

Complaint of Discrimination

(See instructions on reverse)

PRIVACY ACT STATEMENT: 1. **AUTHORITY:** The authority to collect this information is derived from 42 U.S.C. Section 2000e-16; 29 CFR Sections 1614.106 and 1614.108. 2. **PURPOSE AND USE:** This information will be used to document the issues and allegations of a complaint of discrimination based on race, color, sex (including sexual harassment), religion, national origin, age, disability (physical or mental), sexual orientation or reprisal.

The signed statement will serve as the record necessary to initiate an investigation and will become part of the complaint file during the investigation; hearing, if any; adjudication; and appeal, if one, to the Equal Employment Opportunity Commission. 3. **EFFECTS OF NON-DISCLOSURE:** Submission of this information is MANDATORY. Failure to furnish this information will result in the complaint being returned without action.

1. Complainant's Full Name Afsaneh Ashley Tabaddor	2. Your Telephone Number (including area code) Home 310-709-3580
Street Address, RD Number, or Post Office Box Number 1415 Camden Ave. # 208	Work 213-534-4491
City, State and Zip Code Los Angeles, CA 90025	

3. Which Department of Justice Office Do You Believe Discriminated Against You? Executive Office for Immigration Review	4. Current Work Address 606 S. Olive St., 15th floor
	A. Name of Agency Where You Work Immigration Court in Los Angeles
B. Street Address of Office 5107 Leesburg Pike, 26th floor	B. Street Address of Your Agency 606 S. Olive St., 15th floor
C. City, State and Zip Code Falls Church, VA 22041	C. City, State and Zip Code Los Angeles, CA 90014
	D. Title and Grade of Your Job Immigration Judge IJ905

5. Date on Which Most Recent Alleged Discrimination Took Place	6. Check Below Why You Believe You Were Discriminated Against?						
<table border="1"> <tr> <th>Month</th> <th>Day</th> <th>Year</th> </tr> <tr> <td>09</td> <td>10</td> <td>2012</td> </tr> </table>	Month	Day	Year	09	10	2012	<input checked="" type="checkbox"/> Race or Color (Give Race or Color) <u>Asian, Middle Eastern, Persian</u> <input checked="" type="checkbox"/> Religion (Give Religion) <u>Muslim</u> <input type="checkbox"/> Sex (Give Sex) <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Sexual Harassment <input type="checkbox"/> Age (Give age) _____ <input checked="" type="checkbox"/> National Origin (Give National Origin) <u>Iranian</u> <input type="checkbox"/> Disability <input type="checkbox"/> Physical <input type="checkbox"/> Mental <input type="checkbox"/> Genetic Information <input type="checkbox"/> Sexual Orientation <input type="checkbox"/> Gender Identity <input checked="" type="checkbox"/> Reprisal <input type="checkbox"/> Parental Status <input type="checkbox"/> Class Complaint
Month	Day	Year					
09	10	2012					

7. Explain How You Believe You Were Discriminated Against (treated differently from other employees or applicants) Because of Your Race, Color, Sex (including sexual harassment), Religion, National Origin, Age, Disability (physical or mental), Genetic Information, Sexual Orientation, Gender Identity, Parental Status, or Reprisal. Do not include specific issues or incidents that you have not discussed with your EEO Counselor. (You may continue your answer on another sheet of paper if you need more space.)

See attached sheets.

8. What Corrective Action Do You Want Taken on Your Complaint?
See attached sheets.

9. A) I have discussed my complaint with an Equal Employment Opportunity Counselor and/or other EEO Official.	B) Name of Counselor
DATE OF FIRST CONTACT WITH EEO OFFICE: 10 10 2012	Andrew Press
DATE OF RECEIPT OF NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR: 11 19 2012	<input type="checkbox"/> I Have Not Contacted an EEO Counselor
10. Date of This Complaint: Month Day Year 11 29 2012	11. Sign Your Name Here: <u>A. Ashley Tabaddor</u>

