

NOTICE OF PROPOSED SETTLEMENT OF LAWSUIT
CONCERNING IMMIGRATION BENEFITS UNDER
THE FAMILY UNITY PROGRAM

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
Escutia v. Ashcroft, Civil Action No. SA CV 00-841 (AHS)

To: All applicants for Family Unity Benefits under section 301 of the Immigration Act of 1990, whose applications are pending at the California Service Center on the date of the Court's final approval of this agreement or are filed with or transferred to the California Service Center during the 15 months in which this agreement will be in effect.

You are hereby notified that a hearing has been scheduled for October 28, 2002, at 11:00 a.m., before the Honorable Alicemarie H. Stotler of the United States District Court for the Central District of California, Southern Division, 411 West Fourth Street, Santa Ana, California, for consideration of a proposed settlement of the claims which have been brought on your behalf in this action.

Purpose of This Notice

This notice is to inform you of the proposed settlement, tell you how to obtain more information, and explain how you may object to the proposed settlement if you disagree with it.

Background

Plaintiff Gustavo Escutia and several other named plaintiffs brought this class action lawsuit in August, 2000, to challenge the pace of the INS's processing of applications for benefits under the Family Unity Program, Section 301 of the Immigration Act of 1990.

The parties have reached a tentative settlement which the Court has preliminarily approved. The Court and the parties believe that the interests of the class members will be served by acceptance and implementation of the proposed settlement.

The Proposed Settlement Agreement

In summary, under the proposed settlement the Defendants will devote resources towards the adjudication of initial applications for Family Unity benefits filed with the California

Service Center, agree to issue work authorization to California Service Center applicants seeking to renew their Family Unity benefits, issue a policy memorandum concerning the INS's position on Family Unity benefits and the accrual of unlawful presence, and implement a dispute resolution procedure that class members may use when applications remain unadjudicated.

The proposed settlement agreement will become effective on the 30th working day after final Court approval of the settlement and dismissal of the claims in the lawsuit, and it shall remain in full force and effect for a period of 15 months following final Court approval.

Under the proposed settlement, the Defendants agree to issue work authorization to applicants seeking to renew their Family Unity benefits as follows:

For those whose applications for renewal of Family Unity benefits are pending when the Court approves the settlement, defendants will issue Employment Authorization Documents (EADs) within 90 days of the Court's approval of the settlement agreement. For those who file their applications for Family Unity benefits on or after the day that the Court approves the settlement agreement, defendants will issue EADs within 90 days of filing the applications.

In addition, under the agreement, the Defendants agree to devote an average of at least 16 hours per business day to the adjudication of initial applications for Family Unity benefits filed with the California Service Center. Upon notice to Plaintiffs' counsel, Defendants may reduce or eliminate this resource commitment of 16 hours per business day for no more than 70 business days in any six month period. If the resource commitment is reduced or eliminated for a period exceeding 71 days or more in any given six month period, the Plaintiffs may opt out of that portion of the Settlement Agreement concerning initial applications only. The Plaintiffs, however, may not opt out of the Settlement Agreement under the foregoing circumstances where Defendants: inform Plaintiffs that there are no initial applications ready for adjudication; Congress enacts a new law, mandates a change in the priorities for adjudication of applications for immigration benefits, or Temporary Protected Status (TPS) is offered to citizens of a new country, or current TPS is extended adding significantly and unexpectedly to the California Service Center's caseload; Plaintiffs' counsel have

filed a class action lawsuit challenging the timeliness of Defendants's adjudication of applications at the California Service Center for immigration benefits other than Family Unity benefits; or a class action suit is filed by person(s) or entities challenging the pace at which Defendants are adjudicating applications at the California Service Center for immigration benefits other than Family Unity Benefits, and the Defendants are ordered to commit adjudication resources to these applications. Defendants will also report the number of Family Unity applications adjudicated by the California Service Center every quarter to Plaintiffs' counsel.

Also under the proposed agreement, regarding the accrual of unlawful presence pending adjudication of an application for Family Unity benefits, the Defendants agree to issue a policy memorandum memorializing the INS's position regarding family unity benefits and unlawful presence. The Defendants agree that the policy memorandum also will remind district offices of the Immigration and Naturalization Service, their respective district and regional counsel, and the Department of State, that the district offices may, as a matter of prosecutorial discretion, refrain from commencing removal proceedings under section 240 of the Immigration and Nationality Act, 8 U.S.C. § 1229a, or agree to administrative closure of a case, against an alien who is awaiting adjudication of an application for Family Unity benefits, where proof of the filing of an application is presented to the INS district office.

Finally, the Defendants will establish, and the Defendants and Plaintiffs will follow, a dispute resolution procedure concerning allegations of substantial noncompliance or material breach of the terms of the Settlement Agreement. This procedure must be followed before any Defendant or Plaintiff may seek any relief from the Court. The Defendants also agree to establish a point of contact for inquiries or complaints by individual class members about the status of their individual applications, and to provide that contact information to Plaintiffs' counsel.

For Further Information

THIS IS A SUMMARY OF THE PROPOSED AGREEMENT. TO UNDERSTAND IT FULLY, YOU SHOULD READ THE ENTIRE AGREEMENT. Copies of the proposed settlement may be obtained from: 1) the INS's internet website (<http://www.ins.usdoj.gov>); 2) the Community Relations Office located within each INS District Office within the

jurisdiction of the California Service Center; and 3) immigration assistance providers listed on the Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration Review pursuant to 8 C.F.R. Part 292 (2002).

Procedures for Agreement or Objection

IF YOU AGREE WITH THE PROPOSED SETTLEMENT, YOU DO NOT NEED TO DO ANYTHING AT THIS TIME. You may be present at the public hearing on the proposed settlement as stated above.

IF YOU DISAGREE WITH THE PROPOSED SETTLEMENT, YOU HAVE A RIGHT TO OBJECT TO IT AND TO THE DISMISSAL WITH PREJUDICE OF THE REMAINING CLAIMS IN THE LAWSUIT. YOUR OBJECTIONS WILL BE CONSIDERED BY THE COURT AS IT REVIEWS THE SETTLEMENT. OBJECTIONS WILL BE CONSIDERED ONLY IF THE FOLLOWING PROCEDURES ARE FOLLOWED:

1. Objections must be filed in writing by mail with the Clerk of the United States District Court for the Central District of California (Southern Division), Ronald Reagan Building and United States Courthouse, 411 West Fourth Street, Room 1053, Santa Ana, California 92701-4516.

ALL OBJECTIONS MUST CONTAIN THE FOLLOWING INFORMATION:

- a) Name, address and telephone number of the person filing the objection.
- b) A statement of the reasons for the objection.
- c) A statement that copies of the objections were sent to all lawyers listed below.

2. YOU MUST SEND COPIES OF YOUR OBJECTIONS TO ALL LAWYERS LISTED AT THE END OF THIS NOTICE.

3. The deadline for filing objections and mailing them to the lawyers listed below is October 7, 2002. If objections are filed by mail, they must be postmarked on or before October 7, 2002, to be considered timely. Objections filed or mailed on or after that date will not be considered. Class members who fail to file objections on or before October 15, 2002, will not be permitted to testify at the settlement hearing.

4. No later than October 21, 2002, counsel for plaintiffs and defendants shall file and serve responses, if any, to objections timely received from persons opposed to the proposed settlement.

Attorneys' names and addresses:

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