



DOBRIN & HAN, PC
Attorneys at Law



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For press inquiries, contact:

Matt Adams, Northwest Immigrant Rights Project, 206-957-8611, matt@nwirp.org

Vicky Dobrin or Hilary Han, Dobrin & Han, PC, 206-448-3440, vicky@dobrin-han.com

Wendy Feliz, American Immigration Council, 202-507-7524, wfeliz@immcouncil.org

Trina Realmuto, National Immigration Project/NLG, 617-227-9727, trina@nipnlg.org

Federal Court Grants Nationwide Class Status in Suit to Protect Asylum Seekers

A federal court in Seattle has granted nationwide class action status to a case seeking to protect the rights of thousands of asylum seekers pursuing protection from persecution in their home countries. On January 10, 2017, the U.S. District Court for the Western District of Washington certified the nationwide class in *Mendez-Rojas v. Johnson*, No. 2:16-cv-01024-RSM (W.D. Wash), making thousands of asylum seekers class members in the case. Filed by the Northwest Immigrant Rights Project (NWIRP), Dobrin & Han, PC, the American Immigration Council, and the National Immigration Project of the National Lawyers Guild (NIPNLG) in June 2016, the lawsuit challenges the government's failure to provide plaintiffs with adequate notice of the one-year filing deadline for asylum applications, and seeks to establish a uniform mechanism that ensures they have an opportunity to timely file their applications.

In his order, U.S. District Judge Ricardo S. Martinez stated that the federal government had not "presented either a system whereby putative class members are guaranteed notice of the one-year filing deadline or a mechanism whereby putative class members are assured of the opportunity to timely file their asylum applications." The newly certified classes include asylum seekers who enter the United States, express a fear of return to their home countries, and then are released from immigration custody in order to pursue asylum claims, without receiving notice from the U.S. Department of Homeland Security (DHS) that they must file their asylum applications within one year of their arrival to the United States. Instead, many learn of the one-year filing deadline for the first time at their immigration court hearing, which often is after the deadline has passed. With limited exceptions, the law bars a person who has missed the one-year deadline from pursuing asylum in the United States.

After the court agreed to initially stay proceedings to allow the parties to pursue settlement discussions, the Executive Office for Immigration Review (EOIR) announced a new policy allowing asylum applicants to file their applications by mail or in person at an immigration court instead of being required to wait to file it in person at their court hearing. However, this policy change only provides a meaningful opportunity for those applicants placed in removal proceedings before the one year expires, and fails to take any steps to provide proper notice.

“As the Court recognized, the government does not dispute that it has no policy or practice to ensure that all persons seeking refuge in our country are provided notice of the one-year deadline and a meaningful opportunity to comply with the deadline,” said Matt Adams, legal director for NWIRP. “It defies any basic notion of fairness to impose a rule requiring persons seeking asylum to file within one year, but at the same time, fail to provide a mechanism for these individuals to have a meaningful opportunity to submit the required applications.”

“The Court’s certification of a nationwide class is a critical first step in this case,” explained Mary Kenney, Senior Staff Attorney at the American Immigration Council. “Any remedy that the Court subsequently orders will apply uniformly throughout the country, ensuring that all asylum-seekers have a full and fair opportunity to pursue their applications.”

“The government should not defend a system in which asylum applications are thwarted by unknown deadlines and deficient procedures,” said Trina Realmuto, litigation director for NIPNLG. “We hope the Court’s ruling is a precursor to remedying this injustice.”

The order granting class certification can be found [here](#).