Response to Item 7: Explain How You Believe You Were Discriminated Against

I. Discrimination on Account of National Origin, Race and Religion

- A. Judge A. Ashley Tabaddor has been an Immigration Judge with the U.S. Department of Justice, Executive Office of Immigration Review ("EOIR" or "Agency") since 2005. She is Iranian American. Her race is Asian, Middle Eastern and Persian.
- B. Judge Tabaddor brings this claim of employment discrimination under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e *et seq.* against the U.S. Department of Justice ("Department"), EOIR, Office of the General Counsel ("OCG") of the EOIR, Department Ethics Office ("DEO"), and Office of the Chief Immigration Judge ("OCIG"), the heads of each of them, and several of its officials, including Jeff Rosenblum of the OCG and Chief of the Agency's Employee Labor Relations office, Assistant General Counsel Charles F. Smith of the OCG, and Judge Tabaddor's immediate supervisor Assistant Chief Immigration Judge (ACIJ) Thomas Fong (collectively "Respondents").
- C. Judge Tabaddor claims that because of her national origin, race and religion, Respondents discriminated against her when they ordered her to recuse herself in a wholesale fashion from all cases involving respondents from Iran because of her involvement in outside activities on behalf of the Iranian American community and continue to discriminate against her with an ongoing active order to not assign Judge Tabaddor any cases with Iranian nationals. Judge Tabaddor's national origin, race and religion, as well as her association with groups whose members identify with these characteristics, were the sole and/or motivating reasons for Respondents discriminatory acts. Judge Tabaddor has not filed a grievance under any negotiated grievance procedure or an appeal to the Merit Systems Protection Board on the same claims.
- D. Respondents' discriminatory acts materially and adversely affected the terms, privileges and conditions of Judge Tabaddor's employment because they (1) required her to disqualify herself from cases under circumstances where no mandatory recusal is justified under Agency rules or regulations, (2) prevented her from exercising her right and privilege as an Immigration Judge to use her independent judgment to objectively determine whether to recuse herself from cases as required by Agency rules and regulations, (3) held her to different recusal and disqualification standards than other Agency employees including other Immigration Judges, (4) restricted her official duties as a consequence of her involvement in outside activities which nonetheless had been approved by the Agency, and despite the fact that the Agency admittedly made no finding that her outside activities created any appearance of impropriety, and (5) called into question her impartiality without any finding of any appearance of impropriety as a result of her alleged outside activities. Moreover, the Agency's discriminatory and

unreasonable acts have caused Judge Tabaddor anguish and humiliation. The Agency's discriminatory conduct has raised a suggestion of wrongful conduct by Judge Tabaddor, resulting in reputational harm, and it has otherwise imposed an undeserved stigma on her legitimate and proper outside activities. In addition, Respondents' discriminatory acts have caused Judge Tabaddor further harm, including, without limitation, emotional distress.

- E. Throughout her employment with the EOIR, Judge Tabaddor has had an impeccable employment record. Like other Immigration Judges and as encouraged by the Department, during the course of her tenure Judge Tabaddor has been involved in a variety of outside volunteer and professional activities, including *pro bono*, academic, bar and community activities. Because Judge Tabaddor participated in these activities in her personal capacity, Agency rules generally did not require her to seek approval to engage in them on her own time. *See* Memorandum, *Approval for Participation in Outside Organizations and Activities by Department of Justice Employees*, May 19, 2000 ("May 19, 2000 Memorandum"). However, out of an abundance of caution, Judge Tabaddor regularly sought approval from her supervisor Assistant Chief Immigration ("ACIJ") Thomas Fong and the Agency Ethics Office before she participated in outside activities. Additionally, in accord with Agency guidance, Judge Tabaddor sought approval for speaking engagements.
- F. The Agency has routinely granted Judge Tabaddor's requests to participate in a range of outside activities in her personal capacity, including but not limited to invitations to speak or otherwise participate in events organized by Iranian American and Muslim groups. Judge Tabaddor also has requested, and been granted Agency approval to participate in events organized by other organizations, including Los Angeles County Bar Association, Orange County Bar Association, Kids in Need of Defense, the Pacific Council on International Policy, and academic institutions including her *alma matter* the University of California at Los Angeles, and University of California, Hastings School of Law.
- G. In late June 2012, Judge Tabaddor was invited to attend a Roundtable meeting at the White House which involved discussion of federal initiatives relevant to the Iranian American community. *See* Exhibit A (including the invitation to attend the White House Roundtable meeting). Because Judge Tabaddor planned to attend the meeting purely in her personal capacity, she requested permission from ACIJ Fong to have time off to attend the meeting. When ACIJ Fong initially indicated he was not going to approve the request, Judge Tabaddor asked that he respond to her in writing. Without responding to Judge Tabaddor's request, ACIJ Fong forwarded her request to the OGC.
- H. Judge Tabaddor was then contacted by Jeff Rosenblum who asked that they speak so he could pose some clarifying questions. During the phone call, Mr. Rosenblum told Judge

Tabaddor that she could attend the Roundtable meeting as long as she was not appearing in her official capacity representing an organization. Mr. Rosenblum did not make any mention of recusal or any "consequences" of attending the Roundtable meeting.

