



NATIONAL ASSOCIATION OF IMMIGRATION JUDGES

President A. Ashley Tabaddor
c/o Immigration Court
606 S. Olive Street, 15th Floor
Los Angeles, CA 90014
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January 9, 2019

Dear Representative,

As has been widely reported, the current government shutdown over U.S. immigration policy has placed an unmanageable burden on our nation's Immigration Courts. As an Immigration Judge in Los Angeles presently on furlough and as President of the National Association of Immigration Judges (NAIJ), I am acutely aware of the impact of the current government shut down on our Immigration Courts, Immigration Judges and the parties who appear before us.

There is currently a backlog of more than 800,000 pending immigration cases (an increase of 200,000 cases in less than two years, in spite of the largest growth in the number of judges in recent history - from under 300 to over 400 U.S. Immigration Judges). We, as Immigration Judges, are responsible for determining whether claimants can remain in the United States or must be deported or detained.

Because of the crushing backlog of cases, our individual court calendars are booked, morning and afternoon, every day of the week, multiple years in advance. Some days our judges have more than 80 cases on their dockets. Every day that our courts are closed, thousands of cases are cancelled and have to be rescheduled. However, the likely re-scheduling option is – as [Washington Post editorial writers suggest](#) – plucked from a New Yorker cartoon: “Never. Does never work for you?” While this is hyperbole, it is not far from the truth. Since it is impossible to predict when these cases can reasonably be rescheduled, it might as well be “never.”

The concept of “never” cannot be accepted and does not work for the United States. It is unacceptable to prevent those who should be deported to remain here indefinitely or to prevent those who are eligible for relief from being granted relief and receive the benefit they deserve. When a hearing is delayed for years as a result of a government shutdown, individuals with pending cases can lose track of witnesses, their qualifying relatives can die or age-out and evidence already presented becomes stale. Those with strong cases, who might receive a legal

immigration status, see their cases become weaker. Meanwhile, those with weak cases – who should be deported sooner rather than later – benefit greatly from an indefinite delay.

Judges, as public servants, along with our fellow federal employees and people across the country, are also being asked to carry the burden of a government shut-down. Every Immigration Judge across the country is currently in a “no-pay” status. Those who have been furloughed are anxious about having been prevented from continuing to work and earn their living. The judges who have been deemed as “excepted” are serving the American people without pay and doing so with added unnecessary pressures, including the Department’s recent announcement that most hearings will no longer be accompanied with in-person interpreters, and that the judges’ previous compressed work schedules and administrative time to review cases has been cancelled. On behalf of the NAIJ, I urge you to bring a rapid end to the current shutdown.

The root cause, however, of an increasing backlog of cases, the delays, uncertainty and unfairness in U.S. Immigration Courts is that our Immigration Court and judges are directly accountable to the U.S. Attorney General, the federal government’s lead prosecutor. This underlying structural flaw has led to repeated violations of the basic tenants of our American judicial principles, that of an independent and impartial judge and court. While we are grateful to Congress for the recent allocation of additional funding to our resource starved courts, such as added Immigration Judge teams, history has proven that the issues plaguing our Immigration Courts will not be corrected simply through more funding. The enduring solution, which has been publicly supported by multiple prominent legal organizations and scholars, is to remove the Immigration Court from the Justice Department and afford it with the true independence it needs and deserves. It is long past time to vest U.S. Immigration Judges – like our counterparts in U.S. tax and bankruptcy courts – with full judicial independence under Article 1 of the U.S. Constitution.

We are available at your convenience to discuss these critical issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley Tabaddor', with a long, sweeping underline that extends to the left and then curves back under the name.

Hon. Ashley Tabaddor

President, National Association of Immigration Judges