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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 MS. L, et al.,

Case No. 18cv428 DMS MDD

4
5 Petitioners-Plaintiffs,

JOINT STATUS REPORT

6 vs.

7 U.S. IMMIGRATION AND CUSTOMS
8 ENFORCEMENT, et al.,

9 Respondents-Defendants.
10

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12 On September 24, 2021, the Court ordered the parties to file a Joint Status
13 Report (JSR) by 3:00 pm on November 3, 2021, in anticipation of the status
14 conference scheduled at 1:30 pm on November 5, 2021. ECF No. 617. In accordance
15 with this order of the Court, the parties provide the below JSR.
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I. DEFENDANTS’ POSITIONS

A. Update Regarding Government’s Implementation of Settlement Agreement

SETTLEMENT PROCESS	DESCRIPTION	NUMBER
Election Forms¹	Total number of executed election forms received by the Government	455 (266 Parents/189 Children)²
	<ul style="list-style-type: none"> • Number who elect to receive settlement procedures 	293 (163 Parents/130 Children)
	<ul style="list-style-type: none"> • Number who waive settlement procedures 	162 (103 Parents/59 Children)³
Interviews⁴	Total number of class members who received interviews	186⁵
	<ul style="list-style-type: none"> • Parents who received interviews 	100
	<ul style="list-style-type: none"> • Children who received interviews 	86

¹ The number of election forms reported here is the number received by the Government as of November 2, 2021.

² The number of children’s election forms is lower than the number of parent election forms because in many instances a parent electing settlement procedures submitted an election form on his or her own behalf or opposing counsel e-mailed requesting settlement implementation for the entire family, but no separate form was submitted on behalf of the child.

³ The number of children’s waivers is lower because some parents have submitted waivers only for themselves and some parents who have waived reunification also waived settlement procedures and have therefore not provided a form for the child.

⁴ USCIS has adjusted its recordkeeping for tracking class member interviews and decisions pursuant to the settlement agreement. As a result, although additional interviews and decisions have not been completed since the September 22, 2021 Joint Status Report, the number of interviews and decisions reported in this Joint Status Report differ slightly from prior reports and provides more accurate information on settlement implementation.

⁵ Some individuals could not be interviewed because of rare languages; these individuals were placed in Section 240 proceedings. This number includes credible fear and reasonable fear interviews, as well as affirmative asylum interviews.

1	Decisions	Total number of CFI/RFI decisions issued for parents by USCIS	74 ⁶
2			
3		<ul style="list-style-type: none"> Number of parents determined to establish CF or RF upon review by USCIS 	73 ⁷
4			
5		<ul style="list-style-type: none"> Number of parents whose CF or RF finding remains negative upon review by USCIS 	1
6			
7			
8		Total number of CFI decisions issued for children by USCIS	72 ⁸
9			
10		<ul style="list-style-type: none"> Number of children determined to establish CF by USCIS 	72 ⁹
11			
12		<ul style="list-style-type: none"> Number of children determined not to establish CF by USCIS 	0
13			
14		Total number of affirmative asylum decisions by USCIS	33
15			
16		<ul style="list-style-type: none"> Number of parents granted asylum by USCIS 	5
17			

⁶ This number is the aggregate of the number of parents whose negative CFI/RFI determinations were reconsidered, number of parents whose negative CFI/RFI determination was unchanged, and individuals who were referred to 240 proceedings without interview because of a rare language. This number excludes 12 cases where a parent already had an NTA from ICE or was already ordered removed by an IJ (which are included in the interview totals).

⁷ This number includes parents who received positive CF/RF determinations upon reconsideration, parents who received a Notice to Appear based on their child’s positive CF determination, and parents who were placed in Section 240 proceedings due to a rare language.

⁸ This number is the aggregate of the number of children who received a positive CF determination, the number of children who received a negative CF determination, and children who were referred to 240 proceedings without interview because of a rare language.

⁹ This number includes children who received a positive CF determination, children who received a Notice to Appear as a dependent on their parent’s positive CF determination, and children who were placed in Section 240 proceedings due to a rare language.