- I. On July 5, 2012, Judge Tabaddor received an email from Jeff Rosenblum on behalf of the OGC in response to her request to attend the White House Roundtable meeting. On information and belief, Mr. Rosenblum is not an Agency Ethics Officer, but is rather the Chief of the Agency's Labor Employee Relations (LER) office. Nonetheless, Mr. Rosenblum responded on behalf of the OGC and granted Judge Tabaddor approval to attend the White House Roundtable meeting in her personal capacity. However, in the closing paragraph of his July 5, 2012 email, Mr. Rosenblum *sua sponte* "recommended" that Judge Tabaddor recuse herself from "any matter involving individuals from Iran that comes before [her] in [her] capacity as an Immigration Judge" because of her activities in the Iranian American community, and her participation in the White House meeting. Without making any finding that any of Judge Tabaddor's prior activities had resulted in any appearance of impropriety, or that her attendance at the White House meeting would result in such appearance of impropriety, Mr. Rosenblum stated: "Pursuant to 5 C.F.R. § 2635.502(a), an employee should not participate in a matter in which 'circumstances would cause a reasonable person with knowledge of the relevant facts to question [her] impartiality in the matter.'"
- J. On August 20, 2012, after she attended the White House meeting, Judge Tabaddor sought clarification of Mr. Rosenblum's recommendation that she recuse herself from cases involving individuals from Iran. *See Exhibit B.* She specifically asked that Mr. Rosenblum identify why her activities in the Iranian American community would create an appearance of bias, including whether it was because she is Iranian American. Judge Tabaddor is aware of other Immigration Judges who have been active in their ethnic and religious communities, but who had not been subject to blanket recusal recommendations like the one being imposed on her. For this reason, she questioned Mr. Rosenblum as to whether she was being held to the same standard as other Immigration Judges who are of a certain social group or religion and participate in community activities involving that social group or religion. In so doing, Judge Tabaddor protested Respondents' discriminatory acts on account of her national origin, race and religion. She specifically stated, "Is it because I am an Iranian-American?" She also specifically requested that OGC provide a "fully analyzed opinion on the issue along with specific instructions" or that "the ethics office reconsider [Mr. Rosenblum's] 'recommendation' and clarify the record on the matter." *See Exhibit B.*
- K. On August 28, 2012, Mr. Rosenblum responded to Judge Tabaddor's August 20, 2012 email by, among other things, amending the OGC opinion from a recommendation to an

order. The email stated that Judge Tabaddor "*should* disqualify [herself] from cases involving respondents from Iran to avoid any appearance problems." *See* Exhibit B (Emphasis added). In so deciding, Mr. Rosenblum did not cite any specific reasons why her activities in the Iranian American community would create an appearance of bias. Rather, he made blanket, unsubstantiated conclusions that Judge Tabaddor was a "prominent advocate for the Iranian-American community," and that she had "engag[ed] in advocacy at [a] high level" on behalf of the Iranian American community. Mr. Rosenblum also stated that Judge Tabaddor's "activities are well-documented in the public domain." However, he failed to cite a single example of those activities as a basis for his decision, let alone explain how her involvement in them would create an appearance of impropriety. In fact, he conceded that "in no way is OGC suggesting that you have an actual bias."

