GIBSON DUNN

Gibson Dunn Wins Settlement for American Immigration Lawyers Association

Pro Bono | August 29, 2023

Gibson Dunn has secured a six-figure settlement awarding attorneys' fees for its representation of the New Jersey Chapter of the American Immigration Lawyers Association (AILA-NJ) against the federal Executive Office for Immigration Review (EOIR) in the District of New Jersey. The settlement follows a February 2023 ruling that held that immigration judges at the Newark Immigration Court violated a stipulation by failing to timely adjudicate motions made by immigration attorneys to appear remotely and neglecting to provide adequate reasoning when denying those motions. The judge dismissed EOIR's explanation that "bandwidth issues" compelled the Newark Immigration Court's sudden switch to default in-person hearings or justified denying motions for WebEx hearings, finding that it was unsupported by the evidence. After stipulating in February 2021 to timely adjudicate requests to appear remotely, EOIR abruptly changed course in August 2022, citing "bandwidth issues" at the court. The Gibson Dunn team filed an Emergency Motion to Enforce the Stipulation in October 2022, alleging that the policy change was a violation of EOIR's commitment. At a two-day evidentiary hearing, the Gibson Dunn team presented two witnesses, AILA-NJ's Chapter President and a Department of Homeland Security attorney and union representative. Both testified that their members faced an impossible choice between representing their clients in person or risking their or their immunocompromised loved ones' safety. The Gibson Dunn team also cross-examined the government's IT expert, who conceded that there was no factual basis for EOIR's "bandwidth issues" rationale. In its March 2023 Final Order, the Court granted AILA-NJ permission to file a motion for attorneys' fees as the prevailing party. Following negotiations, EOIR then agreed to a substantial settlement. The Gibson Dunn team included partner Akiva Shapiro and associates Seton Hartnett O'Brien, Salah Hawkins, Dasha Dubinsky, Tawkir Chowdhury, and Edmund Bannister.

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