

The Honorable Lauren King

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, *et al.*,

Defendants.

No. 2:17-cv-00094-LK

**AMENDED JOINT MOTION TO DIRECT
NOTICE OF SETTLEMENT
AGREEMENT**

**(Note on Motion Calendar for:
March 4, 2026)**

In accordance with this Court’s orders of January 12, 2026, and January 22, 2026, Dkt. Nos. 706, 708, the parties submit this amended joint motion requesting that the Court direct public notice of the parties’ proposed Settlement Agreement. The parties intend this amended motion, along with the revisions to the proposed Settlement Agreement and proposed Public Notice, to obviate the need for the March 11, 2026, hearing. *See* Dkt. 706 at 1. However, if, after consideration of this filing, the Court believes a hearing would be beneficial, the parties are prepared to appear at the hearing as scheduled.

On November 26, 2025, the parties filed a joint motion requesting that the Court direct public notice of their proposed Settlement Agreement. Dkt. No. 704. The motion included a copy of the proposed Settlement Agreement and proposed Public Notice of the Settlement Agreement. Dkt. No. 704 at Exhibit A. On December 4, 2025, the Court notified the parties that it would hold

1 a hearing on the parties' joint motion. Dkt. No. 705. On January 12, 2026, the Court issued an
2 order listing five issues the parties should be prepared to address at the hearing. Dkt. No. 706. The
3 Court stated that, alternatively, the parties could file an amended motion addressing the Court's
4 questions and concerns. Dkt. No. 706. Accordingly, the parties jointly address each of the Court's
5 questions and concerns below, and respectfully move the Court to direct public notice of the
6 revised Settlement Agreement, attached hereto as Exhibit A.

7 1. Rule 23(e) Factors.

8 The proposed settlement is "fair, reasonable, and adequate," satisfying the requirements of
9 Federal Rule of Civil Procedure 23(e)(2).

10 A. Background

11 This class action, initiated in 2017, challenges the lawfulness of the Controlled Application
12 Review and Resolution Program ("CARRP"), a policy of United States Citizenship and
13 Immigration Services ("USCIS"). The plaintiffs comprise two certified nationwide classes: the
14 "Naturalization Class" and the "Adjustment Class" (together, "Plaintiffs"). Each class seeks
15 injunctive and declaratory relief against USCIS and several federal officials.

16 From late 2017 to early 2021, the parties engaged in discovery, after which they filed cross-
17 motions for summary judgment and motions to exclude the testimony of certain expert witnesses.
18 *See* Dkt. Nos. 665, 665-5, 665-6, 665-14 (redacted summary judgment briefing); Dkt. Nos. 460,
19 463, 471, 475, 477 (sealed and redacted motions to exclude expert opinions). While these motions
20 were pending, the parties sought and obtained a stay of the litigation pending settlement
21 negotiations. Dkt. Nos. 592, 594. Those negotiations proved unsuccessful, and the stay expired.
22 *See* Dkt. No. 601.

23 Shortly after the expiration of the stay, the Supreme Court decided *Patel v. Garland*, 142
24 S. Ct. 1614 (2022). The Court granted Defendants leave to submit a filing on whether *Patel*
25 affected the Court's jurisdiction over the claims of the Adjustment Class. *See* Dkt. Nos. 605, 608.
26

1 Before that filing came due, the parties jointly sought and obtained a stay as to the claims of the
2 Adjustment Class. *See* Dkt. Nos. 610, 612. As the parties explained, “the claims of the two classes
3 are largely identical,” Dkt. No. 612, save for the jurisdictional barrier posited by Defendants; thus,
4 by adjudicating the merits of the Naturalization Class’s claims, the Court could facilitate the
5 parties’ resolution of the Adjustment Class’s claims without resolving the applicability of *Patel*’s
6 jurisdictional holding. The claims of the Adjustment Class have been stayed ever since.

