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Bar groups join fight against order barring immigration judge from Iranian cases

By Don J. DeBenedictis

A coalition of ethnic bar associations and a national immigration judges group have moved to support a lawsuit challenging a Justice Department order barring an Iranian-American immigration judge from cases involving Iranian nationals.

The lawsuit by Los Angeles-based Judge Afsaneh Ashley Tabaddor accuses her supervisors in the Justice Department of "lawless and discriminatory action" against her "simply because of her race and/or national origin and her exercise of her First Amendment rights to participate in outside volunteer and professional activities in connection with the Iranian-American community." *Tabaddor v. Holder*, CV14-06309 (C.D. Cal., filed Aug. 12, 2014)

This week, the National Association of Immigration Judges and a coalition of a dozen ethnic and national-origin bar associations led by the Asian Americans Advancing Justice advocacy group asked U.S. District Judge George H. Wu to accept friend-of-the-court briefs from them.

The case could have "a huge impact on diversity in the judiciary," said Laboni A. Hoq, the litigation director for the advancing-justice organization. She said the possibility that judges might be barred from hearing cases related to their community involvement could lead lawyers to avoid "the things they need to do to be appointed" to the bench.

Her group and its 12 amicus partners are also being represented by Carl L. Grumer of Manatt, Phelps & Phillips LLP.

In its proposed amicus brief, the National Association of Immigration Judges said it is "acutely interested" in the case because it involves the independence of all its member judges, "as well as more fundamental issues of freedom of speech and freedom of association."

The group's attorney, Bryan K. Sheldon of Lim, Ruger & Kim LLP, said that if Tabaddor could be recused from cases involving Iranians, then female immigration judges could be barred from hearing cases involving female immigrants.

The case grew out of Tabaddor's invitation to participate in a White House roundtable with Iranian-American community leaders. The Executive Office for Immigration Review, the Justice Department unit that oversees the immigration courts, allowed her to attend but said that, under government ethics standards, "she should recuse herself from matters involving individuals from Iran, a tiny portion of her docket, to avoid any appearance of partiality," according to the department's motion to dismiss.

The motion argues that Tabaddor cannot claim discrimination because she has not shown she was subjected to an adverse employment action, among other arguments.

Tabaddor's attorney, Ali M. M. Mojdehi of Cooley LLP, rejected that contention. "There's no getting around the fact that what the government is doing is race-based discrimination," he said.

Benjamin L. Berwick, the Justice Department's lead attorney on the case, said he could not discuss the matter. The department declined to comment.

Tabaddor's lawsuit seeks an injunction allowing her to hear Iranians' cases and requiring the department to assure that its policies are not applied to immigration

Questions and Comments

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Top Verdicts



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Government

In twist, federal judge orders state court to decide immigration dispute

The Mexican American Legal Defense and Educational Fund has persuaded a federal judge in Los Angeles to ship back to state court a case over the city of Baldwin Park's alleged violation of California's Trust Act.

Litigation

First suit filed in 'superbug' outbreak

The first lawsuit sparked by the superbug bacterial outbreak that killed two patients, sickened five more and exposed almost 180 others at a Los Angeles hospital was filed Tuesday by attorneys at Panish Shea & Boyle LLP.

Administrative/Regulatory

Blurred blame in unpopular wireless approvals

Congress wants wireless infrastructure without political backlash. And it recently found a way to have its wireless cake and eat it, too - make local officials take the blame. By **Robert C. May III**

Bar Associations

Bar groups join fight against order barring immigration judge from Iranian cases

A coalition of ethnic bar groups and a national immigration judges association are supporting a lawsuit challenging a Justice Department order to bar Judge Afsaneh Ashley Tabaddor from cases involving Iranian nationals.

Law Practice

Former federal judge brings family to ADR practice

Former U.S. District Court Judge Layn R. Phillips - one of the top mediators in the country -- left Irell & Manella LLP after 23 years to start his own ADR practice with his family and expand with the help of another retired bench officer.

Judges and Judiciary

Rule opening up judicial branch committee meetings draws criticism

A group of trial court judges recently pointed out that more than half of February meetings were closed, calling it proof that the state's Judicial Council wants to avoid accountability.

judges in a discriminatory manner.

Wu is set to hear the government's motion to dismiss on April 23.

don_debenedictis@dailyjournal.com

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Immigration

Immigration reform leads to uptick in work for attorneys

President Barack Obama announced an upgrade to immigration rules Tuesday that will make it easier for spouses of high-skilled immigrant workers to apply for their own work authorizations.

Labor/Employment

EEOC v. Abercrombie: Mere suspicion insufficient to give rise to claim

Employers will be encouraged to stereotype if Abercrombie's mere suspicion of a religious conflict is enough to give rise to a failure-to-accommodate claim. By **Gary R. Siniscalco, Erin M. Connell and Lauri A. Damrell**

EEOC v. Abercrombie: A&F's arguments don't pass muster

In a case to be argued Wednesday, Abercrombie says only actual knowledge of a religious conflict can support a failure-to-accommodate claim by a Muslim applicant whose hijab violated company policy. By **Kathryn Dickson**

Judges and Judiciary

The perils of nonprecedential opinions

The practice of issuing unpublished, supposedly nonprecedential, opinions is simply harmful to appellate justice. By **David R. Cleveland**

Labor/Employment

Chipping away at employer flexibility, one ride at a time

Recently, the implications of Uber's business model were thrust into the spotlight when a handful of Uber drivers sued the company in U.S. District Court. By **Christopher Boman and Ryan Wheeler**

Judicial Profile

Victor E. Chavez

Superior Court Judge Los Angeles County (Los Angeles)

Labor/Employment

Ellen Pao's skills disputed in opening statements

Was Ellen Pao discriminated against as a woman while she worked at venture capital firm Kleiner Perkins Caufield & Byers, or was she simply not skilled at her job? Two trial lawyers outlined starkly different portrayals Monday.