



**U.S. Citizenship and
Immigration Services**

Notice of Final Class Action Settlement – J.L. v. Cuccinelli, 18-CV-4914 (N.D. Cal.)

This webpage is intended to notify you of the final class action settlement in *J.L. v. Cuccinelli*, 18-CV-4914 (N.D. Cal.). For more details, you may access the [final settlement agreement \(PDF, 2.03 MB\)](#).

Notice of Final Settlement for Special Immigrant Juvenile (SIJ) classification petitioners with California Probate Court guardianship orders issued at ages 18, 19, or 20.

J.L., et al v. Cuccinelli, et al., U.S. District Court for the Northern District of California, Case No. 18-cv-04914-NC

TO: Children who have been placed in guardianships and issued the necessary findings to apply for SIJ under Cal. Prob. Code § 1510.1 and who have filed SIJ petitions by December 15, 2019 and received or will receive denials of their SIJ petitions because the court did not have the authority to reunify the child with their parents.

You are a Class Member if:

- You were placed in a guardianship under Cal. Prob. Code § 1510.1 by a California Probate Court between your 18th and 21st birthday, and you subsequently filed an SIJ petition (I-360) that: (1) has not been adjudicated; **OR** (2) you received (a) a Notice of Intent to Deny (NOID), (b) a Request for Evidence (RFE), or (c) a Notice of Intent to Revoke (NOIR), where at least one of the grounds in the NOID, RFE, or NOIR was that the CA Probate Court that issued the SIJ Findings accompanying the guardianship order lacked jurisdiction because it could not reunify you with a parent; **OR** (3) you received (a) a denial, or (b) a revocation of your SIJ petition solely on that ground.
- You have been placed in a guardianship under Cal. Prob. Code § 1510.1 after your 18th birthday and before your 21st birthday and you file your SIJ petition by December 15, 2019, which must be before your 21st birthday.

You do not need to live in California to benefit under the Settlement.

You are hereby notified that on December 18, 2019, the Honorable Nathaniel Cousins of the U.S. District Court for the Northern District of California approved a settlement of the claims brought on your behalf in this lawsuit.

Background: This class action lawsuit alleged that U.S. Citizenship and Immigration Services (USCIS) imposed a new requirement on SIJ-classification eligibility and, thus, did not approve SIJ petitions for petitioners who were placed in guardianships under Cal. Prob. Code § 1510.1 when they were ages 18, 19, and 20 because the CA Probate Court did not have jurisdiction to “reunify” the petitioner with their parent. The Parties later reached a settlement. The Plaintiffs are represented by Manatt, Phelps & Phillips LLP, Public Counsel, and the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area (collectively, “Class Counsel”).

Description of Settlement Agreement (Agreement): The following description is only a summary of the key points in the Agreement. Information on how to obtain a copy of the full Agreement is provided after this summary.

1. USCIS will no longer require that a state court have the authority to place a Person^[1] in the custody of, and/or to order the reunification of a Person with their parent(s) in order to make a qualifying determination of whether the Person's reunification with one or both parents is not viable due to abandonment, abuse, or neglect, for the purposes of eligibility for SIJ classification ("Reunification-Authority Requirement"). Thus, under § 1510.1 and Cal. Civ. Proc. § 155, the CA Probate Court qualifies as a "juvenile court" for SIJ-eligibility purposes.

2. USCIS will adjudicate Class Members' SIJ petitions as follows:

- (1) Within 7 days: the Named Plaintiffs.
- (2) Within 30 days: all Class Members on the Class List^[2] who previously received a denial or revocation.
- (3) Within 60 days: all Class Members on the Class List who were in removal proceedings as of October 16, 2019.
- (4) Within 90 days: all Class Members on the Class List who previously received an RFE, NOID, and/or NOIR.
- (5) Within 180 days: all remaining Class Members.

