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4 **UNITED STATES DISTRICT COURT**
5 **FOR THE WESTERN DISTRICT OF WASHINGTON**
6 **AT SEATTLE**

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

12 Plaintiffs,

13 v.

14 U.S. CITIZENSHIP AND IMMIGRATION
15 SERVICES; Ur JADDOU, Director, U.S.
16 Citizenship and Immigration Services;
17 EXECUTIVE OFFICE FOR
18 IMMIGRATION REVIEW; Mary CHENG,
19 Acting Director, Executive Office for
20 Immigration Review,

21 Defendants.

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

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

1 WHEREAS, the above-captioned matter is pending before this Court as a certified class
2 action (the “Action”¹);

3 WHEREAS, the Parties have jointly moved, pursuant to Federal Rule of Civil Procedure
4 23(e), for an order: (i) preliminarily approving the Settlement Agreement dated July 29, 2024;
5 (ii) approving the form of Class Notice, attached as Exhibit B to the Settlement Agreement; and
6 (iii) scheduling a date for the Fairness Hearing, pursuant to Federal Rule of Civil Procedure 23(e)
7 and no earlier than sixty (60) days from the date of its approval of the form and manner of the
8 Class Notice, for the Court to consider and determine whether to approve the Settlement
9 Agreement as fair, reasonable, and adequate; and

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

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

- 15 1. The Court does hereby preliminarily approve the Settlement Agreement, including all
16 exhibits attached thereto, subject to further consideration at the Fairness Hearing
17 described below.
- 18 2. A Fairness Hearing shall be held before this Court on Thursday, September 26, 2024, at
19 9:00 a.m. at the United States District Court for the Western District of Washington, 700
20 Stewart Street, Suite 14134, Seattle, WA 98101, to: (i) determine whether the Settlement
21 Agreement, inclusive of all terms and conditions set out therein, is fair, reasonable,
22 adequate, in the best interests of the Class Members, and should be approved by the
23 Court; (ii) hear and rule on any objections by Class Members to the Settlement
24 Agreement; and (iii) determine whether the Court should enter the Settlement Agreement

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26 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.

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

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

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

17 5. The Court previously certified the class as follows:

18 All noncitizens in the United States who have filed or will file with USCIS or EOIR
19 a complete Asylum Application and who would be eligible for employment
20 authorization under 8 C.F.R. § 274a.12(c)(8) but for the fact that their Asylum EAD
21 Clock was stopped or not started prior to 180 days after the date the applicant filed
22 a complete Asylum Application.

23 In addition, the Court previously certified the following subclasses:

24 **Remand Subclass.** Class members whose Asylum EAD Clocks were or will be
25 stopped following a decision by an Immigration Judge and whose Asylum EAD
26 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.

1 **Unaccompanied Children Subclass.** Class members in removal proceedings who
2 are unaccompanied children (“UCs”) pursuant to 6 U.S.C. § 279(g) and whose
3 Asylum EAD Clocks are not started or will be stopped while waiting for USCIS to
4 adjudicate the filed Asylum Application.

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

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

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

1 Matt Adams
2 NORTHWEST IMMIGRANT RIGHTS PROJECT
3 615 2nd Avenue, Suite 400
4 Seattle, WA 98104
5 *Counsel for Plaintiffs*

6 Aneesa Ahmed
7 Trial Attorney
8 United States Department of Justice
9 Civil Division
10 Office of Immigration Litigation – District Court Section
11 P.O. Box 868, Ben Franklin Station
12 Washington, D.C. 20044
13 *Counsel for Defendants*

- 14 7. Any person who fails to object in the manner described above shall be: (i) deemed to have
15 waived any objection and shall forever be foreclosed from making any objection to the
16 fairness, reasonableness, or adequacy of the Settlement Agreement; (ii) barred from raising
17 such objection in this Action; and (iii) bound by the final order approving the Settlement
18 Agreement from this Court.
- 19 8. The Parties shall file with the Court and serve responses to any objections not later than
20 fourteen (14) calendar days following the allowed period of time for the submission of
21 objections.
- 22 9. Pending the Court’s determination on whether to approve the Settlement Agreement, all
23 due dates and proceedings in this case shall be stayed.
- 24 10. The Court may approve the Settlement Agreement, with such modifications as may be
25 agreed to by the Parties, if appropriate, without further notice to Class Members.
- 26 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