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

ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT, APPROVING NOTICE, AND SETTING A FAIRNESS HEARING

WHEREAS, the above-captioned matter is pending before this Court as a certified class action (the "Action"[1]);

WHEREAS, the Parties have jointly moved, pursuant to Federal Rule of Civil Procedure 23(e), for an order: (i) preliminarily approving the Settlement Agreement dated July 29, 2024; (ii) approving the form of Class Notice, attached as Exhibit B to the Settlement Agreement; and (iii) scheduling a date for the Fairness Hearing, pursuant to Federal Rule of Civil Procedure 23(e) and no earlier than sixty (60) days from the date of its approval of the form and manner of the Class Notice, for the Court to consider and determine whether to approve the Settlement Agreement as fair, reasonable, and adequate; and

WHEREAS, it preliminarily appears that: the class representatives and class counsel have adequately represented the class; the Settlement Agreement is the product of extensive, arm's length negotiations; the relief provided in the Settlement Agreement is adequate; and the Settlement Agreement treats class members equitably relative to each other,

The Court hereby GRANTS the Parties' motion and ORDERS as follows:

1. The Court does hereby preliminarily approve the Settlement Agreement, including all exhibits attached thereto, subject to further consideration at the Fairness Hearing described below.
2. A Fairness Hearing shall be held before this Court on Thursday, September 26, 2024, at 9:00 a.m. at the United States District Court for the Western District of Washington, 700 Stewart Street, Suite 14134, Seattle, WA 98101, to: (i) determine whether the Settlement Agreement, inclusive of all terms and conditions set out therein, is fair, reasonable, adequate, in the best interests of the Class Members, and should be approved by the Court; (ii) hear and rule on any objections by Class Members to the Settlement Agreement; and (iii) determine whether the Court should enter the Settlement Agreement

[1] Capitalized terms not defined herein shall have the meaning ascribed to them in the Settlement Agreement submitted to the Court contemporaneously with this proposed order.

and issue a final judgment. The Court may hold the Fairness Hearing telephonically or by other virtual means.

3. The Court reserves the right to adjourn the date of the Fairness Hearing or modify any other dates set forth herein without further notice to Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the settlement.

4. The Court approves, as to form and content, the Class Notice attached to the Settlement Agreement as Exhibit B. Not later than seven (7) calendar days following entry of this order: (1) U.S. Citizenship and Immigration Services ("USCIS") and Executive Office for Immigration Review ("EOIR") shall post the Class Notice in both English and Spanish and the Settlement Agreement on their websites; (2) EOIR shall post a paper copy of the Class Notice in both English and Spanish on the bulletin board, or other similar location, in the waiting room of each Immigration Court; (3) Plaintiffs' counsel shall post the Class Notice in both English and Spanish and the Settlement Agreement on their organizational websites; and (4) Plaintiffs' counsel shall circulate the Class Notice on national immigration listservs.

5. The Court previously certified the class as follows:

> 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 applicant filed a complete Asylum Application.
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> In addition, the Court previously certified the following subclasses:
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> **Remand Subclass.** 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.

Unaccompanied Children Subclass. Class members in removal proceedings who are unaccompanied 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.

Change of Venue Subclass. 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.

These are the class and subclasses for purposes of settlement purposes.

6. Any Class Member may object to the Settlement Agreement and may also (but need not) appear in person or through counsel at the Fairness Hearing; provided, however, no Class Member or any other person or entity shall be heard or entitled to contest such matters unless that person has fully complied with the terms set out herein. To object, a Class Member must submit copies of: (a) a written statement identifying the Class Member's name, address, telephone number, and signature, and, if represented by counsel, the name, address, and telephone number of counsel; (b) a written statement explaining the Class Member's objection and the reasons for such objection; and (c) any documentation in support of such objection. Any objection shall not exceed twenty-five (25) pages in length. If the Class Member wishes to appear at the Fairness Hearing, he or she must include a statement of intention to appear at the Fairness Hearing. Objections must be filed by mailing the objection in an envelope postmarked on or before Thursday, September 5, 2024, and addressed to: Clerk of the United States District Court for the Western District of Washington, 700 Stewart Street, Suite 14134, Seattle, WA 98101, and both the envelope and the statement of objection shall state "Attention: *Garcia Perez v. USCIS*, No. 2:22-cv-00806-JHC." Additionally, copies of any objections must be sent by first class mail to the following addresses and postmarked no later than Thursday, September 5, 2024, which shall appear on the Class Notice:

Matt Adams
NORTHWEST IMMIGRANT RIGHTS PROJECT
615 2nd Avenue, Suite 400
Seattle, WA 98104
Counsel for Plaintiffs

Aneesa Ahmed
Trial Attorney
United States Department of Justice
Civil Division
Office of Immigration Litigation – District Court Section
P.O. Box 868, Ben Franklin Station
Washington, D.C. 20044
Counsel for Defendants

7. Any person who fails to object in the manner described above shall be: (i) deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the Settlement Agreement; (ii) barred from raising such objection in this Action; and (iii) bound by the final order approving the Settlement Agreement from this Court.
8. The Parties shall file with the Court and serve responses to any objections not later than fourteen (14) calendar days following the allowed period of time for the submission of objections.
9. Pending the Court's determination on whether to approve the Settlement Agreement, all due dates and proceedings in this case shall be stayed.
10. The Court may approve the Settlement Agreement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to Class Members.
11. The Court DIRECTS the Clerk to arrange for the Fairness Hearing noted above.

IT IS SO ORDERED.

Dated this 30th day of July, 2024.

John H. Chun
UNITED STATES DISTRICT JUDGE