stories and organized community.

During Obama Administration we saw highest number of deportations in history of this country, three million immigrants were deported during those eight years under President Obama.

People who had made lives had economic and family ties, being forced out of the country that they called home.

Among those were many young undocumented immigrants who would have qualified for a bill like the Dream Act, vulnerable to deportation under this administration.

However, we didn't stop. We continued to organize and demand moratorium of deportations.

Thanks to this collective effort of undocumented youth, that in June 2012 Obama Administration announced [ Indiscernible ] program.

If I can jump into the profile of who the [ Indiscernible ] are.

>> Maria: Before you do that, can you just say, because I'm not sure that all our, that everyone in our audience knows what Dream Act was. That ended up leading to DACA. Maybe ask you say what the dream ability was.

>> Daniela: Dream Act I think was initially introduced in 2001. It was federal bill that would have provided path to citizenship.
Documented youth that arrived as minors. Championed by Senator. He had Republican support.

Through different sessions the bill was introduced. I think it was in 2010 when we got closest.

We were five votes short in senate. Unfortunately, that's why it didn't become a reality. Definitely it would have been legislative solution the one we still need 20 years later to solve legal limboing many of us have to live.

>> Maria: And does that, does the Dream Act, it goes beyond deferred action, correct, it actually is is a path to citizenship.

>> Daniela: Absolutely. Provides a path in some versions of the bill, would have taken up to 12 years to become a citizen. But would have granted us protections as conditional permanent residence and permanent residence eventually US citizens.

>> Maria: Thank you. Are on the profile can you go quickly through the profile first.

>> Daniela: Absolutely. So according to the latest USCIC report as of December 2012 almost 650 thousand DACA recipients. They come from over 150 countries, 80% originally Mexico, 9% from northern triangle countries. They live in all 50 states US territories, highest concentration found in California followed by Texas New York and Florida.

 67% are between ages of 21 and 30.

And average being 26 years of age.

76% are single, 23% are married.

Now according to center for migration studies, 81% DACA recipients lived in the United States more than 16 years. 16% married to US citizens. 13 percent married undocumented immigrants.

95% employed. There's DACA beneficiaries well educated.

In some, you see in PowerPoint actually higher than those that can be found in over all US population.

It's important to highlight over 300 thousand U.S. citizen children have at least one DACA parent.

To conclude I would like just to say that thousands of DACA recipients now are also in the front lines combating COVID-19 pandemic, we can find them in construction sector. Healthcare, retail virtually every sector benefiting from the work of DACA recipients.

With that, it, through the stories like my own and those of thousands of immigrants, we're showing how invested we are in the US.

>> Maria: Thank you.
So, let's talk a little bit about legal challenges to DACA, what this lawsuit was, because I think there's some confusion about whether the Supreme Court was considering the legality of DACA.

Or whether it was actually looking at a different thing, which is rescission of DACA by the administration in 2017.

Maybe, Tom, you can sort of talk about both those things a little separately, like what was the rescission and when, how was it challenged.

Also the issue of DACA itself in its legality.

>> Thomas:  Sure.  So, actually, the legal journey of DACA began soon after it was put in place by Secretary Napolitano’s memo.

One challenge it was brought by the leader of the ICE employees union together with state of Mississippi.

That challenge never saw much light because it was almost immediately dismissed. On the basis of lack of standing for those employees and for the state of Mississippi.

Other than that filed legal challenge initial DACA initiative was never challenged in court.

Now, in late 2014, the Obama Administration sought to expand DACA by updating the data of eligibility, when you would have had to enter the country.

Expanding eligibility in other respects. At the same time they announced they would create new initiative called DAPA deferred action for parents of Americans provide the same forbearance from removal and work authorization to millions of parents of U.S. citizen children.

Once the administration announced this new initiative, the state of Texas together with 25 other states did seek earnest to prevent that initiative.

At new DAPA and expanded DACA from being implemented. Filed in Texas got before a Judge sympathetic to the cause of state of Texas.

That Judge, Judge Hanen issued injunction preventing DACA from ever being implemented.

That case went to the Fifth Circuit and divided panel upheld the injunction.

The case went to the Supreme Court in 2016.

You all recall in 2016, because of the death of Justice Scalia and refusal of U.S. Senate to consider Pres. Obama's, nominee to take his place, went through an entire term with only eight justices.

The Supreme Court wasn't about the merits of the injunction but about whether the state of Texas and 25 other states had standing or sufficient interest to actually go to court and prevent the implementation of this new initiative.
There were serious questions about whether there was any harm to the state of Texas or other states.

About whether any harm was manufactured by the states themselves.

Nonetheless, four to four decision meant circuit conclusion remained in place.

That then became the fodder for what the new Trump Administration did in 2017.

First thing that the administration did was formally eliminate the, rescind the new DAPA and expanded DACA initiative.

Did that June 2017.

Ironically, I believe, it was on the anniversary of Pyler versus Doe important 1932 Supreme Court decision that actually said that these DACA holders and predecessors and successors as children had every right to free public education from kindergarten to 12th grade regardless of Immigration status.

Demonstrating timing of too many decisions from this administration, Trump Administration rescinded DAPA expanded DACA.