3. The following terms apply for adjudicating Class Members' SIJ petitions:

- (1) For any Class Member who has already received an RFE, NOID, NOIR, denial, or revocation of their SIJ petition, USCIS shall not issue a new RFE, NOID, NOIR, denial, or revocation for any ground that could have been but was not previously raised in the earlier RFE, NOID, NOIR, denial, or revocation. USCIS may issue RFEs, NOIDs, denials, or revocations based on new grounds that did not exist at the time the earlier RFE, NOID, denial, or revocation was issued.
- (2) Class Members' SIJ petitions with RFEs, NOIDs, NOIRs, denials, or revocations based solely on the Reunification-Authority Requirement will be adjudicated in accordance with the Agreement and will be favorably adjudicated, if otherwise approvable.
- (3) USCIS may issue RFEs, NOIDs, NOIRs, denials, or revocation based on changes to factual circumstances, which occurred after the date of the previously issued RFE, NOID, NOIR, denial, or revocation. For Class Members described in (1) and (2) above, USCIS will only issue an RFE, NOID, NOIR, denial or revocation that is based on information post-dating the previously issued action. USCIS will not issue any general RFEs asking that a Class Member affirmatively identify any change in circumstance that is not indicated in information available to USCIS. Any change in SIJ policy, legal guidance, regulation, or regulatory interpretation, that post-dates the previous RFE, NOID, NOIR, denial, or revocation and/or would make any Class Members ineligible for SIJ classification specifically based on the SIJ petitioner's age, shall not apply to Class Members.
- (4) If any Class Member failed to respond to an RFE or NOID issued based solely on the Reunification-Authority Requirement, the petition will be readjudicated in accordance with the Agreement.
- (5) For any Class Member whose SIJ petition remains pending without any action, USCIS shall adjudicate the petition in accordance with the law and the Agreement. USCIS will make every effort to list all grounds for any issuance in the first RFE, NOID, or NOIR.
- (6) USCIS shall not issue a Notice to Appear to any Class Member based on the denial of a SIJ petition solely on the Reunification-Authority Requirement until USCIS has fully adjudicated the SIJ petition.

4. For Class Members in Removal Proceedings:

- (1) Should any Class Member who has received a final removal order intend to move to reopen removal proceedings and/or seek to rescind the removal order, the Class Member should notify Class Counsel. Class Counsel will notify the Defendants, who will ask that Immigration and Customs Enforcement (ICE) join or not oppose such motion.
- (2) Should a Class Member receive a final removal order before their SIJ petition has been reopened or adjudicated, within five (5) business days of being informed of such order by Class Counsel, USCIS shall request that ICE refrain from executing the removal order.

5. For Class Members who have submitted Applications to Register Permanent Residence or Adjust Status (I-485s) and/or Applications for Employment Authorization (I-765s), USCIS shall reopen all of those denied in conjunction with the denial of Class Members' SIJ petitions within 45 days of final adjudication of the Class Members' SIJ petitions.

If the I-485s or I-765s were denied due to a denied SIJ petition based on the Reunification-Authority Requirement:

- (1) Where the I-485 is immediately approvable, USCIS will reopen and approve it within five business days of approving the SIJ petition and will take no action on the denied I-765.
- (2) Where the I-485 is not immediately approvable, USCIS will reopen and readjudicate the I-765 within five business days of approving the SIJ petition.
- (3) Where the I-485 is not immediately approvable and the EAD has been terminated or has expired, USCIS will reopen the I-485 within five business days of approving the I-360 and, if not immediately approvable, will reopen and issue an RFE for a no-fee I-765, and will immediately adjudicate the I-765 upon receiving the RFE response.

6. Reporting: USCIS periodically will file Compliance Reports identifying actions taken to comply with the Agreement.

7. Release of claims: Class Members release the Government from all Settled Claims.

8. Enforcement: As noted in the Agreement, the district court retains exclusive jurisdiction over the Agreement.

For Further Information: You should read the entire Agreement to understand it fully. Copies of the Agreement may be obtained: (1) from the USCIS website (www.uscis.gov); (2) from Class Counsels' websites (<https://lccr.com/jl/> and <http://www.publiccounsel.org/pages/?id=0011>); (3) by contacting Class Counsel at CASIJClassAction@manatt.com or 213-385-2977 x185; (4) by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>; or (5) by visiting the Clerk of Court for the U.S. District Court for the Northern District of California, San Jose Division, business days from 9:00 a.m. to 4:00 p.m.

[1] "Person" means an individual considered a "juvenile," "child," "minor," or equivalent term subject to the jurisdiction of a juvenile court under the law of the state in which he or she resides.

[2] "Class List" means USCIS's system-generated list, dated October 1, 2019, of individuals who were between 18- and 21-years old on the date of filing of their SIJ petition and listed a California residence on their petition.

*Any individual who has filed an SIJ petition as of December 15, 2019, and believes they are part of the Class but does not receive Class Notice should notify Class Counsel, within 120 days, and provide their name, A-number, and I-360 receipt number (if available) to Class Counsel, who will then evaluate and assess whether the individual falls within the Class. If the individual falls within the Class, their SIJ petition will be adjudicated in accordance with the timelines set forth above, but such timeline will begin on the date Defendants' Counsel receives Class Counsel's request.

Last Reviewed/Updated: 12/18/2019