

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

United States District Court for the District of Maryland
J.O.P., et al. v. U.S. Department of Homeland Security, et al.
Case No. 8:19-cv-01944-SAG

A federal court has authorized this notice. This is not an advertisement. You are not being sued or restrained.



PLEASE READ THIS NOTICE CAREFULLY.

THIS NOTICE RELATES TO A PENDING CLASS ACTION LAWSUIT AND CONTAINS IMPORTANT INFORMATION ABOUT CLASS MEMBERS' RIGHTS TO OBJECT TO THE SETTLEMENT.

This notice is to tell you about a proposed Settlement Agreement of a class action lawsuit, *J.O.P. et al. v. U.S. Department of Homeland Security, et al.*, Case No. 8:19-cv-01944-SAG, pending in the United States District Court for the District of Maryland. The Court has granted preliminary approval of the proposed Settlement Agreement and has set a Final Approval Hearing (referred to as a Fairness Hearing in the proposed Settlement Agreement) to take place on **November 25, 2024 at 10:00am ET** in Courtroom 7C, Edward A. Garmatz U.S. Courthouse, 101 West Lombard Street, Baltimore, MD 21201, to decide if the proposed Settlement Agreement is fair, reasonable, and adequate.

Final Approval Hearing: 11/25/2024 at 10am ET

Note: this date and time are subject to change by Court Order and may change without further notice to the Class.

1. What is the purpose of this notice?

This notice has three purposes. The notice:

- A. Tells you about the proposed Settlement Agreement and the Final Approval Hearing;
- B. Explains how you may object—**and the deadline for doing so**—if you disagree with the proposed Settlement Agreement’s terms; and
- C. Explains how you can get more information.

 **If you are a Class Member, your legal rights are affected regardless of whether you act.**

2. What is the *J.O.P. v. DHS* lawsuit about?

J.O.P. v. DHS is a class action lawsuit that was filed in federal court in Maryland in July 2019. A class action lawsuit is filed on behalf of a large group of people, rather than one person.

The Plaintiffs who brought the *J.O.P. v. DHS* lawsuit claimed that a 2019 policy created by the federal government about how to treat asylum applications filed by people previously determined to be an “Unaccompanied Child” (referred to as “Unaccompanied Alien Child” in the immigration laws) was unlawful.

Under that 2019 policy, U.S. Citizenship and Immigration Services (“USCIS”) rejected the asylum applications of people in immigration court removal proceedings who had “Unaccompanied Child” determinations if they no longer met the definition of “Unaccompanied Child” on the date they filed the asylum application—even though under the policy that came before the 2019 policy, USCIS accepted such applications.

Under the challenged 2019 policy, USCIS also applied a one-year filing deadline to the asylum applications of individuals with previous “Unaccompanied Child” determinations if they no longer met the definition of “Unaccompanied Child” on the date they filed their asylum application—even though under the policy in place before the 2019 policy, USCIS held such applications exempt from the one-year deadline.

The Parties in this case are Plaintiffs J.O.P., M.E.R.E., K.A.R.C., E.D.G., and L.M.Z., all asylum seekers with previous “Unaccompanied Child” determinations (“Plaintiffs”), and the Defendants are U.S. Department of Homeland Security; Alejandro Mayorkas, Secretary of the U.S. Department of Homeland Security; U.S. Citizenship and Immigration Services; Ur Mendoza Jaddou, Director of U.S. Citizenship and Immigration Services; U.S. Immigration and Customs Enforcement; and Patrick J. Lechleitner, ICE Deputy Director and Senior Official Performing the Duties of the Director (“the Government”).

Since August of 2019, the U.S. District Court for the District of Maryland (“Court”) has ordered the Government to stop applying the 2019 policy. On December 21, 2020, the Court decided that this case could go forward as a nationwide class action.

The certified class includes all people nationwide who were determined to be an “Unaccompanied Child,” filed an asylum application with USCIS that USCIS has not yet adjudicated on the merits, and on the date they filed the application were 18 years old or older or had a parent or legal guardian in the United States available to provide care and physical custody.

The Court also ordered the Government not to advocate against postponements of the immigration court proceedings of Class Members while they were waiting for USCIS to decide their pending asylum applications.