- L. In his August 28, 2012 email Mr. Rosenblum further stated that while Judge Tabaddor could choose the outside activities she wished to participate in, "those choices may have consequences, such as [her] ability to participate in particular matters officially." As an example, Mr. Rosenblum cited 5 C.F.R. § 2635.502(b)(1)(v), which requires employees to disqualify themselves from matters involving organizations in which they are active participants. Here, however, the Agency is not ordering Judge Tabaddor to recuse herself from cases involving specific organizations, but rather cases involving an entire nationality of respondents.
- M. Mr. Rosenblum also failed to state that he had applied a uniform standard in deciding to recommend recusal in Judge Tabaddor's case. In his August 28, 2012 email he claimed that OGC had recommended that Immigration Judges disqualify themselves from a particular class of matters in similar circumstances, but he did not identify those other matters or whether they required the Immigration Judge to recuse himself or herself from an entire class of respondents without any actual finding of an appearance of impropriety based on facts. *See* Exhibit B. He also did not identify what authority he was relying on to impose mandatory recusals in any of those cases, or in Judge Tabaddor's case.
- N. In an email dated September 5, 2012, Judge Tabaddor requested further clarification of Mr. Rosenblum's recusal order, including whether it was the official position of the EOIR. *See* Exhibit B. She also reiterated her request that the order be reviewed.
- O. On September 7, 2012, Mr. Rosenblum confirmed that his recusal order was an official position of EOIR, and that he "consulted with the Departmental Ethics Office (DEO) concerning the issue. DEO confirmed the OGC's opinion." *See* Exhibit B. Mr. Rosenblum did not, however, provide any formal, written opinion from DEO.

P. In an email dated September 10, 2012, Judge Tabaddor again protested Respondents' recusal order by stating that she "disagree[s] with the characterization of the facts and the conclusions of the EOIR OGC." *See* Exhibit B. She also pointed out that the order was not consistent with EOIR rules, which do not contemplate recusals under the current circumstances where it is not initiated by the parties or the Immigration Judge (*citing* Operating Policies and Procedures Memorandum ("OPPM") rules). *See also* 8 C.F.R. § 1240.1(b) (indicating an Immigration Judge is to decide when to recuse herself in a given case). However, that same day, ACIJ Fong instructed Judge Tabaddor that he would follow the OGC's conclusion, and he thereby instructed her to recuse herself from the cases identified in the OGC opinion. Based on this instruction, Judge Tabaddor issued recusal orders in the eight cases on her docket (two of which were consolidated cases) involving ten respondents from Iran, the majority of which had progressed well beyond the initial stages.

Q. Respondents have cited no valid non-discriminatory reason for the recusal decision. Respondents' assertion that Judge Tabaddor's activities in the Iranian American community require recusal under 5 C.F.R. §2635.502 has no basis in fact or law and is pretext for discrimination on account of Judge Tabaddor's race, national origin and religion as well as her association with groups identified with the same.

R. More specifically, the OGC relied on 5 C.F.R. § 2635.502(a) in making its recusal decision. *See* Exhibit B. This provision states as follows:

Consideration of appearances by the employee. Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee in accordance with paragraph (d) of this section.

S. In turn, a "covered relationship" is defined by the regulations as including, "persons with whom the employee or a member of the employee's household has a close personal, contractual or financial relationship, or "an organization, other than a political party described in 26 U.S.C. § 527(e), in which the employee is an active participant."

- T. Respondents' reliance on 5 C.F.R. § 2635.502(a) as a basis for its mandatory recusal order is misplaced because there is no evidence, or even an allegation, that Judge Tabaddor's involvement in cases involving Iranian nationals gives her any financial interest in the outcome of those cases. Moreover, there is no evidence or claim that any of the organizations with which Judge Tabaddor has been involved represents Iranian refugees or nationals, or that these organizations would be parties before her in her capacity as an Immigration Judge.
- U. Respondents' stated reasons for recusal similarly do not comport with other Agency rules and regulations, federal laws addressing recusal, relevant standards informing the functioning of the federal court system and judicial conduct, or other rules and policies applicable to Immigration Judges and their official duties. *See, e.g.*, EOIR OPPM 05-02: Procedures for Issuing Recusal Orders In Immigration Proceedings; Ethics and Professionalism Guide for Immigration Judges; 8 C.F.R. Section 1003.10 (stating that Immigration Judges "shall exercise their independent judgment and discretion" in the disposition of their cases); 28 U.S.C. §455 (cited by OPPM 05-02); *Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 925 (9th Cir. 2007) (finding that recusal of Immigration Judge was not warranted on allegations of bias absent a showing of "deep-seated favoritism or antagonism that would make fair judgment impossible").
- V. Respondents' failure to consider and meet the standards set forth in these authorities is further evidence that the stated reason for their recusal order is pretextual, and that Judge Tabaddor has been intentionally singled out for unfavorable treatment among the population of Immigration Judges on account of her race, national origin and religion in violation of Title VII. Indeed, the Department's own recusal standard dictates that an Immigration Judge has an affirmative duty *not* to recuse herself from any case unless mandated by applicable authority. *See* OPPM 05-02, Section III. Moreover, recusals must be predicated on compelling evidence and are required to be evaluated on a case-by-case basis. *Id.* at Section III.C. And, even then, "broad recusals should only be considered in those circumstances in which [28 U.S.C. § 455(b)] mandates automatic disqualification." *Id.* The cited statute requires recusal only in instances of *actual* bias or prejudice concerning a party as well as providing for certain relationship-based recusals similar to 5 C.F.R. § 2635.502(a) discussed above. As admitted by the Respondents, there is no actual bias on the part of Judge Tabaddor, and the recusal order was not based on Judge Tabaddor's connection with any party appearing before her.
- W. Further to the point that the Respondents have no legitimate basis for the discriminatory recusal order issued to Judge Tabaddor, the Board of Immigration Appeals has held that recusal of an Immigration Judge is warranted only if shown that (i) an "immigration judge had a personal, rather than judicial, bias stemming from an 'extrajudicial' source

