

National Association of Immigration Judges Strongly Supports Suit Challenging a Department of Justice Order that Judge Recuse Herself from All Cases Involving People Who Share Her Iranian Ethnicity

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Los Angeles, CA – August 12, 2014 – Today, suit was filed against the United States Department of Justice (“DOJ”) challenging an order indefinitely recusing a sitting Immigration Judge from hearing cases involving Iranian nationals, on grounds that the order violates First Amendment rights of free speech and association and is facially discriminatory under Title VII of the Civil Rights Act of 1964. The suit, *Tabaddor v. Holder et al.*, charges that the DOJ based its disqualification order on racially-motivated and discriminatory criteria; that is, Immigration Judge Ashley Tabaddor’s Iranian heritage and leadership role within the Iranian-American community. The complaint raises a First Amendment challenge to the DOJ policy embodied by the disqualification order, which violates the free speech and associational rights of all Immigration Judges to participate in speaking, educational and volunteer activities on their own time and in their personal capacities. The recusal order contradicts written DOJ ethics policies applicable to Immigration Judges that affirmatively encourage civic engagement. Equally important, the recusal order violates applicable regulations providing that recusal determinations be made only by the presiding Immigration Judge on an individualized case-by-case basis, not imposed by DOJ officials in an arbitrary manner.

The NAIJ strongly supports the suit which seeks an injunction requiring the DOJ to lift the recusal order and cease enforcement of a policy that is motivated by discriminatory animus and chills public discourse and engagement by federal Immigration Judges in a potentially wide array of civic, religious, volunteer and other activities. Fundamentally, the suggestion that an Immigration Judge cannot fairly administer the law because of the Judge’s racial or ethnic heritage, or association with a particular race, national origin or religion sets a dangerous precedent. While at one point the DOJ prided itself on attempting to appoint Judges who reflected the diverse racial and ethnic communities they served, the DOJ’s action deters those same Judges from being active in their communities based on an alleged perception that they will be seen as biased. The current DOJ policy is an insidious form of racial profiling that treads upon the authority of Immigration Judges to independently decide the cases that come before them free of improper manipulation by DOJ officials, *and* endangers the due process rights of those who appear before the Immigration Courts.

The NAIJ has long advocated restructuring our nation’s Immigration Courts to remove them from DOJ, a law enforcement agency. Instead, they should be an Article I court system, which would enhance transparency and provide increased judicial independence. This blanket recusal order is but one example of many which demonstrates the urgent need for structural reform.

A copy of the complaint, filed in the United States District Court for the Central District of California, can be accessed by clicking [here](#).

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