

UNITED STATES MARSHALS SERVICE

AFFIDAVIT

STATE OF VIRGINIA

CITY OF Fairfax

I, Nina Elliot, make the following statement freely and voluntarily without promise or coercion to Patrick Anderson, who has been identified to me as an Equal Employment Opportunity (EEO) Investigator, United States Marshals Service, knowing that this statement may be used in evidence. I understand that the information is given without a pledge of confidentiality and that it may be shown to parties with a need to know. The following statement is made in response to the EEO Complaint of Discrimination filed by A. Ashley Tabaddor against the U.S. Department of Justice, Executive Office for Immigration Review (EOIR) on November 29, 2012.

I have been advised that the claim accepted for investigation is as follows:

Judge Tabaddor alleges that EOIR discriminated against her on the basis of national origin, religion, race, and reprisal related to the issuing of an ethics opinion to recuse herself from immigration cases involving Iranians. Judge Tabaddor further alleges that EOIR has retaliated against her for claiming that ethics opinion is discriminatory.

I hereby solemnly swear or affirm:

National Origin

National Origin Discrimination The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

QUESTION #1: For the record, what is your full name and job title?

ANSWER: Nina Marie Elliot, Associate General Counsel

QUESTION #2: Where were you employed at the time the complaint was filed? Please provide the name of the agency, division, and location. How long have you worked in your current position? How long have you worked for the agency?

ANSWER: Executive Office for Immigration Review, Office of the General Counsel, Employee and Labor Relations Unit

QUESTION #3: Who were your 1st and 2nd level supervisors? Please provide their names and job titles.

ANSWER: Jeff Rosenblum, Chief, Employee and Labor Relations Unit and Jean King, Acting General Counsel

QUESTION #4: What is your National Origin?

ANSWER: United States

QUESTION #5: To your knowledge, what is Judge Tabaddor's National Origin? When and how did you become aware of her National Origin?

ANSWER: Based on my reading of this questionnaire, I believe Judge Tabaddor's National Origin is Iranian American.

QUESTION #6: To your knowledge, have other EOIR staff members been required to recuse themselves from cases involving members of their prospective National Origin? If so, who are they and what was their National Origin? When did this action take place?

ANSWER: Not to my knowledge.

On July 5, 2012, Judge Tabaddor received an email from Mr. Jeff Rosenblum, recommending that she disqualify herself from matters involving individuals from Iran due to her activity in the Iranian American community.

QUESTION #7: Has Judge Tabaddor spoken to you about the contents of this email? If so, why was this request made? Did you speak with anyone about this request?

ANSWER: No.

QUESTION #8: Did you provide guidance to anyone in EOIR with regards to the content of the email? Please provide specifics.

ANSWER: No.

QUESTION #9: Have you discussed or sought advice from anyone else in the EOIR with regards to the recusal request? If so, who did you speak with? What advice or guidance did you receive?

ANSWER: No.

On August 28, 2012, in response to Judge Tabaddor 's request for clarification, she alleges that the Mr. Rosenblum's recusal request was changed, and he mandated that she recuse herself from all cases involving respondents from Iran.

QUESTION #10: Has anyone spoken to you about the mandate received from Mr. Rosenblum? If so, did you agree with the mandate from Mr. Rosenblum?

ANSWER: I do not recall speaking to anyone about Mr. Rosenblum's August 28, 2012 e-mail.

QUESTION #11: What advice or directive did you provide with regards to the mandate from Mr. Rosenblum? Please provide specifics.

ANSWER: None.

QUESTION #12: Have you discussed or sought advice from anyone else in the EOIR with regards to the recusal request? If so, who did you speak with? What advice or guidance did you receive?

ANSWER: No.

QUESTION #13: To your knowledge, has any other employee been mandated to recuse themselves from cases because of their personnel affiliations as Judge Tabaddor was? If so, please provide their name, affiliation and the person responsible for the mandate.

ANSWER: Not to my knowledge.

QUESTION #14: Prior to these events, have you had any conversations with Judge Tabaddor about her social or political affiliations and there possible effect on her position as an Immigration Judge? If so, when did you speak with her?

ANSWER: No.

QUESTION #15: To your Knowledge, how many personal speaking engagements have Judge Tabaddor requested prior July 5, 2012, mandate from Mr. Rosenblum? Of those, how many were approved?

ANSWER: I do not have a sense of how many personal speaking engagements Judge Tabaddor requested prior to July 5, 2012.

QUESTION #16: After receiving the mandate from Mr. Rosenblum, how many times has Judge Tabaddor requested to use her official title on person speaking engagements? Of those, how many have you denied?

ANSWER: I do not have a sense of how many times Judge Tabaddor requested to use her official title on personal speaking engagement. I was involved with one request to use her official title, but did not deny her request to do so.

Judge Tabaddor alleges that on September 7, 2012, Mr. Rosenblum confirmed the recusal order was the official position of the Office of General Counsel (OGC), and that the order was not reviewable by any other entity.

QUESTION #17: Was the aforementioned statement by Judge Tabaddor brought to your attention? If so, what was your response? To your knowledge, what OGC member was Mr. Rosenblum referring to in this conversation?

ANSWER: I do not recall that the statement was brought to my attention.