At the same time the state of Texas always in the lead and challenging these programs of relief for so many Texas residents, Texas has second highest number of DACA recipients among the states.

State of Texas threatened Trump Administration if it did not take the same decision action with respect to the rich until DACA, Texas would go to court.

In response to that, then Attorney General Jeff Sessions in September 2017 concluded based on Fifth Circuit's decision on DAPA original DACA was also [ Indiscernible ] the state of Texas never challenged in that DAPA case the original DACA. Specifically disclaimed any interest at the time.

In having original 2012 DACA initiative eliminated.

In response to threat from Texas Sessions announce offed conclusion original 2012 DACA was unlawful. Took action to rescind original 2012 DACA.

Administration put in place a gradual implementation of that decision specifically it allowed those who had, who’s existing DACA would expire.

Cause DACA is granted on two-year period that, would have changed under DAPA initiative.

Two years from 2012 renew every two years. But administration said anyone facing the need to renew in the next six months could do so.

After that point administration intended to end not only new applications for 2012 DACA but any renewals 2012 DACA.
It would not rescind existing deferred action or existing work authorization but would allow those to expire over succeeding two years.

Immediately, there were a number of actions filed around the country including the three that went to Supreme Court.

But challenging the decision of original 2012 DACA.

Their arguments included that the administration had failed to adequately consider the reasons for keeping DACA in place rather than rescinding it.

That failure to consider those relevant policy considerations is violation of Administrative Procedures Act.

Now, those many court actions resulted in number of injunctions against the administration preceding with rescinding DACA.

That meant ever since announcement in September 2017 to date there has been a continued receipt processing and renewal of DACA for those who had it prior to September 2017.

However, there had been no new applications accepted or adjudicated by this administration.

>> Maria: Maybe you can say something about that I know a lot of people had questions about.

Why did the courts or attorneys for the plaintiffs not try and reintroduce, as ask for injunction to allow for new DACA application only renewals.

>> Thomas: They did in one case, received injection, that is stayed by the Judge who entered it as two new applicant as to why they didn't seek it in other cases.

Or why they agreed to that stay of the new applications injunction I don't know the answers except to say it [ Indiscernible ] sharpened issues.

May have played a role in the Chief Justice's opinion just released 11 days ago in one of those cases.

Ultimately, in fact, those cases did go to the Supreme Court. Supreme Court waited for one certificate ninth 60 to uphold one of those injunctions.

Then granted not just to the Ninth Circuit case based on request earlier made by Trump Administration preemptively granted review of cases that had not yet been adjudicated by courts of appeals.

That led to decision that came down 11 days ago, a decision that for many was surprise particularly, because after the oral argument in the case almost every pundit in the press across the country concluded, based on questioning that administration's right to rescind DACA would likely be upheld.
But in fact as we've seen previously the chief justice aligned with the moderate four justices on the court and came up with a decision that actually rescinds the decision by the Trump Administration to end 2012 DACA. Basis for majority's decision lies in that failure to consider relevant policy considerations by the acting secretary of Homeland Security.

In responding to Jeff Sessions including, a including that many of us believe to be wrong. But his conclusion that DACA was unlawful.

Court majority cites two considerations that acting secretary never looked at.

First they fault acting secretary for not recognizing for bearings, deferred action, being protected from removal was separate and apart from the benefits including work authorization that might come with deferred action.

By failing to separate the two, according to the court majority, acting secretary failed to consider whether deferred action for those who have received DACA made sense in a context when its impossible under current system to actually take all of the undocumented immigrants in the country and put them into removal overwhelm the court system.

So, it makes sense then to consider whether granting for bearings to those who as Allen described everyone agrees are not enforcement priorities might make sense regardless of Jeff Sessions conclusion.

Second majority stated acting secretary should have considered the reliance interest of those who had received go DACA noting many of those who have received DACA relying on the fact that they had deferred action and could renew every two years may have undertaken important education programs undergraduate or graduate that would last longer than two years.

Would have started businesses on expectation those businesses would continue. They would have begun careers with career ladders that they would have undertaken on the belief that they could continue to renew their DACA and work authorization.

Majority recognize those as legitimate interest that the acting secretary should have taken into account before announcing decision of the entire 2012 DACA.

That's where we stand today those who have already received DACA can continue to have their renewal applications considered and granted by the administration. And now we wait for Supreme Court case, Department of Homeland Security versus University of California Board of Regents to go back to three courts that they came from for consideration of what this means first of all for new potential DACA applications.

At least significant portion of the majorities ring would applying not just to renewals which were injunction before the court.

Apply to new applications as well. We have to decide here whether administration intends to continue, particularly, as close as it is to upcoming election, tends to continue to try to rescind entirety of 2012 DACA including as it a applies to renewals.

We know Trump tweeted indication that he intends to see to it that the decision continues.
But I would remind us all that we have seen that kind of immediate tweeted reaction from Donald Trump's thumbs before a year ago when same Supreme Court majority decided addition, late addition of citizenship question census 2020 could not go forward as APA violation. Left open the possibility.

If the administration could otherwise get the question on the census.

