

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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HANAD ABDI and JOHAN BARRIOS RAMOS,  
on behalf of himself and all others similarly situated,

Petitioners,

v.

1:17-CV-00721 EAW

ALEJANDRO MAYORKAS, in his official capacity  
as Secretary of U.S. Department of Homeland  
Security; THOMAS BROPHY, in his official  
capacity as Acting Director of Buffalo Field Office  
of Immigration and Customs Enforcement;  
JEFFREY SEARLS, in his official Capacity as  
Acting Administrator of the Buffalo Federal  
Detention Facility; and MERRICK GARLAND, in  
his official capacity as Attorney General of the  
United States,

Respondents.

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**ORDER  
GRANTING PETITIONERS' MOTION FOR PRELIMINARY APPROVAL OF  
PROPOSED CLASS ACTION SETTLEMENT AND NOTICE**

This matter is before the Court on Petitioners' Motion for Preliminary Approval of Proposed Class Action Settlement and Notice (the "Motion").

Having considered Petitioners' submissions and arguments, the evidence of record, and applicable authority, the Motion is GRANTED, as follows:

1. The Court preliminarily approves the Settlement Agreement, submitted with Petitioners' Motion as Exhibit A, as within the range of reasonableness such that final

approval is possible, and as meriting dissemination of notice to the certified class<sup>1</sup> for its consideration.

2. The Final Approval Hearing shall be held before this Court on December 15, 2021, at 2:00 p.m., to address whether the proposed settlement should be finally approved as fair, reasonable, and adequate, and whether a Final Judgment and Order should be entered. The Final Approval Hearing shall be conducted by Zoom for Government. Instructions for accessing Zoom for Government will be provided to the parties and to any objectors in advance. Any non-objecting class members or members of the public who wish to access the Final Approval Hearing may contact the undersigned's Chambers at 585-613-4320 or wolford@nywd.uscourts.gov for instructions.

3. The Court approves, as to form and content, the Notice of Proposed Settlement, submitted with Petitioners' Motion as Exhibit B. The Notice of Proposed Settlement is written in plain and clear terms, is easy to comprehend, and fully complies with the requirements of the Due Process Clause of the U.S. Constitution, Rule 23 of the Federal Rules of Civil Procedure, and applicable law. Petitioners shall have the discretion to make non-material minor revisions to the Notice of Proposed Settlement, including to update the submitted Notice of Proposed Settlement to account for the dates and deadlines set forth in this Order.

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<sup>1</sup> The Court previously certified a class of "All arriving asylum-seekers who have passed a credible fear interview and who are or will be detained at the Buffalo Federal Detention Facility and who have not been granted parole." (Dkt. 66 at 23).

4. The Court finds that the notice plan set forth in Petitioners' Motion constitutes the best notice practicable under the circumstances. The Court finds that the notice plan is reasonably calculated to provide notice to the certified class of the pendency of this action, the terms of the Settlement Agreement, and the Final Approval Hearing and applicable deadlines, and that it complies fully with the requirements of the Due Process Clause of the U.S. Constitution, Rule 23 of the Federal Rules of Civil Procedure, and applicable law. The Parties shall comply with the notice plan as set forth in Petitioners' Motion and other deadlines as set forth in this Order. Notice shall be administered in accordance with the terms of the Settlement Agreement and as set forth in Petitioners' Motion by no later than October 29, 2021.

5. Any member of the certified class may submit an objection to the Settlement Agreement. Any objection must be received by the Clerk of the Court or by Class Counsel no later than November 29, 2021, or it will be rejected, absent a showing of good cause that supports its consideration. Any objection must state whether it applies only to the objector, to a specific subset of the Class, or to the entire Class, and also state with specificity the grounds for the objection.

6. By December 1, 2021, Class Counsel shall electronically file, via the Court's CM/ECF system, any and all objections received by Class Counsel on or before the deadline for the submission of objections, as set forth in Paragraph 5 of this Order.

7. Any party may submit a response to any objection by no later than December 8, 2021.

8. Class Counsel shall file a motion for entry of the Final Judgment and Order no later than December 3, 2021. Respondents shall have no obligation to make separate filings in support of the motion for Final Approval but may do so if they so desire. Respondents shall appear at the Final Approval Hearing to confirm their agreement with the terms of the Settlement Agreement.

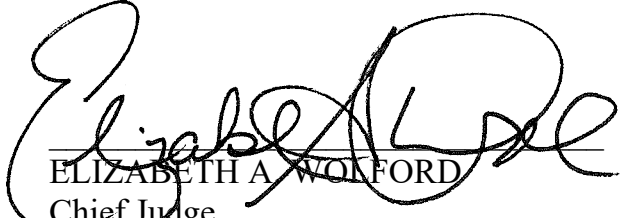
9. Any class member shall have the right to appear and be heard at the Final Approval Hearing, either personally or through an attorney retained at the class member's own expense. However, if the class member wishes to object to the Settlement Agreement at the Final Approval Hearing (either personally or through counsel), the class member must timely submit a written objection in compliance with the requirements referenced in Paragraph 5 of this Order or demonstrate good cause excusing the objector from compliance.

10. The Court may, for good cause, extend any of the deadlines set forth in this Order without additional dissemination or publication of notice to the certified class, though such extensions shall be entered in the Court's docket and made available for public view. The Final Approval Hearing may, from time to time and without further notice to the certified class beyond updates to the Court's docket, be continued by Order of the Court.

11. If the Court does not approve the Settlement Agreement, or if the Settlement Agreement is reversed or rendered void as a result of an appeal, the Settlement Agreement and any obligations thereunder shall be rendered void, and the Parties shall revert to their pre-settlement litigation positions. In the event the Court does not approve the Settlement

Agreement, the Parties have reserved all rights regarding the merits of this action. In the event the Court does not approve the Settlement Agreement, the Parties are to meet and confer on an appropriate case management schedule to be approved by the Court.

SO ORDERED.



ELIZABETH A. WOLFORD  
Chief Judge  
United States District Court

Dated:           October 22, 2021  
                    Rochester, New York