



کانون وکلای ایرانی در آمریکا

# IRANIAN AMERICAN BAR ASSOCIATION

## Press Release: Judge Ashley Tabaddor Statement

**August 23, 2014** - The Iranian-American Bar Association (IABA) has been made aware of a lawsuit filed against the United States Department of Justice (DOJ) by the Hon. Ashley Tabaddor, a sitting immigration judge for the U.S. Immigration Court. In the lawsuit, Judge Tabaddor challenges an order that imposes on her a blanket, preemptive recusal from hearing all cases involving Iranian nationals. Judge Tabaddor challenges the order on the grounds that it violates her First-Amendment rights of free speech and association; and the suit also charges that the DOJ based its recusal order on racially-motivated and discriminatory criteria in violation of Title VII of the Civil Rights Act of 1964, because it is specifically based on Judge Tabaddor's Iranian heritage and her leadership role within the Iranian-American community.

According to the lawsuit, the DOJ's recusal order was issued only after Judge Tabaddor attended a roundtable meeting at the White House in August 2012 to discuss federal initiatives relevant to the Iranian-American community. Before that meeting, Judge Tabaddor was informed by the Office of General Counsel that she could attend the roundtable meeting as long as she was not appearing in her official capacity. At that time, it was "recommended" to her, but not ordered, that she recuse herself from cases involving Iranian nationals given her activities within the Iranian-American community. After the roundtable meeting, Judge Tabaddor sought clarification of the recommendation and was then informed that she was required, not recommended, to disqualify herself from all cases involving Iranian respondents in order "to avoid any appearance problems." Judge Tabaddor protested the order, noting that other immigration judges who have been active in their ethnic and religious communities have not been subject to similar, blanket recusal orders.

In her complaint, Judge Tabaddor asserts that the disqualification order not only violates Title VII and her First Amendment rights, but contradicts existing DOJ policies that encourage civic engagement and preserve the free speech and associational rights of judges to participate in volunteer activities on their own time. The lawsuit seeks an injunction requiring the DOJ to lift the recusal order and to cease enforcement of a discriminatory

policy that significantly limits an immigration judge's ability to participate in a potentially wide array of civic, religious, volunteer, and other activities. The IABA is deeply concerned with the allegations in Judge Tabaddor's complaint. First, the described disqualification order challenges a widespread and well-established principle: that in order to maintain the independence and discretion of judicial officers, recusal determinations are to be made by the presiding judge on an individual, case-by-case basis that examines specific parties and facts of the matter before the judge. Any blanket, preemptive order that is issued on an indefinite basis is not only grossly overbroad and arbitrary but also deprives the judicial branch of its decisional independence and subjects it to political whims.

Second, any policy suggesting that a judge cannot fairly administer the law simply because of his or her racial or ethnic heritage - or association with a particular race, national origin, or religion - is of serious concern. In reality, judges not only routinely speak, write, lecture, teach, and participate in activities concerning the legal profession and matters of public concern, but they also routinely take leading roles in their various communities. Against that backdrop, in addition to concerns of discriminatory effect, the described DOJ recusal order (and underlying policy) threaten to seriously chill public discourse and engagement by federal immigration judges and, potentially, all federal judges in a wide array of civic, volunteer, religious, and other activities.

Third, the IABA is concerned that the DOJ's recusal order sets a dangerous precedent for racial or religious profiling against other judges or governmental employees, especially those who are engaged in otherwise valuable activities such as educating minority communities about matters of public importance or taking leadership roles in such communities. Such a policy creates a dangerous, slippery slope based on national origin, ethnicity, and other protected classes such as religious and political affiliations.

Lastly, the IABA is deeply concerned that the described DOJ's order and underlying policy treads on a cornerstone of our judicial system: namely, the authority of the judiciary to independently decide the cases that come before it without undue influence or manipulation by the executive or legislative branches. By threatening that authority, the described DOJ order and policy not only encroaches on the authority of the judiciary, but also endanger the due-process rights of those who appear before our federal courts. A copy of the lawsuit, *Tabaddor v. Holder et al.*, which is filed in the United States District Court for the Central District of California, can be accessed [here](#). The IABA will continue to monitor the status of this complaint and follow up as appropriate.



**Iranian American Bar Association-National**

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