We remember that Trump over his own lawyer's advice tweeted he was going to get the question on the census, 12 years later he had to abandon that recognizing there was not time to do it.

Seems to be a pattern the tweet saying he is still going to rescind DACA chest thumbing he seems to do when he loses in Supreme Court as he did here.

We do have to find out whether the administration is serious about taking the time that would be required to meet court majorities instructions about how to properly go about rescinding DACA.

>> Maria: You know, it's interesting because the court not only talked about the reliance on DACA of people with DACA but talked about the reliance interest of employers on having many DACA employees working with work organizations. It referred to institutions such as universities and that they have many students that are studying and about to graduate and have work authorization because documented.

So, it's a...

Reliance, also I thought talked about tax contributions nationally at a state level of folks with DACA.

Studies shown, Daniela, you've probably seen these, people with DACA, earnings go up substantially amount as to compared to not having DACA.

Now members, you know, if they are really looking at rescinding DACA again. There's a lot at stake not just for people with DACA but the entire I would say structure.

In a moment of already a lot of economic turmoil in the country. Which is interesting.

>> Thomas: I thought it was particularly interesting they did focus on overall macroeconomic impact of DACA.

In part because that case that I mentioned previously went before the Supreme Court part of the debate whether the state of Texas had an injury whether it would ever harm economic harms it might point to whether they were overwhelmed by economic benefit to the Texas economy provided by, recipients of DAPA and expanded DACA.

In that case significant issue. In this case majority now five justices all of whom were on the court in 2016 now say that there are significant economic benefits.
Seemingly overwhelm any harm that the state of Texas could put forward today in its ongoing litigation together with small number of states challenging 2012 DACA. His the other unknown knee jerk.

State in district court in Texas. Challenge is 2012 DACA.

Immediately tweeted out his decision he would be going into court to immediately pursue in validation.

He failed to recognize as he often does, the head winds created by this decision including recognition that that state of Texas likely has a lot more economic benefit from existence of 2012 DACA than any economic harms that the state could possibly point to.

>> Maria: Well not to mention and we'll get on to the next but not to mention the fact that they could have challenged this eight years ago. And did not.

So, I think there's some issues there in terms of.

>> Thomas: Certainly those issues played out the Judge, whose the same Judge who issued the injunction against DAPA and expanded--were in the court system but also because he did recognize you can't really claim immediate harm if you waited so many years before choosing the challenge.

>> Maria: I think that's a good problem with that case that we might see.

Pedro, I want to turn to you I know some we talked about in discovering the case, but, both personal but also you are from Texas. And work in Texas.

To talk a little bit go little deeper into discovering positive impact of DACA.

For individuals and also what you've seen in Texas and in your work at the district attorney's office.

>> Pedro: Thank you so much for having me on. Just little bit of background I came to this country when I was three years old.

My parents moved to Houston Texas from Mexico. I got educated in Texas school system. I went to a public education system University of Texas at Austin got my undergraduate degree. Pursued professional degree at the University of Texas School of Law, top 14 law school, one of the best in the nation.

Graduated in one of immediately after I passed the bar exam the Travis County attorney at that time, currently our county attorney offered me a job as misdemeanor prosecutor.

Since 2016, when I passed the bar and got hired by David County attorney I have been representing state of Texas every day in court, trials or pretrial hearings.

I represent the state of Texas. When the Judge called my name, I stand up and say Pedro Villalobos state of Texas, he said the state of Texas is currently still pursuing litigation that is
active that is against interest of myself and a lot of other people who are in my position. Mentioned that we are currently in pandemic and a lot of the first responders, whether in construction or healthcare are DACA recipients. In midst of pandemic you have both federal government and state government actively pursuing to destroy a system that has allowed people like me to advance not only ourselves but community that we have become embedded in and call home, it's a weird place to be in Texas from my perspective.

I am very lucky I live in a progressive county. Far and few in between in which you would see another county elected official to hire somebody in my position.

Let's go back to that right. What does it mean to have DACA and what state of Texas fighting against.

Not only do I get the work permit but I get ability to have income for myself.

I things that may seem small but when you consider, without work permit it would not be possible. You see impact it has on basic everyday life.

Because I have a job, I'm able to get a car lone to have a car. Because I have a job I also have a retirement program with my employer because I have a job because I have work permit have health insurance.

Small things that we take for granted in everyday life that have biggest impact on people like me.

Driver's license fearful you are going to be stopped because you have a foreign national passport. I think that, people understand minuet impact in grand scheme of things very big impact that the program has allowed for.

>> Maria: Well those don't seem like small things, when you describe them there are things that people take for granted. Healthcare is not that, not to take for granted.

The license and being able to get a loan, those are actually in terms of stability for families and individuals both economically but also to feel part of society. And I think what a lot of people say well, if DACA were rescinded again, or permanently things this reality existed before, before there were DACA people weren't able to do all those things you just described, driver license, work authorization.

But I think having things like this and having it taken away when people have fully realized what it all the things that come with something like DACA presents big problem for administration.

Takeaways when talking about three quarters of a million people.

>> Take away is a big problem.