QUESTION #18: To your knowledge, does OGC have the final say on matters of this nature or are they reviewable by the EOIR Director?

ANSWER: OGC ethics advice is reviewable by the Deputy Designated Agency Official (EOIR's General Counsel) and the Designated Agency Ethics Official (Assistant Attorney General for Administration).

QUESTION #19: Based upon the recusal order, to your knowledge, how many of Judge Tabaddor's cases were reassigned to other judges? Did Judge Tabaddor object to the cases being reassigned?

ANSWER: I do not know.

QUESTION #20: Prior to these events, have you had any conversations with Judge Tabaddor about her social or political affiliations and there possible effect on her position as an Immigration Judge?

ANSWER: No.

QUESTION #21: To your knowledge, has Judge Tabaddor's work or personal association with members of the Iranian American community negatively affected her professional standing with the Agency? If so, please explain how?

ANSWER: Not to my knowledge.

QUESTION #22: Do you have any documentation support the decision to have Judge Tabaddor recused from cases involving Iranian American citizens? If so, please provide a copy for the record?

ANSWER: No.

QUESTION #23: Are you aware of the agency's anti-discrimination policy? Was Judge Tabaddor ordered to recuse herself from cases involving Iranian Americans based solely on her National Origin (Iranian)? If not, why was she asked to recuse herself?

ANSWER: Yes, I am aware of DOJ's anti-discrimination policy. I was not involved in the issue with Judge Tabaddor's recusal issue.

QUESTION #24: In the past 2 years, how many requests for personal speaking engagements has Judge Tabaddor been allowed to use her official title? To your knowledge, how many times has Judge Tabaddor been informed that she could not use her official title during these engagements?

ANSWER: I do not know.

On August 27, 2012, Judge Tabaddor states that her request use her official title while speaking at the Iranian Women's Leadership Conference (The "Conference") was denied.

QUESTION #25: To your knowledge, was Judge Tabaddor's request to use her official title denied? If so, who denied the request? Was the denial based on Judge Tabaddor's National Origin (Iranian American)?

ANSWER: I have no knowledge about Judge Tabaddor's August 27, 2012 request.

Race:

Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.

QUESTION #26: What is your race?

ANSWER: Caucasian.

QUESTION #27: To your knowledge, what is Judge Tabaddor's race? When and how did you become aware of her race?

ANSWER: Based on my reading of this questionnaire, I believe Judge Tabaddor's race is Iranian American.

QUESTION #28: Have other staff members been required to recuse themselves from cases involving members of their prospective race? If so, who are they and what is their race? When did this action take place?

ANSWER: Not to my knowledge.

QUESTION #29: To your knowledge, was Judge Tabaddor ordered to recuse herself from cases involving Iranian Americans based solely on her race (Iranian American)?

ANSWER: Not to my knowledge.

QUESTION #30: Was the decision to not allow Judge Tabaddor to speak at, or use her official title at the Iranian Women's Leadership Conference (The "Conference") denied because of her race?

ANSWER: Not to my knowledge.

Religion

Religious discrimination involves treating a person (an applicant or employee) unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs

QUESTION #31: For the record, what is your religion?

ANSWER: Catholic.

QUESTION #32: To your knowledge, what is Judge Tabaddor's religion?

ANSWER: I do not know.

QUESTION #33: At the time of the alleged discriminatory event, which is the foundation of this complaint, were you aware of Judge Tabaddor's religious beliefs?

ANSWER: No.

QUESTION #34: Did Judge Tabaddor's religious belief factor into any decisions or recommendations made by you with regard to her personal appearance requests?

ANSWER: No.

Reprisal

Reprisal discrimination makes it illegal to fire, demote, harass, or otherwise "retaliate" against people (applicants or employees) because they filed a charge of discrimination, because they complained to their employer or other covered entity about discrimination on the job, or because they participated in an employment discrimination proceeding (such as an investigation or lawsuit).

QUESTION #35: For the record, do you have any prior EEO activity or have you expressed concerns to management regarding personnel policies or procedures?

ANSWER: No.

QUESTION #36: To your knowledge, did Judge Tabaddor express opposition to the recusal order she received? Were any actions taken against Judge Tabaddor, by you, based upon her opposition to the recusal order?

ANSWER: I am not aware of a recusal order.

QUESTION #37: Also, did Judge Tabaddor's opposition to the recusal factor into any decisions or recommendations made by you with regards to her personal appearance requests?

ANSWER: No.

QUESTION #38: Do you have anything else to add?

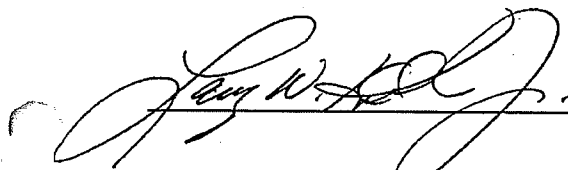
ANSWER: No.

OATH

I have read the above statement consisting of 9 pages, including this page. I declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that my statement is true, correct, and complete to the best of my knowledge, information and belief. I understand that the information I have given is not to be considered confidential and that it may be shown to individuals with a right to know.

Shiv M. Grewal 3/14/13

(Affiant's Signature and date)



Signed before witness

ON THIS 14 DAY OF March, 2013