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COMMENTARY

## Immigration Judge's Sexual Harassment of Employee Costs DOJ \$1.2M

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Employment Law

By Jeffrey Campolongo | February 16, 2024 at 11:09 AM



Claudia Escoto filed a federal lawsuit alleging that she was subjected to egregious and continual sexual harassment while working as a staff assistant to Assistant Chief Immigration Judge Scott Laurent. Escoto alleged that Laurent described to her, in graphic detail, other judges and employees he wanted to have sex with, or had sex with, and the positions he wished to have sex with them. Laurent discussed in lurid detail the physical attributes of attorneys who came before him and further discussed attraction to and sexual relations with other judges, according to Escoto's 19-page complaint filed against Attorney General Merrick Garland and the Department of Justice (DOJ). See *Escoto v. Garland*, Case No. 2:23-cv-03340 (C.D. Ca. filed May 2, 2023).

After suit was commenced and the complaint served on all defendants, the docket reflects that the parties submitted a Joint Rule 26(f) report wherein Escoto's counsel identified 32 witnesses, including Laurent and Laurent's wife. Shortly after the parties attended a Rule 16 conference, and without conducting any discovery whatsoever, the DOJ made a Rule 68 offer of judgment to Escoto. Reading between the lines of the litigation, it was apparent the DOJ did not want to subject Laurent to cross examination and wanted this matter to go away quickly.

### Making It On to the Judge's List of Conquests

The complaint here, while at times reading like a harasser's guide to committing sexual harassment, describes how Laurent regularly subjected Escoto to rambling diatribes regarding women's breasts, attractiveness and whether he deemed the female attorneys and judges "f—able." Escoto also alleged Laurent regularly discussed female colleagues and employees in a degrading and sexual manner, discussing in graphic detail who he wanted to have sex with, the physical attributes of female employees and judges. Examples of the conduct that Escoto's complaint details included that:

- Laurent would judge the level of attractiveness of women attorneys who appeared before him, judging which women were attractive and which were not.
- Laurent would describe which attorneys for the government he was attracted to and in which manner he was attracted to them.
- Laurent specified which government attorneys he wanted to "f—," the manner by which he wanted to "f— them" and that he wanted to "take them right there," referring to the judicial bench.
- Laurent would describe the type of pornography he liked to watch. He described how he would like to

“have three Black men”— his wife.

- Laurent described how many times he had sex that day with his wife, and with other women, including female attorneys.
- Laurent described government attorneys he had sex with, as well as private attorneys he had sex with.
- Laurent even described a sexual relationship he had with another female judge, prior to the judge being placed on the bench.

## **‘Come Sit on Daddy’s Lap ... I Can Turn You Straight, Baby!’**

Escoto further alleged that Laurent demeaned her sexual orientation, claiming he could turn her straight (referring to his supposed sexual prowess if she had sexual relations with him). Escoto, who is an out lesbian, of which Laurent was aware, told her that flirting with her “does not count” because she is a lesbian. Aware of Escoto’s wife, Laurent would refer to her wife’s breasts and attractiveness and demanded that Escoto come “sit on Daddy’s lap,” referring to himself as “Daddy.” He also proclaimed “I can turn you straight, Baby!” the complaint said.

Laurent would comment about Escoto’s attire, commenting on her shirts, staring at her breasts, and commenting on how many buttons she had buttoned on her shirt, gawking at her body. At one point, Escoto claims Laurent said to her “you look like you lost weight, but at least your ass still looks good.” Laurent also touched Escoto without her consent in a sexual manner, repeatedly placing his hand on her upper leg when she traveled in a car with him, and ensuring his right arm touched her breasts.

## **All Rise: Retaliation Has Entered the Courtroom**

As if the foul scent of unwanted sexual advances, innuendo and assault were not enough, Escoto’s complaint detailed how Laurent’s conduct caused her severe emotional distress, including causing fainting spells. Escoto went out on medical leave, during which time Laurent continued to contact her to pressure her to work. When it came time for Escoto to request an extended leave of absence, Laurent denied the request and placed her on AWOL status, even though Escoto had leave time available.

Eventually, Escoto requested a reasonable accommodation in the form of reassignment to a different supervisor where she would not be subjected to ongoing harassment. Her request was denied on the basis that “transfers to work under a different management are not valid accommodations.” Escoto made a complaint to the U.S. Department of Justice, Executive Office for Immigration Review Office of the Director Equal Employment Opportunity Program on Dec. 23, 2021. A month later, on Jan. 25, 2022, she was terminated from her employment. The DOJ, acting on Laurent’s recommendation to fire Escoto shortly after receiving her complaints of sexual harassment, discrimination, and retaliation, took no actions to address Laurent, according to the lawsuit.

## **DOJ Agrees to Pay \$1.2 Million**

Escoto filed this action on May 2, 2023. Without conducting a shred of discovery, the DOJ made an offer of judgment just eight months later. Those who practice in this area know, to get this type of result without so much as taking a deposition, in less than a year of litigation, is highly suggestive of a defendant’s culpability. Many defendants will use the Rule 26(f) report as an opportunity to educate the court about any legitimate reasons for taking adverse action against an employee. Sometimes the defendant’s statement in the 26(f) report will be a prelude to how the case will be defended. In this case, the DOJ wanted no part of defending Laurent’s actions and merely wrote: “Defendants deny the plaintiff’s factual allegations and deny that defendants subjected the plaintiff to sex discrimination, sexual harassment, hostile work environment, disability discrimination or retaliation.” Certainly not the most vigorous denial one would see in response to such salacious allegations.

When all was said and done, the DOJ allowed judgment to be entered to the tune of \$1.2 million, plus costs incurred

prior to the date of the offer, including a reasonable attorney fee (including expert fees) as part of the costs, to be agreed upon by the parties. Notably, the DOJ also agreed to Escoto's equitable demands, including a change to Escoto's permanent record (Standard Form 50, SF-50) to show a voluntary resignation instead of termination; removal of all references to Escoto's termination from her electronic official personnel folder (eOPF); and a neutral letter of reference for use with any future job applications, which shall include: "Plaintiff's positions and titles while employed by the Executive Office for Immigration Review, plaintiff's grade and salary as of her last day of employment, and the dates of the plaintiff's employment." Judging from the Rule 68 offer of judgment, it's hard to see what, if any of Escoto's demands, the DOJ actually rejected. It's also hard to imagine that Laurent will hold his position much longer, should (or when) he becomes the target of further inquiry from the Office of Inspector General.

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