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**July 21, 2009**

## Kansas Lawyer Leads Local Fight Against Illegal Immigration

By [JULIA PRESTON](#)

DALLAS — On a recent morning, Kris W. Kobach, a conservative law professor, rushed late into a federal courtroom here with his suit slightly rumpled and little more than a laptop under his arm. His mission was to persuade the judge to uphold an ordinance adopted by a Dallas suburb that would bar landlords from renting housing to illegal immigrants.

A team of lawyers from a Latino advocacy group had set up early at the opposing table, fortified with legal assistants and stacks of case documents. Unfazed, Mr. Kobach unleashed a cascade of constitutional arguments. Case names and precedents spilled out so rapidly, the judge had to order Mr. Kobach several times to slow down.

Mr. Kobach is on a dogged campaign to fight illegal [immigration](#) at the local level, riding an insurgency by cities and states fed up with what they see as federal failures on immigration. As these local governments have taken on enforcement roles once reserved for the federal government, he is emerging as their leading legal advocate.

The Dallas hearing — the judge has yet to issue a ruling — was one match in an immigration contest playing out in courts in California, Arizona, Missouri and Pennsylvania, among other states, with civil liberties and Hispanic groups on one side and, increasingly, Mr. Kobach on the

other.

A [professor](#) at the [University of Missouri](#)-Kansas City law school and a Republican politician, Mr. Kobach developed his immigration views while working in the Justice Department at the time of the Sept. 11, 2001, terrorist attacks. The cases he has championed — from housing restrictions on illegal immigrants in Farmers Branch, Tex., to sanctions for employers in Valley Park, Mo., who hire such immigrants — are fiercely fought, with Mr. Kobach's opponents accusing him of fostering discrimination against Hispanics and dividing immigrant communities.

But Mr. Kobach's allies say he has borrowed a page from the [Mexican American Legal Defense and Educational Fund](#) and other pro-immigrant groups he confronts before the bench, by re-thinking the conservative tenet that the courts should not be a forum for policy change.

And with the Obama administration indicating that it will put off an overhaul of immigration until late this year or beyond, the courtroom campaign for tougher rules is likely to expand as cities and states remain the main battleground for shaping immigration policy. "To rigidly separate local government from federal government when we think about immigration enforcement is not only legally incorrect, it's also bad policy," Mr. Kobach said in an interview.

Lawyers who have confronted Mr. Kobach in court say the cases he pursues would cover the country in a patchwork of local immigration rules that are contrary to federal law and costly to defend.

"These laws divide communities, stereotype Latinos, burden businesses and trigger needless and expensive litigation," said Lucas Guttentag, the director of the [Immigrants' Rights Project](#) of the [American Civil Liberties Union](#).

**Mr. Kobach rejects any accusation that his strategies unfairly target Latinos.**

**“The driving principle is to restore the rule of law,” he said. “You have members of Congress throwing up their hands and saying, the system is broken. I really think that’s a cop-out.**

**Different parts of the system are working fine. The question is, how do you actually enforce the law in a vast nation that has very different circumstances in different states?”**

**So far his results are mixed. He lost an early round in a case defending Hazleton, Pa., which passed an ordinance that sought to punish employers who give illegal immigrants jobs as well as landlords who rent to them. In a suit led by the [Puerto Rican Legal Defense and Education Fund](#), the federal district court in Scranton, Pa., struck down the ordinance, and the city is awaiting a decision from the court of appeals.**

**But when Mr. Kobach defended a similar ordinance in Valley Park, Mo., on the outskirts of St. Louis, a federal district court upheld it, after major revisions. It survived an appeal last month.**

**Mr. Kobach lost a suit against Kansas to block a statute allowing illegal immigrant students to pay in-state tuition rates in public colleges. But he won a similar case in California; it is now before that state’s highest court. And he helped Arizona defend a statute that cancels the business licenses of employers who repeatedly hire illegal immigrants; it was upheld by the federal courts.**

**Lou Barletta, the mayor of Hazleton, praised Mr. Kobach for empowering local governments by helping his city craft “a masterful ordinance that at the end of the day will have a great effect on this country of eliminating illegal immigrants.”**

The recently elected mayor of Valley Park, Grant Young, was more guarded, noting that the town of 6,500 had paid some \$270,000 in legal fees.

“Like most Americans, I do not support illegal immigration,” said Mr. Young, who has not met Mr. Kobach. “But as a fiscal conservative, I’m going to scrutinize any bill of that size.”

A Phi Beta Kappa graduate of [Harvard](#) with a doctorate from [Oxford University](#), Mr. Kobach, 43, earned his law degree from [Yale](#). He is “by no means reactionary or hidebound or anti-immigrant,” said Peter Schuck, a professor of immigration law at Yale who taught Mr. Kobach. “He simply strikes a different balance between national security and undocumented immigrant rights than immigrant advocates do.”

Mr. Kobach joined the Justice Department barely a week before the Sept. 11 attacks. As officials scrambled for information about the hijackers, Mr. Kobach said, he was stunned to realize that several had been in the United States illegally and had recently been stopped by traffic police, who had no information about their immigration status.

“That impressed on me in a very salient way that there was a huge missed opportunity there that might have caused the 9/11 plot to unravel,” he said. He started thinking of ways to turn the local police into the “eyes and ears,” he said, of federal immigration agents.

While at the department, Mr. Kobach also was the prime mover of a program that required temporary immigrants from 25 Muslim countries to register frequently with federal authorities. The program led to the deportation of more than 13,000 immigration violators. But some Muslim leaders said it traumatized their communities.

Mr. Kobach also worked with Attorney General [John Ashcroft](#) to streamline the immigration appeals court, reducing the number of judges and making it easier for them to dismiss an

appeal. Immigration appeals did become speedier, but the changes clogged the federal appeals courts with cases from immigrants claiming they had not been fairly heard.

After leaving the department in 2003, Mr. Kobach ran unsuccessfully for Congress in Kansas in 2004. He served as head of the Kansas [Republican Party](#), and recently announced a run for secretary of state there.

Some of his adversaries have emphasized his ties to the [Federation for American Immigration Reform](#), or FAIR, which calls for reducing immigration to the United States. The group helped mobilize voters to defeat a bill in Congress in 2007 to give legal status to illegal immigrants. Mr. Kobach is partially paid by the [Immigration Reform Law Institute](#), a nonprofit group described by its general counsel, Michael Hethmon, as the legal arm of FAIR.

The [Southern Poverty Law Center](#), a group in Alabama that favors legalization measures, has named FAIR a hate group, claiming a history of “associating with white nationalists” by its founder, John Tanton. but the center has produced no evidence of bigotry by Mr. Kobach.

Mr. Kobach calls the center’s assertions slander. “I would immediately disassociate myself from any litigation that was racist in nature,” he said.

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