>> Pedro: Once you put it in terms of who is it affecting you get lightbulb on your head when people realize everyone at some point in their life whether through a consumer service
oriented business, type of bank car wash restaurant you have had some sort of interaction with a person who has DACA who would have been eligible under expanded DACA program.

I want to touch on one thing I feel it's important we've been talking about legal aspect of this. The legal aspect of the DACA program is very much tied to political. DACA has become political it shouldn't have.

Ultimately believe in economics and trying to better the economy there's no better proof of immigrants doing that than through at the DACA program. Little bit on political side.

Program has become so political, I believe that it's at also very core nothing but a political battle being fought by the state the state of Texas government.

When I applied for the bar exam, there was a fear that I would not be licensed and that I would have to go through some sort of legal battle in the federal courts like other people have gone through in other states southeast Florida. Thankfully that did not happen, I had an opportunity to talk to one person who was on the panel that reviewed my application, they said that it was very, there was no fight they just went to the back for executive session meeting met for about two minutes came back out and approved my application.

The same entity that is arm of the state of Texas who believes that I am of sound character and who believes that I am allowed to represent the state of Texas through employer is the same government that is actively fighting in Federal Court to take away benefits that allow me to do the same things, that they have through a commission said I should be allowed to do.

It's political battle. I have no doubt about that.

>> Thomas:

>> Thomas: This has never been used by this administration from advantage point of economics and what would benefit the country economically.

I think the proof of that is actually prior to the pandemic when we had what was full employment economy and this administration without considering what I impact of it would be was ready to remove not only 3 quarter of a million DACA recipients from work authorization.

Also ready to remove another hundreds of hundreds of thousands of TPS recipients from having work authorization.

I don't know an economy who would tell you it's a good idea to take a million and a half workers out of the economy makes no sense.

I think economical calculation has changed you still reach the same including even with the recession we face in this pandemic, because suggested we know DACA recipients through multiple effects, multiplying effects of their having jobs and being able to contribute to purchases and alike.

Actually create more employment and more economic growth.
That's certainly true as indicated so many DACA recipients are essential works categorized as such still working as at pandemic moves forward.

Teachers teaching remotely there are many many DACA recipients. Healthcare workers or other in essential.

I wanted to comment he said that correctly, that DACA is now highly politicized it is highly politicized inside the Beltway among political leaders. Consist even today that the vast majority of people in the country from both parties support providing a pathway to citizenship. Or at least relief from the removal and work authorization for DACA recipients.

It's not even close the numbers are not close at all. So, this politicization is purely a Washington D.C. inside the Beltway partisan politicization of an issue that should be politicized in that way.

If the parties were exact acting consistent with views of vast majority of people in this country we would have a Dream Act already.

I remind us we got close in late 2010 when the House had passed the Dream Act and the only thing that prevented it from moving forward in senate was in ability to muster 60 votes super majority to end a filibuster. That's what stopped it.

So majority was ready in the senate to do what the House did.

But that politicization in DC even 10 years ago is what puts us in the situation that we're in today.

But as we look at long term repercussions of this decision, it's quite clear unanimously everyone knows and understand that we need a long term solution whether or not Trump Administration moves forward with attempting to rescind DACA or leaves iter in place and goes through two year renewal or allows new applications still unclear question but even allows new applications renew every two years far better off to get legislative solution that will provide a long term approach. This particular cohort of immigrants.

So many without legal status daily making contributions, long terms contributions not just to the economy but to our development as a society., we need that. The house has passed the dream affect we've got halfway there. What's keeping us from moving forward once again senate leadership in this case refusing to allow Dream and Promise Act to even be debated and considered in U.S. Senate.

>> Maria: Allen as president elect, long time member of ALIA you've seen not just politicization of DACA but politicization of Immigration over the last, at least eight years perhaps more can you talk about what the viability is can that continue to be and can there continue to be this very, using Immigration as political battering ram so-to-speak engagement, really what should be bipartisan issue.
Allen: So, I think in this world where now we’re, young people moving forward that don't care no dreamers that went to school with dreamers. We see the Dreamers caught up in great justice movement.

A lot of recipients another six percent in Daniela's memo are black people, African dissent a lot of people in Mexican also black people Africans moved over to Mexico and populated.

One of the things happened over pleasing of these societies prevents them from being in this pool. When you allow to have someone have work authorization pulls them away from pools that will push people to do things that that are illegal when they don't have authorization to toking school or get work authorization.

This is great concern every budget from Congress only a lots enough money to deport 400 thousand people.

No previous administration including Obama Administration has that number been reached.

You can't say that you want to deport everybody. Then also at the same time not have funding behind it to do it. You have to think of other ways to do that.

Under currents we should think about since we know affirmative action last a long time if you take deferred action away from this DACA class, there are going to be people who have deferred action.

This isn't like special thing people should stop thinking of it as a special thing. So, context thick of it as a justice thing.

Because equities in the DACA program are is that the child doesn't do a choice. Child didn't choose to enter the country undocumented.

Didn't choose to be here you know documented that's what equities sort of say. Benefited our society. They have been here a long time we didn't do anything.

Greater concern will the southern strategy that actually worked before continue to work on global society when we start saying immigrant is the other.