The Plaintiffs and the Government subsequently reached this Settlement Agreement. The Government denies any wrongdoing, but is settling the case in order to avoid the expense and resources to keep fighting the case. The Plaintiffs and their lawyers (“Class Counsel”) believe that the proposed Settlement Agreement provides important rights and benefits for the Class, and that it is in the best interest of the Class to settle the case, while avoiding the expense and delay of continuing to fight the case in court. The Court has preliminarily approved the Settlement Agreement.

3. How do I know if I am part of the class?

The Court has certified the following class for purposes of this Settlement Agreement (the “Class”): “all individuals nationwide who prior to [the date that is **90 days** after the date of the Court’s final approval of this Settlement Agreement]

- (1) were determined to be [an Unaccompanied Child]; and
- (2) who filed an asylum application that was pending with USCIS; and
- (3) on the date they filed their asylum application with USCIS, were 18 years of age or older, or had a parent or legal guardian in the United States who is available to provide care and physical custody; and
- (4) for whom USCIS has not adjudicated the individual’s asylum application on the merits.”

In other words, you are part of the Class covered by the Settlement Agreement (“Class Member”) if, before the date that is 90 days after the date the Court grants final approval of the Settlement Agreement, you (1) were determined to be an Unaccompanied Child; (2) filed an asylum application that was pending with USCIS; (3) on the date you filed your asylum application with USCIS, you were 18 years of age or older, or you had a parent or legal guardian in the United States who is available to provide care and physical custody; and (4) have not received an adjudication from USCIS on the merits of your asylum application. You do not need to live in Maryland to be part of the Class and benefit from the proposed Settlement Agreement.

Important: Some individuals who were previously determined to be Unaccompanied Children but have **not yet filed for asylum** with USCIS **can** become Class Members if they file an asylum application with USCIS before the deadline described above and meet the other requirements described above.

4. What does the Settlement Agreement provide?

This notice summarizes the proposed Settlement Agreement. You can learn how to get a copy of the full proposed Settlement Agreement in Part 7 below. In brief, under the proposed Settlement Agreement:

- A. **USCIS asylum adjudications.** Class Members have a right to have USCIS decide their asylum applications on the merits, even if they are in removal proceedings, and USCIS will not apply the one-year deadline for filing asylum applications to Class Members' asylum applications. USCIS will decide the asylum application even if an Immigration Judge found that the Immigration Judge and not USCIS had the power to decide the asylum application. USCIS will decide the asylum application even if an Immigration Judge refuses to postpone the immigration court case while the asylum application is pending with USCIS.
 - **Limited exception.** USCIS can only refuse to decide a Class Member's asylum application on the merits if the Class Member was placed in immigration detention as an adult (meaning the person was 18 years old or older) before the Class Member filed their asylum application. If USCIS refuses to consider a Class Member's asylum application because of the Class Member's placement in adult immigration detention, the Class Member is entitled to certain protections specified in the proposed Settlement Agreement.
- B. **Retractions of previous rejections.** USCIS will retract previous rejections of the asylum applications of qualifying Class Members and reinstate them for consideration under this proposed Settlement Agreement.
- C. **Expedite process.** USCIS will create a process for Class Members in certain specified urgent circumstances to request that USCIS expedite their cases.
- D. **New USCIS memo.** USCIS will issue a memo explaining the procedures it is agreeing to under the Settlement Agreement. This memo will apply to Class Members and other people who were previously determined by the Government to be an "Unaccompanied Child." USCIS will keep this memo in place for at least three years from its effective date.

- E. **Motion practice in immigration court.** In a Class Member's removal proceedings, the Government lawyer representing the Department of Homeland Security will not argue against USCIS's authority over the Class Member's asylum application. The Government lawyer will generally join or not oppose the Class Member's request for dismissal of the removal proceedings or for a postponement to await USCIS's decision on the asylum application.
- F. **Stays of removal.** ICE will not remove Class Members with final orders of removal from the United States while they are waiting for USCIS to decide their asylum application under the proposed Settlement Agreement.
- G. **Motions to reopen.** If USCIS grants a Class Member asylum and the Class Member has a removal order, the Government lawyer who represents the Department of Homeland Security in the Class Member's removal proceedings will generally not oppose the Class Member's motion to reopen their removal case.
- H. **Time period:** The Settlement Agreement will be in effect for a year and a half (548 days) after it goes into effect; except that the USCIS memo will remain in effect for at least three years.
- I. **Suspected violations:** While the Settlement Agreement is in effect, if a Class Member believes the Government has violated the Settlement Agreement, that Class Member or their counsel may notify Class Counsel in writing of the suspected violation, and the Parties will seek to resolve the issue.