which resulted in an opinion on the merits on some basis other than what the immigration judge learned from his participation in a case"; or (ii) as an exception to this "general rule. . . where 'such pervasive bias and prejudice is shown as would constitute bias against a party.'" *Vargas-Hernandez*, 497 F.3d at 925 (quoting *Matter of Exame*, 18 I. & N. Dec. 303, 306 (BIA 1982)). Again, no case specific inquiry was performed in this matter, and no claim of actual bias was levied against Judge Tabaddor.

- X. Setting aside the authority discussed above, *arguendo*, Respondents have not even satisfied their own proffered standard for recusal—that being whether a reasonable person with knowledge of the relevant facts would question a judge's impartiality. See Exhibit B (August 28, 2012 email by Jeff Rosenblum) (erroneously relying on 5 C.F.R. § 2635.502(a) for applicable "reasonable person" standard). As discussed, Respondents made no actual finding that Judge Tabaddor's activities would lead to an appearance of bias or impropriety under a "reasonable person" standard such that recusal was justified. In fact, Mr. Rosenblum stated on August 28, 2012 that "in no way is OGC suggesting that you have an actual bias." See Exhibit B. Respondents merely claim without substantiation that Judge Tabaddor is a "prominent advocate for the Iranian-American community, and [her] activities are well documented in the public domain." Under Respondents' flawed logic, an Immigration Judge who is known by the public or the parties to be a devoted Christian or one who actively participates in his or her Christian church could be required to recuse himself or herself from all cases in which the asylum seeker is Christian, or at the very least cases where respondent's asylum claim is based on persecution on account of being Christian. Likewise, an Immigration Judge who is African American and involved in the African American community would be prohibited from hearing cases of respondents from Africa. Similarly, an Immigration Judge who is known by the public and the parties to be Jewish and to be actively involved in organizations like the Anti-Defamation League which supports Israel would be required to recuse himself from cases involving people of Jewish ethnicity or religion, or, for that matter, Palestinians. However, on information and belief, mandatory recusal orders have not issued in these circumstances. Instead, Judge Tabaddor has been singled out for selective action.
- Y. Here, a reasonable person with knowledge of the relevant facts would not find that Judge Tabaddor's involvement in Iranian American organizations, among her other outside activities, would create an appearance of impropriety. Judge Tabaddor's activities, including her relevant speaking engagements with various organizations (Iranian American and non-Iranian American) have been cleared and approved by her supervisor and EOIR's Ethics Officers. See 5 C.F.R. § 2635.107(b) (prohibiting disciplinary action on the basis of action undertaken in good faith reliance upon the advice of an agency ethics official). Moreover, Respondents have cited no basis for any finding that Judge

Tabaddor's participation in outside activities does not comport with the public role of a judge. *See* May 19, 2000 Memorandum (encouraging participation in outside activities).

- Z. Respondents further make no claim that Judge Tabaddor's activities pertain to any advocacy for Iranians seeking asylum or any other immigration benefits in the United States. Moreover, Judge Tabaddor's activities are not limited to the Iranian American community. She is a frequent speaker in many communities, such as the academic, legal, Muslim, middle-eastern, and women's communities, amongst others. No reasonable person would have any basis to question Judge Tabaddor's impartiality overseeing cases of Iranian nationals or any other group.

