



DOJ Settles Iranian Immigration Judge's Bias Case

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Law360, New York (November 3, 2015, 6:59 PM ET) -- The [U.S. Department of Justice](#) has agreed to lift a blanket recusal order blocking an immigration judge active in the Iranian-American community from hearing any cases involving Iranian nationals and pay her \$200,000 to end a federal discrimination lawsuit, the judge's attorneys said Tuesday.

Under the settlement in California federal court, the DOJ has agreed to lift the order against immigration judge Afsaneh Ashley Tabaddor, undertake a review of its recusal policies and regulations, and pay the immigration judge \$200,000 in damages and expenses, according to a statement issued Tuesday by Judge Tabaddor's counsel at [Cooley LLP](#).

Cooley partner Ali Mojdehi, who represented Judge Tabaddor, told Law360 on Tuesday that the recusal order ran contrary to public policy and had the effect of discouraging immigration judges and any other DOJ employee from engaging in pro bono or community service activities.

“From our perspective, the recusal order had no support in regulations and recusal-related jurisprudence,” Mojdehi said. “It was an unprecedented position that the DOJ had taken and we are thrilled to correct the injustice, vindicate our client and uphold her oath of office.”

A representative for the DOJ declined comment Tuesday.

Although a stipulation for dismissal was filed in the case Tuesday notifying the court of a settlement between the DOJ and Judge Tabaddor, the filing itself didn't contain any details about the proposed agreement.

Judge Tabaddor, who [launched her suit](#) last August, had accused the DOJ of discriminating against

her when it ordered her to recuse herself from all cases involving people from Iran. The suit also alleges that the DOJ, former Attorney General Eric Holder and others trampled on Judge Tabaddor's First Amendment rights by enforcing a policy that curbs the judge's speech outside of work.

According to the complaint, the trouble started when she sought time off to attend a White House roundtable with leaders in the Iranian-American community.

The DOJ [Executive Office for Immigration Review](#)'s general counsel at the time, Jeffrey Rosenblum, subsequently recommended that Judge Tabaddor recuse herself from handling any cases involving Iranian nationals, since her roundtable invitation gave rise to an appearance of impropriety, the suit said.

That recommendation was allegedly bumped up to an order after she attended the event, and Judge Tabaddor eventually issued recusal orders in eight cases, according to her amended complaint. Her suit claims that the DOJ "singled out" the judge, and that on its face, the recusal order was based on her race and association with Iranian-Americans.

In its January dismissal motion, however, the DOJ claimed that all of Judge Tabaddor's claims should be dismissed, arguing that the court doesn't have jurisdiction over the judge's constitutional claims, since they're precluded by the Civil Service Reform Act.

The government also argued that her discrimination claim should also have been chucked because Judge Tabaddor failed to administratively exhaust it in a timely manner, and she hadn't presented enough facts to dodge a dismissal order.

Judge Tabaddor responded in February that the DOJ had relied on "strained technical arguments" in its dismissal motion in an attempt to duck having to respond to the issues at hand.

The DOJ [subsequently responded](#) with a reply brief that doubled down on its CSRA argument and claimed that Judge Tabaddor hadn't exhausted her claim in an appropriate time frame, because she failed to consult with a U.S. Equal Employment Opportunity counselor within 45 days of the initial recusal recommendation.

In late April, U.S. District Judge George H. Wu trimmed certain constitutional claims from the suit, but largely kept intact Judge Tabaddor's discrimination and retaliation claims.

Earlier this year, the National Association of Immigration Judges [threw its support](#) behind Judge Tabaddor, telling the court in an amicus brief that the order strikes at the integrity of the immigration court system.

Various other advocacy groups, such as the Iranian [American Bar Association](#), also filed brief backing Judge Tabaddor and arguing against the government's bid to have the case dismissed.

Judge Tabaddor is represented by Ali M.M. Mojdehi, Janet Dean Gertz, Jon F. Cieslak, Allison Rego and Erin Trenda of Cooley LLP.

The government is represented by Joyce R. Branda, Susan Rudy and Benjamin L. Berwick of the DOJ.

The case is *Tabaddor v. Holder et al.*, case number [2:14-cv-06309](#), in the U.S. District Court for the Central District of California.

--Additional reporting by Allissa Wickham. Editing by John Quinn.

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Case Title

[Afsaneh Ashley Tabaddor v. Eric H. Holder Jr. et al](#)

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Court

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