The Honorable John H. Chun
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Bianey GARCIA PEREZ, Maria MARTINEZ CASTRO, J.M.Z., Alexander MARTINEZ HERNANDEZ, on behalf of themselves as individuals and on behalf of others similarly situated,

Plaintiffs,

v.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES; Ur JADDOU, Director, U.S. Citizenship and Immigration Services; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Mary CHENG, Acting Director, Executive Office for Immigration Review,

Defendants.

Case No. 2:22-cv-00806-JHC

JOINT MOTION FOR CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY

NOTE ON MOTION CALENDAR: July 29, 2024

On June 9, 2022, Plaintiffs filed a complaint with class action allegations for injunctive and declaratory relief, Dkt. # 1, and moved for certification of a class and three subclasses, Dkt. # 2, under Rule 23(b)(2) of the Federal Rules of Civil Procedure. Plaintiffs alleged that Defendants' actions, as challenged in the lawsuit, were generally applicable to the class, thus making injunctive relief appropriate for the class as a whole. Plaintiffs also alleged that the prerequisites for a class action, as found in Rule 23(a), were met for the class and subclasses: that the class and subclasses were so numerous that joinder of all members was impracticable; that there are questions of law and fact common to the class and subclasses; that the claims and defenses of the representative

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parties are typical of the claims and defenses of the class and subclasses; and that the representative parties will fairly and adequately protect the interests of the class and subclasses.

On June 27, 2022, the Parties agreed to engage in settlement discussions and, to facilitate such discussions, sought to extend the due dates for Defendants to answer the complaint and respond to Plaintiffs' pending motions for class certification and injunctive relief. Over the next 19 months, the Parties' counsel conferred numerous times and negotiated the terms of a settlement agreement.

Based upon the settlement discussions and the evidence that Plaintiffs submitted in support of their motion for class certification, counsel for all Parties have reached agreement and hereby jointly move this court, pursuant to Rules 23(a), 23(b)(2), and 23(g) of the Federal Rules of Civil Procedure, to certify the following class and subclasses, and to appoint the following as class counsel (*see* Dkt. # 9–11, Decls. of Proposed Class Counsel):

> **Class**: All noncitizens in the United States who have filed or will file with USCIS or EOIR a complete Asylum Application and who would be eligible for employment authorization under 8 C.F.R. 274a.12(c)(8) but for the fact that their Asylum EAD Clock was stopped or not started prior to 180 days after the date the noncitizen filed a complete Asylum Application.
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> 1. **Remand Subclass**: "Remand Subclass" means: Class members whose Asylum EAD Clocks were or will be stopped following a decision by an Immigration Judge and whose Asylum EAD Clocks are not or will not be started or restarted following an appeal in which either the BIA or a federal court of appeals remands their case for further adjudication of their asylum and/or withholding of removal claims.
> 2. **Unaccompanied Children Subclass**: "Unaccompanied Children Subclass" means: Class members in removal proceedings who are unaccompanied

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children ("UCs") pursuant to 6 U.S.C. § 279(g) and whose Asylum EAD Clocks are not started or will be stopped while waiting for USCIS to adjudicate the filed Asylum Application.

3. **Change of Venue Subclass**: "Change of Venue Subclass" means: Class Members in removal proceedings whose removal proceedings have been or will be transferred to a different Immigration Court through a granted change of venue motion, and for whom EOIR has stopped or will stop the Asylum EAD Clock based solely on the change of venue.

Class Counsel:

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Respectfully submitted,

For the Plaintiffs:

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Dated this 29th day of July, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that, on July 29, 2024, I electronically filed the foregoing with the Clerk of the Court, using the CM/ECF system, which will send notification of such filing to all counsel of record in this matter.

/s/ Aneesa Ahmed

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