

The Honorable John H. Chun
United States District Judge

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

Bianey GARCIA PEREZ, Maria
MARTINEZ CASTRO, J.M.Z., Alexander
MARTINEZ HERNANDEZ, on behalf of
themselves as individuals and on behalf of
others similarly situated,

Plaintiffs,

v.

U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Ur
JADDOU, Director, U.S. Citizenship and
Immigration Services; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW;
Mary CHENG, Acting Director, Executive
Office for Immigration Review,

Defendants.

Case No. 2:22-cv-00806-JHC

CLASS NOTICE

DATED: August 5, 2024

IMPORTANT CLASS NOTICE

This Notice contains important information that may pertain to you. Please read it carefully. Under a proposed settlement of *Garcia Perez v. U.S. Citizenship and Immigration Services*, No. 2:22-cv-00806-JHC (W.D. Wash.), certain individuals who seek to file a complete Form I-589, *Application for Asylum and Withholding of Removal* (“Asylum Application”), or have already filed Form I-589, are entitled to new procedures relating to the crediting of time toward eligibility for employment authorization.

On June 9, 2022, Plaintiffs filed a class action complaint challenging the federal government’s practices with respect to Employment Authorization Documents (“EADs”) for applicants for asylum or withholding of removal who had their applications pending for more than 180 days. Plaintiffs are all noncitizens in the United States who have been placed in removal proceedings; have filed a complete Asylum Application; and have filed or will file a Form I-765, *Application for Employment Authorization* (“Form I-765”) pursuant to immigration regulations at 8 C.F.R. § 274a.12(c)(8). Defendants include U.S. Citizenship and Immigration Services (“USCIS”) and the Executive Office for Immigration Review (“EOIR”).

On July 29, 2024, Plaintiffs and Defendants filed a joint motion for class certification and joint motion for preliminary approval of a Settlement Agreement. The general terms of those motions are laid out below.

On July 30, 2024, the Court granted the Parties' joint motion for preliminary approval the Settlement Agreement and ordered that a Fairness Hearing take place on September 26, 2024. Any objections to the proposed settlement should be submitted to the Court within thirty (30) days of the date of this notice, by mailing the objection in an envelope postmarked on or before September 4, 2024, and addressed to: Clerk, U.S. District Court for the Western District of Washington, 700 Steward Street, Suite 14134, Seattle, WA 98101, and including on the envelope and the letter: "Attention: *Garcia Perez v. USCIS*, No. 2:22-cv-00806-JHC (W.D. Wash.)." Objections shall not exceed twenty-five pages in length. Copies of the objection sent to the Court also must be served on counsel for Plaintiffs and counsel for Defendants as set forth below:

TO PLAINTIFFS:

Matt Adams
NORTHWEST IMMIGRANT RIGHTS PROJECT
615 2nd Avenue, Suite 400
Seattle, WA 98104

TO DEFENDANTS:

Aneesa Ahmed
Trial Attorney
United States Department of Justice
Civil Division
Office of Immigration Litigation – District Court Section
P.O. Box 868, Ben Franklin Station
Washington, D.C. 20044

All objections must include: (a) a written statement identifying the Class Member's name, address, telephone number, and signature, and, if represented by counsel, the name, address, and telephone number of counsel; (b) a written statement explaining the Class Member's objection and the reasons for such objection; and (c) any documentation in support of such objection. Any objection shall not exceed twenty-five (25) pages in length. If the Class Member wishes to appear at the Fairness Hearing, he or she must also include a statement of intention to appear at the Fairness Hearing.

WHERE CAN I FIND THE COMPLETE SETTLEMENT AGREEMENT?

The complete Settlement Agreement, including definitions of the Class Members, exact terms of relief, and the exact terms of any process available for Class Members to seek review of an alleged violation of the Settlement Agreement, may be found at www.nwirp.org and immigrationlitigation.org. In addition, this information is available on the USCIS website, www.uscis.gov, and the EOIR website, www.usdoj.gov/eoir.

WHO IS A *GARCIA PEREZ* CLASS MEMBER?

This summary of the Class and Subclasses is meant to provide the general guidelines of who qualifies as a Class Member. The *Garcia Perez* Class is a nationwide class comprised of a general class and three subclasses. **There is no requirement and no process for applying for Class**

Membership. A person who falls within the categories enumerated below need not take any other action to be recognized as a Class Member.

Garcia Perez Class

All noncitizens in the United States who have filed or will file with USCIS or EOIR a complete Asylum Application and who would be eligible for employment authorization under 8 C.F.R. § 274a.12(c)(8) but for the fact that their Asylum EAD Clock was stopped or not started prior to 180 days after the date the noncitizen filed a complete Asylum Application.

Remand Subclass

Class Members whose Asylum EAD Clocks were or will be stopped following a decision by an Immigration Judge and whose Asylum EAD Clocks are not or will not be started or restarted following an appeal in which either the Board of Immigration Appeals (“BIA”) or a federal court of appeals remands their case for further adjudication of their asylum and/or withholding of removal claims.

Unaccompanied Children Subclass

Class Members in removal proceedings who are unaccompanied children (“UCs”) pursuant to 6 U.S.C. § 279(g) and whose Asylum EAD Clocks are not started or will be stopped while waiting for USCIS to adjudicate the filed Asylum Application.

Change of Venue Subclass

Class Members in removal proceedings whose removal proceedings have been or will be transferred to a different Immigration Court through a granted change of venue motion, and for whom EOIR has stopped or will stop the Asylum EAD Clock based solely on the change of venue.

WHAT BENEFITS ARE PROVIDED TO *GARCIA PEREZ* CLASS MEMBERS?