7 On January 17, 2025, the Court decided the parties’ cross-motions for summary judgment.
8 Dkt. No. 679. The Court granted summary judgment to the Naturalization Class on its claim that
9 CARRP was arbitrary and capricious, in violation of the Administrative Procedure Act (“APA”).
10 *Id.* at 65. The Court granted summary judgment to Defendants on the Naturalization Class’s
11 additional APA claims, as well as its claims under the procedural due process and equal protection
12 components of the Fifth Amendment. *Id.* at 64–65. The Court did not reach Plaintiffs’ claim that
13 CARRP violates the substantive due process component of the Fifth Amendment, on which neither
14 party moved for summary judgment. *Id.* Finally, the Court dismissed as moot three claims
15 originally brought by certain named plaintiffs and a putative, non-certified class. *Id.* at 65.

16 B. Adequacy of representation

17 The class representatives and class counsel have adequately represented the Plaintiff
18 classes. In the nine years since Plaintiffs initiated this lawsuit, the class representatives and class
19 counsel have vigorously pursued Plaintiffs’ constitutional and statutory claims for relief. Among
20 other things, the class representatives and class counsel have successfully opposed repeated
21 motions to dismiss Plaintiffs’ claims, *see, e.g.*, ECF Nos. 56, 58, 61, 63, 69, 75, 85, 628, 634, 639,
22 661; engaged in “lengthy and contentious discovery,” Dkt. No. 627 at 2, involving strict protective
23 orders, multiple motions to compel, a successful motion for sanctions, dozens of depositions,
24 hundreds of pages of expert testimony, and multiple cross-motions to exclude, *see, e.g.*, ECF Nos.
25 91, 98, 109, 111, 137, 148, 221, 223, 224, 260, 397, 424, 460, 475; litigated Defendants’ motions
26

1 to seal thousands of pages of documents entered into the summary judgment record, including by
2 conducting line-by-line reviews of many of Defendants' proposed redactions, *see generally* ECF
3 Nos. 609, 649; and secured a partial victory on the parties' complex cross-motions for summary
4 judgment, *see* ECF No. 679.

5 C. Arm's-length negotiation

6 The proposed settlement is the result of "serious, informed, and arm's-length negotiations
7 between attorneys versed in the legal and factual issues of the case." *Paredes Garcia v.*
8 *Harborstone Credit Union*, No. 3:21-CV-05148-LK, 2023 WL 7412842, at *6 (W.D. Wash. Nov.
9 9, 2023). The parties entered the present settlement negotiations following (1) extensive and
10 heavily litigated fact discovery, *see supra*; and (2) the Court's adjudication of their cross-motions
11 for summary judgment, Dkt. No. 679 at 65. Counsel for both parties have significant experience
12 in federal litigation involving government agencies and the civil rights of noncitizens, and they are
13 well-positioned to assess whether the proposed settlement represents the best interests of their
14 respective clients.

15 D. Adequacy of relief

16 The relief provided for the class is "adequate, taking into account: (i) the costs, risks, and
17 delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the
18 class, including the method of processing class-member claims; (iii) the terms of any proposed
19 award of attorney's fees, including timing of payment; and (iv) any agreement required to be
20 identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C).

21 First, under the proposed settlement, Defendants will rescind CARRP. The rescission of
22 CARRP will provide meaningful relief to all class members; indeed, it will achieve a cardinal
23 purpose of this lawsuit. Further litigation in this Court or before the Ninth Circuit would delay the
24 final resolution of class members' claims by months or—more likely—years. Additionally, further
25 litigation would offer class members no guarantee of a more favorable outcome than Defendants'
26

1 rescission of CARRP, while exposing class members to the risk of an adverse appellate ruling—
2 *e.g.*, on jurisdiction. Such a ruling could prevent class members from obtaining *any* relief
3 whatsoever.