That's the real question we have to see how that works out in November. We don't know. A lot of things moving in Immigration world conversations pushes us to believe this may be the last battle ground found if Immigration is really a problem, if those people are citizens of this country or something else.

Maria: We've seen politicization of asylum used to be [ Indiscernible ] concept is still internationally where it's now been thrown into the mix with other xenophobic attitudes of this administration. In other words, every issue that involves immigrants gets politicized and ends up in court this is ABA panel, they all have. The travel band, DACA, separation of children, it seems like all these Immigration issues end up in court as court being the sort of the back stop that we have.

Allen: Which is the problem.
Maria: Right. And the thing is that's not necessarily consistent way to do things because the courts are not going to be uniform about how they handle these different types of claims also we can't just keep going to the Supreme Court on these matters because Supreme Court is dangerous place sometimes for Immigration matters. Not necessarily a forum that you can predict will be necessarily willing to, willing to review some of these hasher policies because of deference paid, right to executive power over Immigration. So, I think I know that I worry that were at this point where literally relying on the courts to create Immigration policies, sometimes in discounted ways, which sort of takes us, yeah, Tom.

>> I was just going to add I think one issue that came up only very briefly in this case, is apparent in a creasing hostility of Supreme Court majority to nationwide injunction.

That we saw play out in public charge issue in negative way when Supreme Court was willing to step in and grant stays on injunctions at least one case because solely because it was nationwide injunction. That's I think a particular danger in context of Immigration, because when it comes to Immigration that's when national uniformity is at premium.

We need one Immigration policy that applies nationwide.

When you have this kind of hostility to nationwide injunctions you put at risk at least for period of time before something is ultimately decided by the court, you put at risk national uniformity. Now we have other threats Immigration courts, inconsistencies, how aggressive local ICE regional offices are about particular issues.

When courts are getting involved in preventing nationwide uniformity I think that's a real problem.

In this DACA case Chief Justice dismissed the order by saying because there was order to rescind the conclusion by acting secretary of Homeland Security to eliminate dock ca that rescission by itself had nationwide effect and therefore, the court didn't have to deal with the fact that there were nationwide injunctions in other cases. I thought that was an interesting way of dodging that issue. But it doesn't really confront the problem we saw with public charge you want to have uniformity nationwide that's being sacrificed because of this Supreme Courts hostility to nationwide injunction.

Daniela, I'm going to bring you into the conversation to talk a little bit about how in your work on the Dream Act and as activist, what your sense, value of litigation of these cases and how the organizations view them and work around it lawsuits.

Daniela: Absolutely. I think litigators became the front line, it became front line defense as soon as Trump assumed office.

We have been able, as a movement to continue building our basis to continue trying to convince immigrants do overcome the fear.
But it's really difficult to say I'm undocumented and unafraid when there's an administration, deportation mission that's ready to break apart families and to take away the rights that we've been able to divide and to gain over the year -- to fight and to gain over the years.

It is admirable the work that litigators have done. But I think we have to remember that the battle doesn't stop here. We need legislative fix that leads to permanent solution.

We knew DACA was temporary measure. We were planning our lives to years at a time.

Many of us decided to increase [Indiscernible] with this country, decided to have children, buy houses to go into mortgages, to go into go to college. Doctor programs, we consider this place space our home.

We need a solution that leads to full part patient and full citizenship.

So, as DACA recipients, I am slightly released that Supreme Court provided, gave us that out come.

Few days ago. But definitely ultimate battle is going to be know when, we'll figure out if we have another four years of this. Or were finally able to catch a break and try to undo all the damage that has been done by this administration.

>> Maria: Do you have a sense, both Daniela and Pedro, that, let's say the initial DACA applications are opened up, that we hear that that, we think that can happen in the next whatever couple of weeks. Do you think people will go into that enthusiastically, or will people be nervous and suspicious worried about submitting initial DACA and turning over -- DACA and turning over information.

>> Daniela: My sense is there will be a lot of fear that is well founded.

When we submit applications we open up the book to our lives. Got knows where we live, places we work entire residential history. Us sometimes medical history.

So, it is, I think there will be a lot of reluctance among potential DACA recipients to apply.

I would say there is also power in numbers. So, the more of us that are able to come forward, the more difficult it will be for this government to go, to go after each and every single one of us.

So there has to be proper legal assistance, legal guidance to ensure that recipient will not be put into harm's way if it's not necessary.

>> Maria: Pedro, do you have a sense of whether people will apply?

>> Pedro: I think it's a mixed bag. But I think the advocacy work by organizations such as MALDEF has alleviated some concerns for people because they know that while the government federal government may not be necessarily on their side there is, there are national organizations out there and local community organizations that, who's going to be there to protect them and serve them.
>> Maria: For Allen and Tom a question about data sharing concerns that people have. About their information. I know that I do a lot of these webinars and with students that are undocumented. The the question always comes up you know, will, does ICE have access to to my data? Will they use it if DACA is rescinded? I'm curious what you think will be some legal ways. We know they have access to the data whether they use it or not is really hard to tell. Is there a legal way to prevent them from using the data that gets turned over?