II. Reprisal for Engaging in the Protected Activity of Protesting a Discriminatory Employment Action

- A. The facts described above are incorporated herein by reference, as certain of those facts also support Judge Tabaddor's claim of reprisal.
- B. Judge Tabaddor's claim of reprisal in violation of Title VII is predicated on Respondents' adverse actions against her after she engaged in the protected activity of protesting Respondents' discriminatory recusal order on August 20, 2012. *See* Exhibit B.
- C. Directly after Judge Tabaddor protested the Respondents' discriminatory recusal recommendation on August 20, 2012, Respondents subjected her to further adverse treatment. In response to a request that Judge Tabaddor made on August 27, 2012 to speak at the Iranian American Women's Leadership Conference (the "Conference"), OGC and ACIJ Fong denied her the ability to speak at the Conference in her personal capacity with use of her title and a disclaimer, *see* Exhibit C, although they had allowed her to do so the previous year when she participated in the same event, put on by the same group and in the same capacity, *see* Exhibit D.
- D. This time, after Judge Tabaddor had contested the Respondents' discriminatory recusal recommendation, on August 28, 2012, OGC and ACIJ Fong restricted approval for her to attend the Conference by stating that, while she could attend in her personal capacity, she could not use her title with a disclaimer. *See* Exhibit C (correspondence with ACIJ Fong and Charles F. Smith). When Judge Tabaddor questioned this material change of position, OGC failed to identify what distinguished her participation in the Conference this year relative to last year that would justify a greater restriction on her outside activity. Rather, on September 10, 2012, OGC simply reiterated (on behalf of itself and ACIJ Fong) that she "cannot be listed by or with [her] official title or affiliation" at the Conference. Judge Tabaddor requested that ACIJ Fong reconsider that decision, but he never replied to that request.

November 29, 2012

- E. Thus, because Judge Tabaddor protested Respondents' discriminatory treatment of her, Respondents have subjected her to further adverse acts and threat of reprisals, intended to dissuade her from making or supporting a charge of discrimination, and that would deter a reasonable employee from engaging in protected activity, including: (1) holding her to more restrictive standards with respect to her ability to engage in outside activities, and (2) threatening her that there are "consequences" to her participating in outside activities, and carrying out that threat by restricting her ability to participate in activities that she had been allowed to participate in before she protested Respondents' discriminatory recusal order. Specifically, as discussed, Respondents denied her permission to attend the Iranian American Women's Leadership Conference in her personal capacity with use of her title and a disclaimer, though she was allowed to do so the previous year. *See* Exhibits C and D.
- F. As a result of Respondents' acts of reprisal, Judge Tabaddor has suffered harm, including but not limited to the adverse actions described above as well as emotional distress.

Response to Item 8: What Corrective Action Do You Want Taken?

Judge Tabaddor seeks the following remedies in connection with her claims for discrimination and reprisal:

- (1) An order reversing Respondents' August 28, 2012 and September 10, 2012 orders that she recuse herself from all cases involving respondents from Iran, and permitting her to exercise her independent judgment to decide whether or not to recuse herself from individual cases;
- (2) An order requiring OGC to formally withdraw its opinion that Judge Tabaddor recuse herself from all cases involving respondents from Iran;
- (3) An order requiring the Agency to send a Notice to all parties who received a recusal order from Judge Tabaddor (pursuant to the OGC's August 28, 2012 and ACIJ Fong's September 10, 2012 recusal instructions) stating that the decision that Judge Tabaddor recuse from their case was decided in error;
- (4) Damages for emotional distress caused by Respondents' discrimination on account of national origin, race and religion, and reprisal;
- (5) Costs and attorneys' fees;
- (6) Mandatory training on the Agency's EEO policies and procedures including training on the non-discriminatory and non-retaliatory application of Agency ethics rules and regulations for all employees and supervisors in the Agency's OGC, including all Ethics Officers and other employees designated to issue ethics guidance;
- (7) Copies of all reports, personnel actions or other information related to any investigation of the events alleged in this EEO Complaint;
- (8) Mandatory review of EOIR policies, procedures and training of supervisors and employees to determine if they comply with Agency EEO policies and procedures as well as federal laws prohibiting discrimination and reprisal in the workplace; determination of the reasons these policies, procedures and laws were not followed in this case and requiring corrective action to ensure that any future non-compliance is reported and stopped immediately; preparation of a written report of the review and determination with copies to the Director of EOIR and Judge Tabaddor;
- (9) Any other remedies available under any applicable law, including but not limited to Title VII and Agency EEO rules and regulations.