4 Second, the relief afforded by the proposed settlement—Defendants’ rescission of
5 CARRP—will, by its nature, be distributed immediately and evenly to all class members, and will
6 not require class members to submit claims.

7 Third, counsel for Plaintiffs have rendered all services in this matter pro bono. Insofar as
8 Plaintiffs are entitled to an award of attorneys’ fees and costs, those fees and costs will be
9 distributed to Plaintiffs’ counsel and will have no impact on class members’ substantive relief. That
10 being so, and because negotiating any payment of attorneys’ fees and costs would further delay
11 execution of the Settlement Agreement and the rescission of CARRP, counsel for the parties have
12 agreed to set aside the question of attorneys’ fees for potential future negotiation and, if necessary,
13 presentation to the Court.

14 Finally, neither the parties nor counsel for the parties have entered into any additional
15 agreement related to the proposed settlement.

16 E. Equitable treatment of class members

17 The proposed settlement, according to which Defendants will rescind CARRP, treats all
18 members of the Adjustment and Naturalization classes equally.

19 2. Claims Released by the Adjustment Class.

20 The parties agree that the language identified by the Court in paragraphs 22 and 25 of the
21 proposed Settlement Agreement was unclear concerning which claims the Adjustment Class
22 releases under the agreement. *See* Dkt. 706 at 2. The parties further agree that it was their intent
23 that the Adjustment Class release all its claims. *See* Dkt. 706 at 2. Accordingly, the parties revised
24 the proposed Settlement Agreement, which is attached hereto in revised form, to remove any
25 discrepancy concerning the claims released under the agreement. Specifically, in the revised
26

1 version of the Settlement Agreement, the parties added Paragraph 26, and made edits to Paragraph
2 22(a) and Paragraph 25.

3 3. Adequate Notice to Class.

4 In response to the Court's concerns about the adequacy of the public notice procedure
5 outlined in Paragraphs 16 and 17 of the revised Settlement Agreement, attached hereto, the parties
6 submit that Plaintiffs' counsel will post the notice, with the proposed settlement agreement, to the
7 public websites of the Northwest Immigrant Rights Project and the American Civil Liberties
8 Union; counsel will also circulate the notice to two national immigration listservs relied on by
9 immigration attorneys and legal advocates across the country—specifically, listservs hosted by the
10 National Immigration Project of the National Lawyers Guild (NIP/NLG) and the American
11 Immigration Lawyer's Association (AILA).

12 The parties agree the public notice procedure described in the Settlement Agreement is
13 reasonably calculated to notify interested parties because Plaintiffs' counsel previously used a
14 similar procedure to communicate with potential class members in this case. In that instance, the
15 Court granted Plaintiffs' motion to identify additional class representatives. *See* Dkt. No. 221, 274.
16 Plaintiffs' counsel posted a public notice to the listservs for the NIP/NLG and AILA—the same
17 locations Plaintiffs propose posting the Public Notice here—describing the lawsuit and class
18 membership requirements and inviting individuals who believed they might be class members to
19 contact class counsel. *See* Dkt. No. 222-1 (Exhibit C). The notice specified that class counsel could
20 not disclose to any person whether they were a class member or whether their applications were
21 subject to CARRP. *Id.* The notice generated more than 100 responses from potential class
22 members. While Plaintiffs ultimately did not name additional class representatives, the use of the
23 same public notice procedure proposed here proved an effective way to communicate with
24 potential class members. Moreover, the procedure adequately balances the interests of facilitating
25 communication between class members and their counsel, on one hand, and safeguarding
26

1 information (*i.e.*, class membership, and therefore CARRP status) which, if disclosed to any
2 particular individual or publicly, would present a risk to national security. *See* Dkt. No. 183 at 2
3 *Ins.* 9-25 (reconsidering a prior order and granting “Defendants’ motion for a limited protective
4 order to produce the class list under an attorneys eyes only provision”); Dkt. No. 192 at 1 *In.* 21-2
5 *In.* 10 (granting stipulated motion regarding attorneys eyes only protection over the class lists);
6 Dkt. 274, at 6. *Ins.* 24-26 (approving prior public notice because “it does not disclose whether or
7 not any particular individual was ever, or is, subject to CARRP”).