>> Thomas: I would say, then I'll turn to Allen. I think, first of all for those who apply, when there was a clear indication that the information would not be used for [Indiscernible] there are certainly a legal matter very very strong reliance interests on that guarantee, if you will. That doesn't stop this administration, because this administration does many many things that are questionable legality, particularly in the arena of Immigration. But, there are certainly legal arguments to be made that would be made undoubtedly if there were an indication that this administration were allowing ICE to access data USCIS collected through DACA. Now, I think there's an open question. If this administration were forced and I saw a question, this administration is not going to voluntarily do anything when it comes to this issue. So, that's why we have to wait for these cases to go back down to district court and see what orders are put in place. Because I would not expect this administration to do anything voluntarily, including creating regulations or accepting new applications without a court order. But the question in my mind is whether new applications will be taken without that indication that the information would not be used for enforcement purposes. And whether if this administration sought to remove that from the application, that would be subject to legal challenge. But it's why I think there has to be degree of care taken before anybody files a new application. First need to know what the courts will order. Then see how implementation will occur. That said there are already folks who have applied with new applications to test what happens after this Supreme Court decision. But I think there's still some open matters to be determined.
But as for those who already applied and received DACA strong reliance interests about what they were told when they gave that information. To the federal government.

>> Maria: You are Immigration lawyer do you think that could be basis for, defense to removal for an individual.

>> Allen: In this administration, no. In the prior administration probably because of the reliance issue that was the way the program was administered.

Right now this administration is using everything that a person non [Indiscernible] has used or said against them in removal cases natural significant applications, revocation of naturalization applications.

Everything that you sort of made a record becomes available including requesting documents from former employees to see what things you attested to in the past.

There's that problem. As an attorney, there would be cost benefit analysis those individuals who could have applied for DACA that didn't have missed 10 years of a benefit that might have helped them get to some other place in life the statute might have changed they were concerned about privacy issues. These people may have -- if they decide not to continue with work authorization, revise the program in some way. There's a little bit of concern sort of speaking.

Over tell clients who are undocumented at this point of the game is about making a decision that you can live with because every day you are here as you know documented individual you have risk level of.going through the system.

You have to figure out who you can trust and can't.

>> Maria: What advice are you giving folks right now that want to submit initial DACA applications? While we wait for a decision or new policy.

>> Allen: If there's no pressing issue, meaning there's no aging issues, all factors are appropriate, people can tell people to wait that's the real concern.

People who can't wait we're suggesting people not apply for work authorization until they see some of these applications are around six hundred bucks. Substantial amount of money for anybody.

Specifically for someone who doesn't have a job or doing some other type of labor work and you are exposing information.

All those things factor into whether someone should apply or not apply. If we can wait hopefully someone is going to push through, there's the things people should think about right now. One of the things big furlough that's going to happen at USCIS dry applications.

Administration could decide adjudicating DACA applications isn't important. Receive them in, maybe, or not receive them in because they can't afford the contractor any more.
Applications sit for a long time. This adjudication process we're seeing across the board in every application may be ac forward in how the administration decides to ham these.

With regards with regard to high employment numbers, cuisse that threading the needle saying this health concern is going to control this other issue.

>> Maria: Do you think if we had a different administration January 2021, if those applications were still pending, that they could be adjudicated later?

>> Allen: I do believe that they could. Like I said, there's always, as litigator of Immigration, always good to put your name in the hat.

Your name will not be in the hat if you've done nothing. If you file for nothing you are sitting on side lines. The case may surround you different kinds of people may get different benefit because you didn't put your name you don't have actual harm.

That's one thing you have to think about. Do you have money? Do you have resources, are you clear about adjudications.

Some cases these is had misdemeanors, number that they adjudicating becomes problematic, records of local counties, different communities, schools, some things become problematic. You want to be sure if you are going to move forward they withs administration. The document you are filings isn't going to land you with denial and removal proceeding.

>> Maria: Yes. Yeah. We have had, I know, I notice that we've been answering questions along the way. We have a question here about advances [ Indiscernible ] as folks know initially with DACA there was advance parole which meant special pemission to be able to leave the country and return if you had DACA.

Now for folks who have DACA because of renewal process, they kept it since rescission DACA advance parole is no longer available.

What are people's thoughts, yours in particular, Allen, about advance parole either for people with DACA now that the policy, Supreme Court said rescission was unlawful.

Or for initial DACAs and advance parole.

>> Allen: On initial DACAs I would wait for sure. On the original DACAs, as a general matter all of my clients in this COVID-19 world if you don't have to go international in the you'd don't go anywhere I can't protect you outside United States, becomes different hurdle if I have to deal with state department or something else to get you back into the country or if you trip international problem or rules.

As general rule, answers is to just not travel.

I don't recommend in this administration trying to go in advance parole even if you have one I wouldn't use it.

Most of these individuals I think we said the other day oldest person is probably 39.
Been in the United States a good period of time.
For me, I think the risk is too high to forego waiting all that time to get relief.

>> Thomas: I totally agree with Allen, I would add two other pieces as lawyers we should be aware of.

First of course I think we, where this administration is basically putting Immigration moratorium in place with limited exceptions as a result of pandemic.

It's unsupported views about economic needs of the country.

So, I think that's another matter to consider before looking for advance parole.

