

NOTICE OF PROPOSED SETTLEMENT AND HEARING IN CLASS ACTION LAWSUIT INVOLVING INDIVIDUALS WHO HAVE FILED, OR WILL BE FILING, AN ASYLUM APPLICATION MORE THAN ONE YEAR AFTER ARRIVING IN THE UNITED STATES.

MENDEZ ROJAS, ET AL. V. WOLF, ET AL., Case No. 2:16-cv-01024-RSM
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

You are hereby notified that a hearing (the “Fairness Hearing”) has been scheduled for **November 4, 2020 at 9:30 AM** before the Honorable Ricardo S. Martinez of the United States District Court for the Western District of Washington, in **Seattle, Washington**, for consideration of a proposed settlement of the claims that have been brought on your behalf in this lawsuit. Please note that the Fairness Hearing date may change without further notice. You should check the settlement websites listed below or the Court docket in this case (through the Court’s Public Access to Court Electronic Records (PACER) system at <https://www.wawd.uscourts.gov/attorneys/cmecf>) to confirm that the date has not been changed.

Purposes of this Notice

This notice has three purposes. The notice:

- A. Tells you about the proposed settlement and the fairness hearing;
- B. Tells you how to obtain more information; and
- C. Explains how you may object if you disagree with the proposed settlement terms.

Background

This class action lawsuit was filed on June 30, 2016, claiming that the U.S. Government did not provide sufficient notice that asylum seekers generally must file their asylum applications within one year of arrival in the United States and that the Government did not provide them with an adequate mechanism to comply with that deadline (one-year filing deadline).

On January 10, 2017, the Court ruled that Plaintiffs’ claims could go forward as a class action. On March 29, 2018, the Court granted Plaintiffs’ Motion for Summary Judgment and ordered the Government to provide notice to class members of the one-year filing deadline and to adopt, publicize, and implement uniform procedural mechanisms that will ensure that class members are able to file their asylum applications in a timely manner. The parties have now reached a settlement agreement for implementing the Court’s order and the Court has preliminarily approved this agreement.

A. Description of the Proposed Settlement Agreement

The following description is only a summary of the key points in the proposed settlement agreement. Information on how to obtain a copy of the full, proposed agreement is provided in section B, For Further Information, after this summary. In brief, under the proposed settlement agreement:

1. The Department of Homeland Security (DHS) will provide prospective notice on Form I-862, Notice to Appear (NTA), of the one-year filing deadline.
2. U.S. Citizenship and Immigration Services (USCIS) and the Executive Office for Immigration Review (EOIR) will create a uniform procedural mechanism for individuals to file

their Form I-589, Application for Asylum and for Withholding of Removal. Under the settlement agreement, individuals who wish to file a Form I-589 and who have been issued an NTA should call EOIR's Automated Case Information Hotline (Hotline) at (800) 898-7180 (nationwide toll-free) or (304) 625-2050 (local toll), or use its Online Automated Case Information service at <https://portal.eoir.justice.gov/InfoSystem>, to determine where to file their Form I-589. If the NTA has been filed and docketed with EOIR, the Hotline or website will identify the address for the Immigration Court where the individual should file their Form I-589. EOIR will promptly notify the individual if, after filing, it is determined that the Immigration Court does not have jurisdiction over the Form I-589, or if they need to file and appear in a different Immigration Court.

If the Hotline or website do not indicate that the NTA has been filed and docketed with EOIR, the individual should file the Form I-589 with USCIS. Where appropriate, USCIS will forward the Form I-589 to EOIR for adjudication and transfer the USCIS filing date to EOIR for purposes of the one-year filing deadline.

3. Individuals who meet one of the modified class and sub-class definitions in section III of the settlement agreement and who otherwise meet its terms are entitled to have USCIS and EOIR treat their Form I-589 as timely filed for purposes of the one-year filing deadline. The class and sub-class definitions cover individuals who, among other criteria and within specified timeframes, were encountered by DHS within 14 days of entering the United States, expressed a fear of persecution or torture, and were either found to have a credible fear of persecution or torture by DHS and issued an NTA or were issued an NTA without a credible fear determination.

Class members who wish to file for asylum without being barred by the one-year filing deadline under the terms of this agreement must do so by March 31, 2022, including filing the Form I-589 if they have not already done so. The settlement agreement explains how to assert a claim of class membership and provides instructions for individuals with Form I-589s pending with USCIS or EOIR, for individuals whose removal proceedings have been administratively closed, and for individuals who received final orders of removal but who have not yet been removed from the United States. For the full class definitions and an explanation of how to assert class membership, please read the settlement agreement in its entirety.

4. USCIS will mail individual notices to the last known addresses of certain potential class members and their attorneys of record, if any, informing them of the one-year filing deadline and the relevant terms of the settlement agreement. Due to limitations in identifying all individual class members, not all potential class members will receive such notices. Receipt of a notice by mail is not a definitive determination that an individual is a class member.

5. **Attorneys' fees and costs:** The Government will pay Class Counsel reasonable attorneys' fees and costs in the amount of \$552,077.91.

6. **Release of claims:** Class Members will release the Government from all claims that were asserted on behalf of the Class arising from or related to the facts and circumstances alleged in the lawsuit.

B. For Further Information

THIS IS A SUMMARY OF THE PROPOSED AGREEMENT. TO UNDERSTAND IT FULLY, YOU SHOULD READ THE ENTIRE AGREEMENT. Copies of the proposed

settlement may be obtained from: (1) the USCIS website at <https://www.uscis.gov/legal-resources/uscis-class-action-settlement-notice-and-agreements>; (2) the EOIR website at <https://www.justice.gov/eoir/litigation-notice>; (3) <https://www.nwirp.org/wp-content/uploads/2020/08/Mendez-Rojas-Corrected-Settlement-Agreement.pdf>; and (4) by writing to Class Counsel at the address listed below.

Class Counsel:
Matt Adams
Northwest Immigrant Rights Project
ATTN: Mendez-Rojas Settlement Proposal
615 Second Ave., Ste. 400
Seattle, WA 98104
matt@nwirp.org

C. Procedures for Objection

You can ask the Court to reject the proposed settlement by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court rejects the settlement, the lawsuit will continue. If that is what you want to happen, you must object.

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in-person or through your own attorney or in whatever other manner the Court permits. If you appear through your own attorney, you are responsible for paying that attorney if required. All written objections and supporting papers must:

- (1) Clearly identify the case name and number (MENDEZ ROJAS, ET AL. V. WOLF, ET AL., Case No. 2:16-cv-01024-RSM);
- (2) Be submitted to the Court either:
 - a. By mailing them to: the Clerk, U.S. District Court for the Western District of Washington, 700 Stewart Street, Suite 2310, Seattle, WA 98101, and both the envelope and letter shall state: “Attention: *Mendez Rojas v. Wolf*, No. 2:16-cv-01024-RSM (W.D. Wash.), or
 - b. By filing them in person at any location of the United States District Court for the Western District of Washington; and
- (3) Be filed or postmarked on or before September 21, 2020.