8 Concerning the appropriate amount of time to post the Public Notice, upon consideration
9 of the Court’s concern, the parties agree that providing a period of 60 days for objections, as
10 opposed to 30 days, is sufficient to notify interested parties of their opportunity to object and
11 provide them with the opportunity to do so in writing. Notably, in similar cases involving class
12 counsel and Defendants this Court has approved notice periods of 30 and 60 days. *See Mendez*
13 *Rojas v. Wolf*, No. 2:16-cv01024-RSM (W.D. Wash.), Dkt. 78-3 at 4, 80 (approving notice and
14 comment period of 30 days); *Padilla v. ICE*, 2:18-cv-00928-MJP (W.D. Wash.) Dkt. 78-3 at 4, 80
15 (approving notice and comment period of 30 days; (approving notice and comment period of 60
16 days); *Wilfredo Favela Avedano v. Bostock*, 20-cv-700-JLR-MLP (W.D. Wash.) Dkt. 651 at 2
17 (approving notice and comment period of 60 days); *Garcia Perez v. U.S. Citizenship and*
18 *Imigration Services*, 2:22-cv-00806-JHC (W.D. Wash.) Dkt 76 at 4 (approving notice and comment
19 period of 35 days).

20 As to the Court’s concern that the Public Notice does not “provide a link to the complaint
21 and succinctly describe the gist of the settlement,” Dkt. No. 706 at 2-3, the parties have revised
22 the Public Notice, attached hereto as an attachment to the revised Settlement Agreement, to include
23 these details.

1 4. Objections and Fairness Hearing.

2 With respect to the Court’s concern that, “The notice does not inform class members of
3 when or how they might object to the settlement,” here, the process of receiving objections from
4 the class is complicated by the fact that potential objectors will not know, and cannot be informed,
5 whether their adjustment or naturalization applications were subject to CARRP. *See* Dkt. 274, at 6
6 *Ins.* 24-26 (approving prior public notice because “it does not disclose whether or not any particular
7 individual was ever, or is, subject to CARRP”). Accordingly, the parties propose a process by
8 which *Wagafe* class counsel, having received objections from Public Notice responders during a
9 60-day public notice period, will present the objections and comments of class members to the
10 Court prior to the fairness hearing.

11 Under this process, only written objections will be accepted. Only class members have
12 standing to lodge objections to the Settlement Agreement. *See* Fed. R. Civ. P. 23(e)(5)(A) (“Any
13 class member may object to the proposal . . .”); and *see Waller v. Fin. Corp. of Am.*, 828 F.2d 579,
14 583 (9th Cir. 1987) (absent “formal legal prejudice,” non-class members lack standing to object to
15 a class settlement). And there is no known way to limit objections in open court to persons with
16 standing to object to the Settlement Agreement without alerting those persons that their
17 applications were subject to CARRP. Therefore, class counsel will submit to the Court under seal
18 all objections received, and as noted below, will also provide the Court under seal a list advising
19 which objectors are class members.

20 Under the parties’ proposal, any person wishing to object to the fairness of the settlement
21 agreement will have 60 days from the date of the publication of the Public Notice to submit their
22 objections in writing to class counsel. Objectors will not know whether their applications were
23 subject to CARRP.

