

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHMUL KAPLAN, et al.	:	CIVIL ACTION
	:	NO. 06-5304
Plaintiffs,	:	
	:	
v.	:	
	:	
MICHAEL CHERTOFF, et al.,	:	
	:	
Defendants.	:	

**ORDER**

**AND NOW**, this **5th** day of **March 2008**, for the reasons stated in the Court's memorandum-order of January 24, 2008 (doc. no. 77), it is hereby **ORDERED** that the proposed settlement class<sup>1</sup> is **CERTIFIED**.<sup>2</sup>

It is further **ORDERED** that, notice having been provided to the class members and no objections having been raised, the

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<sup>1</sup> The class is defined in the settlement agreement as "all non-United States citizens who are receiving or have received Supplemental Security Income ("SSI") and are or will be subject to termination or suspension of SSI pursuant to 8 U.S.C. § 1612(a)(2)(A), prior to a decision on their current or future Application for Naturalization, Form N-400, and oath ceremony to become a United States citizen. The Class ceases to exist, and all membership in the Class ends, upon the termination of this Stipulation pursuant to paragraph 54."

<sup>2</sup> When the class was conditionally certified, the Court determined that the class meets the Rule 23(a) requirements of numerosity, commonality, typicality, and adequacy of representation, Kaplan v. Chertoff, 2008 WL 200108, at \*7-10 (E.D. Pa. January 24, 2008). The Court also determined that the class meets the requirements of Rule 23(b)(2). Id. at \*10. Notice has been given and putative class members had the opportunity to object either in writing or at a hearing on February 29, 2008. No objections were raised.

proposed settlement agreement (attached as Exhibit A) is

**APPROVED.**<sup>3</sup>

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<sup>3</sup> In the January 24 memorandum, the Court gave preliminary approval to the settlement agreement and set forth the terms of the agreement. This preliminary approval does not bind the Court to granting final approval, but it establishes an initial presumption of fairness. In re Gen. Motors Corp. Pick-up Truck Fuel Tank Prods. Liability Litig., 55 F.3d 768, 785 (3d Cir. 1995). Before granting final approval, the Court must determine whether the settlement is "fair, reasonable, and adequate." This determination is guided by the non-exclusive list of factors set forth by the Third Circuit in Girsh v. Jepson, 521 F.2d 153, 157 (3d Cir. 1975), and added to in In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions, 148 F.3d 283, 323 (3d Cir. 1998). "Distilled to their essence," the factors "compel[] courts to obtain satisfactory answers to the following questions:"

1. What benefit did the litigation confer upon the putative class members?
2. What past, present, or future claims are surrendered by the class members by settling the case?
3. Do the administrative costs, including attorney's fees, reflect the market value of the services performed and are they commensurate with the results achieved?
4. Are the terms of the settlement consistent with the public interest?
5. What are the prospects that, if the settlement is rejected, further litigation would result in improved results for the class members and what would be the cost of proceeding?

Gaskin v. Pennsylvania, 389 F. Supp. 2d 628, 641 (2005) (providing full list of the Girsh-Prudential factors and summarizing them as listed above).

The answers to these five questions militate in favor of approving the settlement agreement.

First, the settlement provides a valuable benefit to the class members. Class members will receive expedited processing of their applications for citizenship and adjustment of status. They will also receive access to a system for raising grievances if their applications are not acted upon on a timely basis.

Second, the class members surrender claims against United States Citizen and Immigration Services, the Federal Bureau of Investigation, and the Social Security Administration only for the time period in which relief is available under the settlement agreement. When the settlement expires and relief is no longer available, class members will, if necessary, be able to

It is further **ORDERED** that the case is **DISMISSED** with prejudice. The Court shall retain jurisdiction over this matter for purposes of enforcing the settlement.

The Clerk of the Court shall mark this case as **CLOSED**.

**AND IT IS SO ORDERED.**

S/Eduardo C. Robreno  
EDUARDO C. ROBRENO, J.

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pursue claims in federal court. Moreover, the settlement extinguishes only those claims of the class members that are based on delay in the processing of applications. Class members remain free to challenge the merits of decisions regarding their applications. Thus, the release in the settlement does not sweep too broadly.

Third, the administrative costs of the settlement will be born by defendants. Plaintiffs' counsel will receive \$250,000, a sum that is reasonable in light of the fact that counsel have pursued this case for over a year, have participated in significant motion practice, and have secured benefits for approximately 50,000 class members.

Fourth, the terms of the settlement are consistent with the public interest. The current delays in the processing of applications by USCIS are a vexing problem. Until now, those applicants who were able to secure counsel were usually able to move to the front of the line at the expense of applicants who did not file suit. Such "line jumping" will now be replaced by an orderly procedure to handle applications according to a) who will lose social security benefits soonest and b) who has been waiting longest. This system is far superior to the previous situation and serves the public interest by providing a transparent and fair method of dealing with the current backlog.

Fifth and finally, it does not appear likely that further litigation could secure a greater benefit for class members. There have been no objections to the settlement. Because the relief sought is expedited processing of the class members' applications, it is in the interest of all the class members to put the new system into place rapidly so that the class members may begin to enjoy the benefits of the settlement. Further litigation would mean only more delay in USCIS deciding the class members' applications with no reason to believe a more favorable outcome might later be reached.

