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PERSPECTIVE

CULTURALLY SPEAKING

Iranian documents in US Courts: Addressing concerns about counterfeit documents

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Attorneys practicing in U.S. courts, whether born here or abroad, are equally responsible for allowing entry of fraudulent documents into state and Federal systems, knowing or otherwise. They should be equally blamed for allowing that to happen.

Iranian documents presented to the U.S. Courts can be divided into genuine and fake categories. It's crucial to note that in my experience, with a focus on Iranian transactions and litigation, fake documents outnumber genuine ones by more than 50%. This alarming prevalence underscores the urgent need for heightened vigilance and scrutiny when dealing with foreign documents, emphasizing the crucial role of legal professionals in detecting and preventing document fraud.

It's crucial to understand that the issue of fake documents is not confined to Iranians or the courts. This is a national concern, affecting administrative, civil, criminal, family law, probate, tax courts, and financial proceedings in both state and federal institutions. The implications are far-reaching, from seeking tax exemption for non-existent properties to tax evasion on unreported assets and businesses in foreign lands. The issue also extends to fabricated immigration applications and fraudulent receipt



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of social security benefits. It even impacts the division of marital assets and inheritance properties in probate proceedings abroad.

Fake documents, Iranian style, are an exaggerated form of document fraud that I am more familiar with and have chosen to share. It is intensified by the presence of millions of Iranians in the U.S., facing a vacuum of no legal and diplomatic relationships between the two countries for nearly 50 years. As a result, the barren desert of no legal relationship has turned into a fertile field for growing fake documents, similar to the underground tunnels of drug traffickers.

Genuine documents: Iranian genuine documents are certified, translated, authenticated, and need to be interpreted. These processes are not just formalities, but crucial steps in ensuring the authenticity and reliability of these documents in legal proceedings.

Certification is a key aspect of dealing with foreign documents, and it is important to understand the process under Iranian law. Iranian law allows attorneys to certify a document prepared by them and in their office, but not the court or other agencies recording it. Mahzar, the notaries who handle deeds and

real estate transactions, must certify the documents by placing a government-issued verification code and password on the certified document. The courts assign 16-digit credit-card-style-numbers for the filed documents and provide certified duplicate originals where required.

Translation. Iran is a non-English Farsi-speaking nation, and its documents must be translated. The translators are certified and have assigned membership numbers and identification seals. The certifications are issued by the Iranian Association of Certified Translators and

Interpreters (IACTI). The translators are not graduates of law schools in Iran or the U.S. and are not familiar with the Islamic terminologies used in the Iranian Civil Code and their equivalence and difference in the U.S. Common-Law System. Their English proficiency is tested by English for a foreign language (TOEFL). Knowledge of Islamic Law and Civil Code is required, but not as an attorney or law graduate. The recommended legal source is "Law Made Simple," which is published in South Africa. Even honest and accurate translations of Iranian Sharia and Civil Law and procedures necessitate finding correspondence with the secular legal concepts of the U.S. Common law. Translators' place of birth, schooling, and higher education is influenced by usage and meaning of the words in more than 110 dialects nationwide. The geographical identity of the parties and the translator affects the understanding of the law and the use of terminologies in translated documents.

Authentication. The lack of consular relationships between the U.S. and Iran has required the development of the following four-step authentication process: 1) Verification of the translator's qualifications by ACTI; 2) Verification of ACTI's seal by the Department Of Justice (DOJ); 3) Verification of seal of the DOJ by the Iranian Secretary of State (SOS); and 4) Verification of the Iranian SOS, by the Swiss Embassy, protector of the U.S. Interest in Iran must certify the SOS seal.

Interpretation. I italicized the interpretation to assert its role and significance in understanding

Iranian legal translations. The Iranian legal system is a Civil Law that's French-German based, infused with the Islamic Sharia Guidelines. The Personal Status Law (covering birth, marriage, divorce, and death) follows principles and procedures in line with Iranian practices globally, which are fundamentally different from the Roman-influenced Spanish Law and the precedent-driven Common Law. Concepts of discovery, evidence, and judicial neutrality are different. The terminology and usage of legal institutions like "life estate," "trust," "child custody and support" do not match their equivalent here. Iranian and American evidentiary process and burden of proof are not the same and must be tested, analyzed and interpreted. As a result, most Iranian legal documents are not directly admissible and the assistance of a qualified interpreter familiar with both systems is necessary to deliver the legal effect of the Iranian document across the narrow bridge of Sanchez security.

Fake documents. It is impractical to classify. They come in as many forms and formats as fraudulent minds and interests that intersect. However, here are their major common grounds: 1) Miss one or more steps listed above. Often produced on the wrong forms by the wrong offices, and officers. 2) Lack the necessary details or contain irrelevant and unnecessary information. 3) Information about the producer or the translation process is often missing. 4) There are internal inconsistencies (e.g., Iranian dates and their equivalent in English). 5) There are external consistencies (e.g., unmatched dates in birth certificates, marriage certifi-

cates, and immigration documents). 6) Reference made to the vague and hard-to-identify individuals, organizations, property, value, time, and location. 7) A verifiable and reliable chain of custody is missing. The document appears magically out of the blue and at the last minute in the hands of the person benefiting from it.

Fake document in Ohio Court. In a recent case in Ohio, published on July 3, 2024, <https://lnkd.in/g-B3P4DN>, the Appellate Court listed the dimensions of a fake Iranian land survey report where the only reliable information was the deed number.

The wife hired a certified family law specialist fluent in Farsi and an expert on Iranian law to determine her real estate interests in Iran and to review an Iranian land surveyor's report. The report, written in Farsi, was translated into English by an "official translator." The specialist testified that while the translation accurately stated that the wife owned property in Iran, the rest seemed "manufactured." The report lacked the land surveyor's address and did not include supporting documents verifying the surveyor's credentials. Although the report indicated the surveyor was a member of the Construction Engineering Disciplinary Organization, the specialist found no evidence of the surveyor's membership. Additionally, despite the surveyor's claim of official government appointment, no assignment document was found. The specialist found it unusual that the report contained no property images and noted a significant defect: the document was not "authenticated by the Department of Justice." The

specialist believed two items were "inserted" by the translator: a "certification of evaluation" title and a conversion of the property's value from rials to dollars, which would not have been in the original report. The specialist concluded that the document was an interpretation, not a translation, and the only reliable information was the deed number. [From 2024-Ohio-2546, Court of Appeals of Ohio, First District, Hamilton, July 3, 2024].

Conclusion. Proper handling and verification of foreign documents in U.S. courts are crucial for just decisions and maintaining legal integrity. This diligence also prevents fraudulent practices among litigants, especially minority immigrants with different languages and legal systems. Attorneys, regardless of origin, are responsible for preventing fraudulent documents in state and federal systems and should be held accountable.

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