All of the terms of the proposed Settlement Agreement are subject to Court approval at a "Final Approval Hearing," discussed below.

5. What are the procedures for objections by Class Members?

- ➔ If you **are** satisfied with the proposed Settlement Agreement, you do not have to do anything.
- ➔ If you **are not** satisfied with the proposed Settlement Agreement, you do not have the right to opt out of the Settlement Agreement. However, you have the right to ask the Court to deny approval of the proposed Settlement Agreement by filing **a written objection**. You cannot ask the Court to order a different settlement; the Court can only approve or reject the proposed Settlement Agreement. If the Court denies approval, this lawsuit will continue. If that is what you want to happen, you must object.

Any **objection** to the proposed Settlement Agreement and/or notice of request to be heard at the Final Approval Hearing must be in writing and must:

- A. Clearly identify the case name and number: *J.O.P. et al. v. U.S. Department of Homeland Security, et al.*, Case No. 8:19-cv-01944;
- B. Include the Class Member's name (using only initials if the Class Member is under the age of 18, but including a separate page at the end of the objection/notice providing their full name and contact information), current address, and telephone number (or current address and telephone number of the Class Member's legal representative);
- C. State the grounds upon which the claimed Class membership is based;
- D. Include an explanation of why the Class Member objects to the proposed Settlement Agreement, including any supporting documentation;
- E. Indicate whether the Class Member requests the opportunity to be heard at the Final Approval Hearing;
- F. Be filed with the Court.

- To file a notice of objection and/or request to be heard with the Court, you must mail it to the United States District Court, 6500 Cherrywood Lane, Greenbelt, MD 20770, or file it in person at the Clerk's Office of either the Baltimore or Greenbelt federal courthouses. **It must be filed in person or postmarked on or before October 21, 2024.**

Note: If your objection does not comply with all of the above requirements, the Court can ignore it or deny your request to be heard.

Any objection or notice of request to be heard can be filed under seal to avoid disclosure of personal identifying information on the public record.

6. When is the Final Approval Hearing, what is its purpose, and what are the potential outcomes?

WHEN:

The Final Approval Hearing is scheduled for 11/25/2024 at 10am ET in Courtroom 7C, Edward A. Garmatz U.S. Courthouse, 101 West Lombard Street, Baltimore, MD 21201

Note: this date and time are subject to change by Court Order and may change without further notice to the Class. The purpose of the Final Approval Hearing is for the Court to determine if the Settlement Agreement is fair, reasonable, and adequate.

If you file a timely written objection that complies with the requirements listed in Part 5 above, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney at the Final Approval Hearing, you are responsible for hiring and paying that attorney.

If the Court **grants** final approval of the Settlement Agreement, Class Members will settle the legal claims identified in the Settlement Agreement and agree to stop fighting this lawsuit.

If the Court **does not grant** final approval of the proposed Settlement Agreement, the proposed Settlement Agreement will be void, and the Parties will continue to litigate this case in front of the Court. If that happens, there is no guarantee that: (1) the Court will rule in favor of the Class Members; (2) a favorable Court decision, if any, would be as favorable to the Class Members as this Settlement Agreement; or (3) any favorable Court decision would be upheld if the Government filed an appeal.

7. Where can I view a copy of the proposed Settlement Agreement or get additional information?

This notice summarizes the proposed Settlement Agreement. You can read the full proposed Settlement Agreement:

- A. By visiting this web page:
<https://nipnlg.org/work/litigation/jop-v-dhs;>
- B. By accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at [https://ecf.mdd.uscourts.gov/cgi-bin/iquery.pl;](https://ecf.mdd.uscourts.gov/cgi-bin/iquery.pl)
- C. By visiting the Clerk's Office of either the Baltimore or Greenbelt federal courthouses during business hours; or
- D. By contacting Class Counsel at the following email address:
[DG-JOPClassCounsel@goodwinlaw.com.](mailto:DG-JOPClassCounsel@goodwinlaw.com)

PLEASE DO NOT CONTACT THE COURT OR THE JUDGE WITH QUESTIONS ABOUT THE PROPOSED SETTLEMENT.