Then the other is echoing something that was said advance parole particularly under DACA unduly politicized as happens in so many context you have minor occurrence.

We're talking about minor, small number of people, it becomes in right wing restriction nest minds some huge huge phenomenon.

Advance parole tied in limited circumstances to a adjustment of status.

I think become unduly politicized by the other side.

We know in this administration that sort of hyper conclusions about restrictions have policy sway partly because of people like Steven Miller and others had been to this point just overheated rhetoric.

Now sometimes seems to drive policy. I think you have to be very careful in this context.

>> Maria: Yes, we had a question about maybe not everybody is aware, I think that one of the things that happens when you leave the country with advance parole and you come back, when you come back you've been inspected by DHS and border.

And therefore, when you want to adjust your status later on, you don't have to leave the country to do so, you can adjust without leaving the country.

Which is obviously a big advantage. If you leave you have to stay out, up to 10 years before you can adjust.

So, you know, I think that's one of the reasons this is been politicized, right, is because it does provide the ability for some people to adjust their status once they are back.

Ways they couldn't have done if they hadn't left on advance parole.

I think one of the things that people don't realize you can't just leave advance parole for any old reason.

Our office has done many many advance paroles we could do advance paroles.

They were one they were extremely expensive for people. The application process.
Also for educational purposes, which is what we often did then because these were students that wanted to study abroad.

They had to, they had to really show the educational program, they had to document educational program that benefited that educational program.

Not a lot of them that we were able to obtain humanitarian once people had relatives that were dying or have died.

There we had to prove a very close relationship you know, we had to submit medical records from the hospital or doctors that were treating the relatives abroad.

In order to justify the humanitarian advance parole.

So, it really was not just this huge door that everybody can walk through.

And get in order to be able to come back and eventually adjust.

It was very limited and very expensive.

And it is something that has existed forever, like the deferred action.

This is not some new, some new advance parole is not a new Immigration policy.

There's been advance parole and still exists in other areas of Immigration while you can still get paroled into the country for different reasons.

>> Thomas: I just want to make clear that of course those people who are able to adjust, they have another basis for adjusting that's where I think the right wing takes this limited phenomenon and blows it out of proportion somehow suggesting all have you to do to adjust get advance parole and then reenter.

No we're talking about thin slice of DACA recipients will have another basis family relationship or another wise to adjust their status.

But that gets blown out of proportion by the right wing industry that exists to promote an agenda.

>> Maria: Thanks for clarifying that. You already have to have a means to adjust in order to be able to, the only difference is you can do it here rather than having to wait out 10 years abroad. But have you to have a basis for adjustment.

We had a question that was, that I think Allen wants to respond to, which is why don't we, could we have a more comprehensive Immigration reform and not just limit it to the Dream Act.

>> Allen: We tried that. We've seen it actually get some momentum not catching everybody.

Sort of --

>> Maria: Hello, I think Allen's screen is frozen.

>> Thomas: Yeah.
>> Thomas: I'll chime in.

>> Maria: I'll let him know.

>> Thomas: They seems to be back I think he's not frozen any more.

>> Maria: Doesn't look like.

>> Thomas: Okay. So, in two thousand.

>> Maria: Somebody is checking letting him know it's frozen.

>> Thomas: 2013 U.S. Senate did pass comprehensive Immigration reform package; it was bipartisan, only I was few Republicans unlike usual bipartisan historically in Immigration reform.

Which was much more large numbers from both parties. It did not move forward.

I think there was a strategy at the time and prior that said we should push for comprehensive reform or nothing.

I think there's been broader recognition that that would be wonderful too often what's expected in return for comprehensive he reform are some very draconian enforcement measures that might not be acceptable.

I think there's a recognition if you can get relief for the country, with respect to a smaller number of folks like those who are DACA recipients and others like them, that's a positive step forward.

While we still ultimately want to address all the millions of immigrants who are making daily significant ongoing contributions to our country, it may not be easy to get to all of them at one time.

Now, what will happen after November depending on the outcome of the election is a whole new question. Right now I'll reiterate Dream and Promise Act addresses DACA recipients and TPS has been passed by House of Representatives could tomorrow be taken up by the senate.

Even if they made changes it would go to conference and White House, would this White House sign that bill, I think that's an open question.

But right now the main impediment is senate leadership refusing to take up this relief not only for DACA recipients but for those with temporary protected status as well.

>> Maria: So, do you see it going again to not taking it to the floor and having to overcome [ Indiscernible ]

>> Thomas: I think of course there would by a filibuster would have to be overcome. At this point, Mitch McConnell won't even take it to the floor, so that's sort of an academic question
whether 60 votes exist he won't take the chance offer allowing 60 votes to be cast to lead to a vote on merits of the Dream Promise Act.

Allen may be unfrozen.

>> Allen: No, you took care of it, thank you.

>> Maria: I was going to ask Daniela or Pedro, both to comment about among their circle of DACA colleagues, what, whether there's appetite for fighting for comprehensive reform or whether it makes more sense initially to focus on the Dream Act?

