

WEDNESDAY, JULY 25, 2015

LITIGATION

Immigration judge supported

By Don J. DeBenedictis
Daily Journal Staff Writer

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 Depart-

ment 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 judges in a discriminatory manner.

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

Cooley