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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

NORTHWEST IMMIGRANT RIGHTS  
PROJECT, ET AL.

PLAINTIFFS,

**VS.**

U.S. CITIZENSHIP AND IMMIGRATION  
SERVICES, ET AL.

**DEFENDANTS.**

) Case No. 88-379R  
)  
) ~~PROPOSED~~ ORDER OF  
) FINAL JUDGMENT

(Exhibit 5)

///



**88-CV-00379-RCPT**

1 Rule 23(e) of the Federal Rules of Civil Procedure provides:

2 A class action shall not be dismissed or compromised without the approval of the  
3 court, and notice of the proposed dismissal or compromise shall be given to all  
4 members of the class in such manner as the court directs.

5 With respect to the merits of the settlement, Rule 23(e) requires the Court to  
6 determine whether a proposed settlement in a class action is fundamentally fair,  
7 adequate, and reasonable. Class Plaintiffs v. City of Seattle, 955 F.2d 1268, 1276 (9th Cir.  
8 1992). It is the settlement taken as a whole, rather than the individual component parts,  
9 that must be examined for overall fairness. Officers for Justice v. Civil Serv. Comm'n of San  
10 Francisco, 688 F.2d 615, 628 (9th Cir. 1982). The decision to approve or reject a settlement  
11 is committed to the sound discretion of the trial judge because he is "exposed to the  
12 litigants, and their strategies, positions and proof." Officers for Justice, 688 F.2d at 626  
13 (internal quotation omitted).  
14  
15  
16

17 For the reasons set out in the parties' Joint Statement re Final Approval of Settlement,  
18 the Court finds that the settlement is fundamentally fair, adequate and reasonable.

19 Accordingly,

as amended by DKt 543

20  
21 IT IS HEREBY ORDERED that the proposed settlement is approved, and each and  
22 every claim of the Complaint, as amended, is dismissed with prejudice, and any  
23 injunctive orders and decisions of this Court are dissolved.  
24

25 IT IS FURTHER ORDERED that the settlement class be certified pursuant to Rule 23  
26 of the Federal Rules of Civil Procedure as follows:  
27  
28

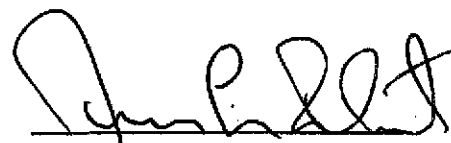
1 All persons who entered the United States in a non-immigrant status prior to  
2 January 1, 1982, who are otherwise *prima facie* eligible for legalization under § 245A  
3 of the INA, 8 U.S.C. § 1255a, who are within one or more of the Enumerated  
4 Categories described below in paragraph 2, and who —

- 5 A) between May 5, 1987 and May 4, 1988, attempted to file a complete  
6 application for legalization under § 245A of the INA and fees to an INS  
7 officer or agent acting on behalf of the INS, including a Qualified Designated  
8 Agency ("QDE"), and whose applications were rejected for filing  
9 (hereinafter referred to as "Sub-class A members"); or
- 10 B) between May 5, 1987 and May 4, 1988, attempted to apply for legalization  
11 with an INS officer, or agent acting on behalf of the INS, including a QDE,  
12 under § 245A of the INA, but were advised that they were ineligible for  
13 legalization, or were refused legalization application forms, and for whom  
14 such information, or inability to obtain the required application forms, was a  
15 substantial cause of their failure to file or complete a timely written  
16 application (hereinafter referred to as "Sub-class B" members); or
- 17 C) filed a legalization application under INA § 245A and fees with an INS  
18 officer or agent acting on behalf of the INS, including a QDE, and whose  
19 application
- 20 i. has not been finally adjudicated or whose temporary resident  
21 status has been proposed for termination (hereinafter referred to  
22 as "Sub-class C.i. members"),
- 23 ii. was denied or whose temporary resident status was terminated,  
24 where the INS or CIS action or inaction was because INS or CIS  
25 believed the applicant had failed to meet the "known to the  
26 government" requirement, or the requirement that s/he demonstrate  
27 that his/her unlawful residence was continuous (hereinafter referred  
28 to as "Sub-class C.ii. members").

2. Enumerated Categories

- (1) Persons who violated the terms of their nonimmigrant status prior to January 1, 1982 in a manner known to the government because documentation or the absence thereof (including, but not limited to, the absence of quarterly or annual address reports required on or before December 31, 1981) existed in the records of one or more government agencies which, taken as a whole, warrants a finding that the applicant was in an unlawful status prior to January 1, 1982 in a manner known to the government.
- (2) Persons who violated the terms of their nonimmigrant visas before January 1, 1982, for whom INS/DHS records for the relevant period (including required school and employer reports of status violations) are not contained in the alien's A-file, and who are unable to meet the requirements of 8 C.F.R. §§ 245a.1(d) and 245a.2(d) without such records.
- (3) Persons whose facially valid "lawful status" on or after January 1, 1982 was obtained by fraud or mistake, whether such "lawful status" was the result of
  - (a) reinstatement to nonimmigrant status;
  - (b) change of nonimmigrant status pursuant to INA § 248;
  - (c) adjustment of status pursuant to INA § 245; or
  - (d) grant of some other immigration benefit deemed to interrupt the continuous unlawful residence or continuous physical presence requirements of INA § 245A.

Dated: Sept 9, 2008

  
Honorable James L. Robart  
United States District Judge

Presented by:  
Settlement

1  
2  
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Settlement