

Litigator of the Week: Willkie's Shaimaa Hussein, Travel Ban First Responder, Take a Bow

By Robin McDonald

February 10, 2017

After President Donald Trump's Jan. 27 immigration order upended the travel plans of a 12-year-old Iranian girl scheduled for surgery in the United States and placed her visa in peril, Shaimaa Hussein, a senior associate at Willkie Farr & Gallagher in New York, hopped a plane to Istanbul to personally escort the child to America.

Meanwhile at Washington Dulles International Airport in Virginia, where U.S. Customs and Border Protection agents summarily began deporting arrivals, two Mayer Brown partners--Paul Hughes and Andrew Pincus--and Simon Sandoval-Moshenberg of the Legal Aid Justice Center, secured a temporary restraining order from a federal judge on behalf of two Yemeni brothers to try to prevent their removal.

It came too late. Their clients, Tareq Aziz, 21, and his younger brother, Ammar Aziz, 19, were denied entry, handcuffed by U.S. Customs agents and put on a flight back to Ethiopia, their visas stamped "Cancelled." Undeterred, the Mayer Brown partners and the legal aid lawyer continued litigating until Feb. 6, when they successfully secured the brothers' return and entry into the U.S.

Working in an atmosphere rife with uncertainty, misinformation and often devoid of communication by government officials, all four lawyers enlisted colleagues at their respective firms, surrendered sleep, prepared for every legal contingency, posted legal teams to courthouses and airports, turned to the media for help in publicizing their clients' circumstances and, in some cases, went with their gut to restore their clients' immigrant visas and bring them safely to the U.S.



Courtesy/ photos

Shaimaa Hussein

On Feb. 3, after a federal judge in Seattle issued a nationwide restraining order temporarily barring enforcement of the executive order, Hughes and Pincus also penned an amicus brief on behalf of dozens of technology firms that they submitted to the U.S. Court of Appeals for the Ninth Circuit, arguing that the order is unlawful. On Thursday, the Ninth Circuit kept the nationwide block on the travel ban in place.

Hussein's 12-year-old client, Alma Kashkooli, and the Aziz brothers last week were among those who put a human face on the unforeseen consequences associated with the order's immediate roll out. Their attorneys are The Litigation Daily's Litigators of the Week.

Troubled by stories of chaos at JFK International in New York, Dulles, and other airports across the country, Hussein, a commercial litigator who was born in Egypt and came to the U.S. as a child, was eager to do anything to help.

On Jan. 31, she learned from Willkie's co-chairman about an Iranian student at Fordham University's law school whose daughter, still in Iran, had been scheduled for surgery to save her vision. But a visa for an Iranian woman who cared for the child and who was to have traveled with her to the U.S. had not been issued and the validity of the child's visa, because of the executive order, was also suddenly in doubt.

Hussein was asked if she wanted to take the case. "The obvious answer for anyone with half a heart is yes, of course," she said. The firm, she added, gave its whole-hearted support.

Hussein quickly reached out to the law student, Fahimeh Kashkooli, whose 12-year-old daughter Alma was in Iran. Kashkooli had considered flying back herself but feared her own student visa would be canceled, invalidate her daughter's visa, which was linked to her own, and place the child's surgery--which she needed within weeks if her sight was to be saved--out of reach.

The executive order did provide waivers for those in need of medical treatment. But Hussein said she quickly learned that there was no information available on how to obtain a waiver or who had the discretion to grant it. She was considering whether to file a suit but struggled with the legal grounds. Then, she said, "We get this wonderful gift." On Feb. 3, federal judge in Seattle issued a blanket restraining order halting enforcement of the presidential executive order.

Aware that the order could be reversed on appeal, Hussein and her Willkie colleagues sprang into action. There was a window in which Alma's visa would, once more, be considered valid, she recognized. Working with Fahimeh, Hussein arranged

for Alma, her father and caregiver in Iran to fly to Istanbul. Hussein and a former flight attendant and friend of Fahimeh's would meet Alma there and escort the 12-year-old to the U.S.. Her deadline: 6 pm ET on Monday, when the government was due to file its Ninth Circuit brief.