24 Because under this proposal objections are likely to be received from persons who are not
25 members of either class, the parties propose that Plaintiffs’ class counsel will screen any objections
26

1 received in response to the notice against a class list provided to them by Defendants to verify
2 whether objecting parties are members of either the naturalization class or the adjustment class.
3 Consistent with the Court's prior orders, objectors will not be informed of the result of the
4 screening or whether they are class members. All objections will be forwarded to the Court under
5 seal and provided to Defendants' counsel. Plaintiffs' class counsel will also submit to the Court
6 under seal, and provide to Defendants' counsel, a list of the objectors who are on the class list
7 provided by Defendants, identifying such objectors by name and A-number. Plaintiffs' class
8 counsel will additionally submit to the Court under seal a copy of the class list used to determine
9 class membership status. Should class member objections be numerous (*i.e.*, in excess of 20),
10 Plaintiffs' class counsel will group objections into categories based on the nature of the objection
11 before submitting them to the Court. Objections will be handled by the parties as prescribed by
12 protective orders issued in this lawsuit. *See* Dkt. Nos. 86, 183, and 192.

13 The proposed Public Notice submitted by the parties with their Joint Motion to Direct
14 Notice of Settlement Agreement, *see* Dkt. 704 at Ex. A, has been revised to inform potential
15 objectors of the process outlined in this proposal.

16 With respect to the Court's concern that, "The notice does not inform class members of . . .
17 when or where the fairness hearing will take place," the parties have no objection to the fairness
18 hearing being open to the public. Should it become necessary to discuss the specifics of any
19 particular objection, such that the identity of the objector could be ascertained, Defendants may
20 seek to close the courtroom or to conduct the discussion *in camera*.

21 The Public Notice does not provide a specific date, time, and location for the fairness
22 hearing because the date of the fairness hearing is contingent upon certain events, *i.e.*, the close of
23 the 60-day public notice period, the potential need for Plaintiffs' counsel to group objections for
24 the Court, and the Court's review of the objections in a period leading up to the fairness hearing
25 of at least 30 days. Accordingly, as contemplated in the parties' Joint Motion to Direct Notice of
26

1 Settlement Agreement, the parties will notify the Court when the 60-day public notice period has
2 concluded. *See* Dkt. 704 at 2. This will allow the parties to propose a date by which objections will
3 be submitted to the Court and a date, at least 30 days later, for the fairness hearing. To account for
4 the present uncertainty as to the date and time of the fairness hearing, the parties have revised the
5 proposed Public Notice to note that the information will be available on the website of the
6 Northwest Immigrant Rights Project and the website of the Court.

7 5. Simultaneous Dismissal and Remand.

8 The Court questioned the procedural appropriateness of dismissing Plaintiffs' eighth claim
9 for relief (that CARRP is arbitrary and capricious) with prejudice, and simultaneously remanding
10 to USCIS pursuant to the summary judgment order on that claim. Dkt. No. 706 at 3. The Court
11 indicated that it might be more appropriate to dismiss the eighth claim for relief with prejudice
12 after the Court receives notice that CARRP has been rescinded pursuant to the Settlement
13 Agreement. Dkt. No. 706 at 3. The parties understand the Court's concern about sequencing to be
14 a concern that, if Plaintiffs' claim is dismissed before CARRP is rescinded, there will be no way
15 to enforce USCIS's agreement to rescind CARRP. In an effort to address this concern, Paragraph
16 22(e) of the Settlement Agreement provides that:

17 The Court shall retain jurisdiction over the case for the purpose of
18 enforcing this agreement until notification that USCIS has rescinded
19 CARRP. Should USCIS not rescind CARRP within seven months of
20 the Court's order, Plaintiffs may move the Court for specific
21 performance of the obligation to rescind CARRP or such other relief
22 appropriate in the circumstances.

21 Under this paragraph, not only does the Court retain jurisdiction to enforce the Settlement
22 Agreement until it is notified that CARRP has been rescinded; Plaintiffs also have broad rights, in
23 the event USCIS does not rescind CARRP in the agreed-upon timeframe, to "move the Court for
24 specific performance . . . or such other relief appropriate in the circumstances." (Emphasis added).
25 The parties agree that, but for the need to preserve the Court's jurisdiction over, and Plaintiffs'
26 rights with respect to, the enforcement of the Settlement Agreement, which is accomplished by

1 Paragraph 22(e), it is appropriate for the Court to dismiss Plaintiffs' eighth claim for relief upon
2 execution of the Settlement Agreement.