This summary of the benefits available to Class Members is meant to provide the *general* guidelines of who qualifies as Class Members. A person who believes he or she is a Class Member and has been denied a *Garcia Perez* member benefit should first review the exact terms of the Settlement Agreement or seek legal assistance to do so.

Garcia Perez Class Benefits:

EOIR will provide written guidance to Immigration Judges directing them to clearly articulate the reason for the case adjournment on the record at the end of each hearing and that they may inform the parties of whether the Asylum EAD Clock is running or stopped. EOIR upgraded the EOIR Courts & Appeals System (“ECAS”) CASE Portal to include case-specific adjournment code history relating to the 180-day Asylum EAD Clock as part of the information available to applicants’ representatives of record. *Pro se* applicants may request, orally or in writing, a printout of their case-specific adjournment code history relating to the 180-day Asylum EAD Clock; Immigration Court personnel will be required to respond at the time of an in-person request or within twenty-five (25) business days of receipt of a request not made in-person. EOIR will publish guidance on its website to clarify the requirements, expectations, and procedures for individuals who contest the status of their Asylum EAD Clocks in proceedings before EOIR. An applicant may raise an Asylum EAD Clock correction request in writing or orally at an Immigration Court proceeding and will receive a response at the Immigration Court hearing or a written response within 25 business days of receipt of the request.

USCIS will modify its Case Status Online Tool (“CSOL”) to allow anyone with a pending Asylum Application to determine, in addition to their current case status, whether their Affirmative Asylum EAD Clock is stopped because of an applicant-caused delay and the total number of days accrued at the time of a stoppage. USCIS will revise the 180-Day Asylum EAD Clock Notice to provide an exhaustive list of clock-impacting events in the affirmative asylum process to increase applicants’ notice of consequences to their Asylum EAD Clock based on actions they take or fail to take. USCIS will provide a mechanism for applicants to request a correction of their Asylum EAD Clock through the eRequest Self-Service tool on the USCIS website. USCIS will also provide a mechanism for applicants to call the USCIS Contact Center, who will route the applicant’s inquiry to an asylum office. USCIS will generally respond to any Asylum EAD Clock correction request within 25 business days of receipt of a clock correction request. USCIS will update the agency’s public guidance to clarify further the requirements, expectations, and procedures for individuals who contest their Asylum EAD Clock information.

Timeframe for benefits:

EOIR will provide guidance regarding these benefits within ninety (90) days of the Effective Date of the Settlement Agreement.

USCIS will provide these updates within 180 days of the Effective Date of the Settlement Agreement.

Remand Subclass Benefits:

USCIS has updated the language on its website and clock notice to explain the time between an Immigration Judge’s asylum decision and a BIA remand or between a BIA decision and a federal court of appeals remand will be credited toward the 180-day Asylum EAD Clock. USCIS will update its message to include instructions that an applicant should submit a copy of the applicable remand order with their I-765 application.

Timeframe for benefits:

The updated language will remain in effect for the remainder of the Agreement.

Unaccompanied Children Subclass Benefits:

USCIS policies and guidelines will control the Asylum EAD Clock for UCs who have filed an Asylum Application. USCIS will issue guidance affirming that, with regard to unaccompanied children any adjournment code associated with the transfer of jurisdiction from EOIR to USCIS should not stop the 180-day Asylum EAD Clock.

Timeframe for benefits:

The updated language will remain in effect for the remainder of the Settlement Agreement.

Change of Venue Subclass Benefits:

A change of venue will not stop the 180-day Asylum EAD Clock in cases pending before EOIR. Defendants will update the adjournment codes for EOIR and USCIS to reflect that a change of venue does not stop the 180-day Asylum EAD Clock in cases pending before EOIR.

Timeframe for benefits:

This policy will remain in effect for the remainder of the Settlement Agreement.

1 **WHAT IS THE EFFECTIVE DATE OF THE SETTLEMENT AGREEMENT?**

2 The *Garcia Perez* Settlement Agreement becomes effective upon the U.S. District Court's final
3 approval of the Settlement Agreement.

4 **WHEN WILL THE SETTLEMENT AGREEMENT TERMINATE?**

5 The *Garcia Perez* Settlement Agreement and all of the rights acquired under the Settlement
6 Agreement, shall end four (4) years following the full implementation of all the terms of
7 Agreement, or upon the Effective Date of Agreement plus six (6) years, whichever shall first occur.

8 **HOW DO I BRING A CLAIM UNDER THE SETTLEMENT AGREEMENT?**

9 A person who believes he or she is a Class Member and has been denied a Class Member benefit
10 may be entitled to bring a claim under the *Garcia Perez* Settlement Agreement. If you believe that
11 you are a Class Member and that you have been denied a benefit of Class Membership, you must
12 follow the Dispute Resolution Mechanism outlined in the Settlement Agreement. For further
13 information regarding the dispute resolution process, including the complete *Garcia Perez*
14 Settlement Agreement, please visit the websites of Class counsel, www.nwirp.org, and
15 immigrationlitigation.org. In addition, this information is available on USCIS' website,
16 www.uscis.gov, and EOIR's website, www.usdoj.gov/eoir.

17 You may also contact the lawyers representing the Class:

18 NORTHWEST IMMIGRANT RIGHTS PROJECT
19 615 2nd Avenue, Suite 400
20 Seattle, WA 98104
21 (206) 587-4009
22 (206) 587-4025 (Fax)

23 NATIONAL IMMIGRATION LITIGATION ALLIANCE
24 10 Griggs Terrace
25 Brookline, MA 02446
26 (617) 819-4649

Do not contact the U.S. District Court for additional information.