When they arrived in Istanbul, they had just two hours to connect with Alma and board a plane back

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to the States. It took them an hour to find her. She and her father and caregiver had been directed to go through customs. Hussein said that if she had gone through customs to retrieve the child, they would have missed the plane. As the clock ticked down, Hussein sought help from airport officials who spoke English, brandished legal documents giving her authority to take custody of and travel with Alma, using her legal skills and force of will to talk authorities into bringing Alma through security. They boarded the plane with barely minutes to spare.

In New York, they came through Customs without a hitch, although a team of Willkie attorneys from New York and Washington were ready to file emergency habeas petitions if they had been detained.

"There was a very large team here working very, very hard," she said. "There is no way I would have hopped on a plane to Istanbul if I did not have complete confidence they were going to take care of me and our clients."

On the day Hussein escorted Alma through U.S. Customs, the Aziz brothers returned to the U.S. where they have since joined their father, a U.S. citizen who lives in Michigan. Their deportation had been particularly egregious, their lawyers said because their visas--which made them permanent

legal residents as soon as they entered the country—were canceled while they were in the air en route from Ethiopia to Dulles, where they had a connecting flight to Michigan.

When they arrived at Dulles, they were permitted no phone calls but, instead, were denied entry and directed to return to Ethiopia on the same plane from which they had just debarked. Their visas were stamped “cancelled,” said Mayer Brown partner Paul Hughes.

Sandoval-Moshenberg, legal director of the Justice Center’s immigrant advocacy program, had learned of their plight after taking to Facebook with an offer to help. He had been put in touch with their father who said they had never arrived in Detroit. Sandoval-Moshenberg quickly called Hughes, a Yale law school classmate, who was also devouring media accounts of what appeared to be airport detentions of foreign travelers holding what should have been valid visas. Attorneys who had begun arriving at Dulles to offer help were gleaning information that more than 50 people had been detained. They assumed, but did not know, the Aziz brothers were among them.

Sandoval-Moshenberg and Hughes were soon joined by Pincus and decided to file a habeas petition. “We wanted to obtain relief for people we knew about who had been refused entry into the U.S. ... and extend those protections to people we didn’t know about ... but could very well be in the same situation,” Pincus said.

They filed it at 8:30 p.m. Saturday Jan. 28. Within an hour, U.S. District Court Judge Leonie Brinkema had granted the TRO, saying the Dulles detainees must be given access to legal counsel. But they didn’t know that by then, the brothers were already en route back to Ethiopia. They had spent less than two hours on American soil.

On Jan. 30, the lawyers filed an amended complaint, raising concerns that Customs officials might be ignor-

ing a court order and asking Brinkema to order the government to return the Aziz brothers to Dulles.

The next day, Virginia’s state attorney general intervened on the brothers’ behalf. By then, government lawyers were beginning to back down, deciding to resolve claims of individuals who had departed for the U.S. before the executive order was signed but did not land until after it had taken effect.

But there was still the problem of getting the brothers on a plane with visas that had been stamped as canceled. That involved conversations not only with officials at Dulles and the airport at Addis Ababa, Ethiopia but also with the airline. Said Hughes: “We had to make sure their existing visas were treated as valid.”

Hughes said that the lawyers turned to the media to “intensify the pressure.” Meanwhile, a team of six or seven Mayer Brown lawyers drafted a papers seeking injunctive relief if negotiations failed. On Sunday, Feb. 5, the brothers once more boarded a plane for the U.S. On Feb. 6, they made it through U.S. Customs without a hitch.

“This has been uncharted territory for the legal community,” Hughes said. “The amount of public reaction it has sparked nationwide, the litigation campaign has really been unprecedented.” Hughes said his maternal grandparents immigrated to the U.S. from Armenia. His wife’s parents immigrated to the U.S. from China. “So many pockets of my family touch on immigration,” he said. “It is so central to our identity it is not a surprise to see litigation across the country.”

Said Pincus: “Historically, the law and lawyer play a critical role in protecting people against the abuse of government power. That’s what we were confronting here.” Going forward, he said, “I think lawyers have to be vigilant to be ready to intervene to protect defenseless people. That is what our profession is supposed to do.”