>> Pedro: I think that's kinds of a bit of a tough question. Cause I think ideally you want both of them and I think that with any comprehensive [ Indiscernible ] package you have to have a pathway to citizenship for all undocumented immigrants here that would encompass DACA recipients. I think comprehensive Immigration reform path to citizenship is the goal, however I think that at this time given how gridlocked Washington is, hopefully we'll have good out comes on the federal level come know.

In order to implement real change and real reform and how we handle Immigration in this country come January 2021.

>> Daniela: Yeah, I agree I think we have to remember too that DACA recipients part of mixed status, mixed status households, so, many of us have undocumented parents, so maybe DACA protects us, some of us.

But we still have family members, friends, colleagues who are extremely unprotected. So, we should push and I think what I've seen from other activists is there is a desire to push for protection for entire 10.3 million undocumented still are in limbo and facing Trump Administration.

>> Pedro: I will add to touch on what Daniela said about mixed status family my parents are residents they became legal permanent res department tin 2015. I was on their application submitted in 1996.

That was near physical two decade of waiting they had to do.

During that interim I [ Indiscernible ] the application because of how Immigration laws are structured. There's one thing that needs to be fixed in Immigration world.

Other thing that also would have allowed me to keep my original priority date would have been, would have been if the Supreme Court took up another case few years ago that challenged the way that the childhood status protection act, I think that's the name of it was interpreted.

So, every single level I think all panelists would agree there is some sort of misapplication, misunderstanding just been very erroneously worded.

Just a format of hodgepodge of things that just don't benefit anyone.
Maria: Yeah. And that's why we call it comprehensive Immigration reform, right, because, it's not what people think which is just like regular rise everyone so many pieces of Immigration law that that are broken.

Like your situation backlogs and, I mean...

Thomas: Important to emphasize the reason why Pedro's parents waited two decades that is because we still have an Immigration system that discriminates on basis of what country you come from.

To the extent any of us remember what we were taught in school, taught in 1965 nation turned its back on its previously openly discriminatory Immigration system.

And the 65 Immigration act was appropriately deemed by Lyndon Johnson when he signed it piece of civil rights legislation.

It was not perfect as a result of the 65 Act setting the same quota for every country in the world regardless of proximity, regardless of demand to immigrate, regardless of family and cultural connection.

Result is that handful of countries and Mexico is top of the list, wait much much much longer than those similarly situated from every other country in the world.

So, I just hope that everyone who's listening to this webinar will appreciate that continuing racial, national origin discrimination in our system.

Next time you hear any politician refer to the line, in the line, it's not one line.

The line you're in depends on what country you come from.

Again Mexico, small handful of other countries are forced to wait much much much longer than those from other countries.

Maria: Yeah, and unfortunately, Pedro's situation is not unique. I mean we see this all the time at my job.

I mean, you know first I thought it was unusual to see undocumented folks whose parents were permanent residents. And then over time you realize this is the situation for a lot of people, right.

That the parent, that they aged the kids age out you know.

And because something has been pending for that long.

It's extremely common.

And completely based on your country of origin.

We have people whose families have been waiting 25 years for their priority date.
There's a question here so, this is sort of about messaging about Immigration. And it's somebody is saying that some people in discussing how to message about Immigration say don't use the phrase the Immigration system is broken. Talk about it needed upgrade that wording can reach more people rather than the completely broken.

Any reactions to you know do we need to, how do we talk about this?

Building from the ground up or is it better easier to understand if we talk about tweaks and upgrades? Any thoughts on that from the panelists?

>> Thomas: I'll start in I'll say, I'll take the took tweaks and upgrades if we can get it done quickly. Cause, we need to put in place some programs, legislative programs to address, in particular, DACA recipients.

And TPS recipients. Got to get it done quickly.

Assuming it becomes possible in 2021, I want that to be one of the first Hyndais achievements of the Congress and administration to get it done.

Now longer term there's no question in my mind that we need a more comprehensive revision of our Immigration policies, that includes fixing the national origin quotas problem I talked about.

Truth is as Allen could give us line and verse, there are so many problems with our Immigration court system, denial daily of due process that everybody would expect in any other circumstance.

We need to do some real serious thinking going back to even the philosophy of Immigration system.

What was need to see Immigration as an issue that has both domestic policy implications and international policy implications.

Every time in the past we failed to do that, we've seen long term repercussions from decisions made without considering the consequences in the countries.

Then leads to phenomena decades sometimes later if for seen could have been addressed long ago.

So, top to bottom we need to do it over.

First of all need to get important relief in place.

>> Maria: Well, we're coming to the end of our panel, I just really want to thank all panelists. I think this was a great panel that combined tremendous legal expertise with personal expertise.

And people with a lot of experience on these issues that made for a very interactive discussion.
So I really want to thank everybody. And I think for those listening, the, this section of the ABA is going to have, as I mentioned earlier, several programs like this.

Hopefully you'll be able to tune into those as well.

This was incredibly timely.

We started planning this before the decision.

And I'm really glad we did, because it's only been a little over a week since the Supreme Court issued its decision.

We're already, we're able to analyze it and start talking about the future.

So, thank you everybody. And thank you to the seconds for putting this together.

And good afternoon everyone. Talk to you soon.

[ Webinar concluded ]