3 Having addressed the Court's questions and concerns regarding the parties' proposed
4 Settlement Agreement and proposed Public Notice, including by revising those documents, the
5 parties respectfully request that the Court enter the following order:

6 Within fourteen days of this Order, pursuant to Paragraphs 16 and 17 of the signed
7 Settlement Agreement, Plaintiffs' counsel is directed to post and distribute the
8 agreed upon "Public Notice to Possible Class Members of Settlement" for a period
9 of 60 days;

10 The parties are further directed to, within seven days of the conclusion of the notice
11 period, notify the Court that the notice period has concluded and propose a timeline
12 for conveying written objections to the Court and scheduling a fairness hearing.

13
14
15
16
17
18
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Dated: March 4, 2026

BRETT A. SHUMATE
Assistant Attorney General
Civil Division
U.S. Department of Justice

ETHAN B. KANTER
Chief, National Security Unit
Office of Immigration Litigation
Civil Division

BRIAN C. KIPNIS
Assistant United States Attorney
Western District of Washington

BRENDAN T. MOORE
Trial Attorney
Office of Immigration Litigation

LINDSAY M. MURPHY
Deputy Chief, National Security Unit
Office of Immigration Litigation

W. MANNING EVANS
Senior Litigation Counsel
Office of Immigration Litigation

JESSE BUSEN
Counsel for National Security
National Security Unit
Office of Immigration Litigation

s/ Victoria M. Santora
VICTORIA M. SANTORA
Counsel for National Security
National Security Unit
Office of Immigration Litigation

Counsel for Defendants

DATED: March 4, 2026

/s/ Matt Adams

Matt Adams #28287
NORTHWEST IMMIGRANT RIGHTS
PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98122
206.957.8611
matt@nwirp.org

/s/ Stacy Tolchin

Stacy Tolchin (admitted *pro hac vice*)
LAW OFFICES OF STACY TOLCHIN
634 S. Spring St. Suite 500A
Los Angeles, CA 90014
213.622.7450
Stacy@tolchinimmigration.com

/s/ Hina Shamsi

/s/ Charles Hogle

/s/ Lee Gelernt

Hina Shamsi (admitted *pro hac vice*)
Charles Hogle (admitted *pro hac vice*)
Lee Gelernt (admitted *pro hac vice*)
ACLU FOUNDATION
125 Broad Street
New York, NY 10004
212.549.2616
hshamsi@aclu.org
charlie.hogle@aclu.org
lgelernt@aclu.org

/s/ Harry H. Schneider, Jr.

/s/ Nicholas P. Gellert

/s/ David A. Perez

Harry H. Schneider, Jr. #9404
Nicholas P. Gellert #18041
David A. Perez #43959
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
HSchneider@perkinscoie.com
NGellert@perkinscoie.com
DPerez@perkinscoie.com

/s/ Mohammad Tajsar

Mohammad Tajsar
ACLU OF SOUTHERN CALIFORNIA
1313 West 8th Street
Los Angeles, CA 90017
213.977.5268
mtajsar@aclusocal.org

/s/ Sabrineh Ardalan

Sabrineh Ardalan (admitted *pro hac vice*)
HARVARD IMMIGRATION AND
REFUGEE CLINICAL PROGRAM
Harvard Law School
6 Everett Street; Suite 3105
Cambridge, MA 02138
Telephone: (617) 495-0638
sardalan@law.harvard.edu

Counsel for Plaintiffs

ORDER

IT IS SO ORDERED.

DATED: March __, 2026.

LAUREN KING
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2026, I electronically served the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/ Victoria M. Santora
VICTORIA M. SANTORA