	<ul style="list-style-type: none"> • Number of parents referred to immigration court 	8
	<ul style="list-style-type: none"> • Number of children granted asylum by USCIS 	6 ¹⁰
	<ul style="list-style-type: none"> • Number of children referred/returned to immigration court 	14
Removals	Number of class members who have been returned to their country of origin as a result of waiving the settlement procedures	103 Parents¹¹

B. The President’s February 2, 2021 “Executive Order on the Establishment of Interagency Task Force on the Reunification of Families”

As noted in the parties’ March 10, 2021 filing, the parties have entered into settlement negotiations which remain ongoing, and the Family Reunification Task Force (FRTF) is continuing its work both in parallel and in conjunction with these settlement discussions. ECF No. 578. Since the creation of the FRTF, a total of 58 separated children have been reunified with parents in the U.S and 91 people have been paroled as of November 3, 2021. The FRTF continues to focus on establishing contact with all families and working to increase the rate of reunifications.

The parties also are discussing settlement issues among themselves on a regular basis, and the next formal Settlement Conference with Magistrate Judge

¹⁰ This number includes children granted asylum as a dependent on their parent’s asylum application.

¹¹ This number is as of November 2, 2021.

1 Dembin is scheduled on November 15, 2021. Issues previously reported on by
2 Defendants in joint status reports are now being addressed by the parties as part of
3 the ongoing settlement negotiations.
4

5 **II. MS. L. PLAINTIFFS' POSITIONS**

6 **A. Steering Committee Outreach to Sponsors and Parents of Children of**
7 **Expanded Class Members**

8 The government has provided eleven lists identifying 1,134 children of
9 expanded class members. The government has also identified 64 “reategorized”
10 deported parents from the original class, who the Steering Committee has sought to
11 contact as part of its efforts to reach members of the expanded class.¹² The Steering
12 Committee’s recent efforts have been targeted at locating the parents of this group
13 of 1,198 (1,134 plus 64) children.¹³

14 Of these 1,198 children, for 928 the Steering Committee has reached the
15 parents (or their attorneys), or otherwise resolved the cases. This represents an
16 increase of 33 children’s parents since our last status report. We describe below the
17 status of our continuing efforts to reach the parents of the remaining 270 children,
18 down from 303 in the last status report.
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21 ¹² In its portion of the December 12, 2018 Joint Status Report, the government disclosed the
22 existence of what we call the “Recategorized Original Class”, *i.e.*, members of the original class
23 who were not identified as part of the government’s initial disclosures in the summer of 2018. The
24 government only provided contact information for this group in February 2019, after the Steering
25 Committee’s efforts to contact original class members had concluded – and so, as a logistical
26 matter, the Steering Committee has conducted outreach to the 64 parents in this group who were
27 deported following separation from their children, as part of the Steering Committee’s efforts to
28 contact *expanded* class members.

¹³ Because some of the parents of these children entered with more than one child, there are
1,082 parents in this combined group.

1 The parents of 270 children fall into three groups; in all three, searches are
2 ongoing. First, there are approximately 191 children whose parents are believed to
3 have been removed from the United States following separation from their children.
4 Second, there is a group of approximately 68 children whose parents are believed to
5 be in the United States. Third, there is a group of 11 children for whom the
6 government has not provided a phone number for the parent, child, sponsor or
7 attorney. There is one fewer child in this group since our last status report.

8 Steering Committee Efforts to Locate Parents

9 First, as previously reported, the Steering Committee attempts to reach all
10 parents, sponsors and attorneys by telephone. The Steering Committee has renewed
11 these efforts and had been engaged in an effort to reach parents, where possible, by
12 using the additional contact information provided by the government in late 2020
13 from databases of the Executive Office for Immigration Review and U.S. Customs
14 and Immigration Enforcement. This information includes phone numbers that had
15 not previously been disclosed for children and parents, as well as contact information
16 for a number of attorneys.

17 Where those efforts are not successful, the Steering Committee has engaged
18 in time-consuming and arduous on-the-ground searches for parents. These on-the-
19 ground searches have been focused abroad in the countries of origin of parents who
20 were removed from the United States following separation from their children.
21 These searches are ongoing by members of the Steering Committee, and we have
22 recently devoted additional resources to these efforts. As previously reported, on-
23 the-ground searches for separated parents are ongoing when it is safe to do so, but
24 are limited and in some cases cannot take place due to risks associated with the
25 COVID-19 pandemic.

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1 Also, as previously reported, the Steering Committee has established toll-free
2 telephone numbers in the United States, Guatemala, Honduras, Mexico and El
3 Salvador to receive inbound phone calls from potential members of the expanded
4 class. The Steering Committee has distributed this number both by email and U.S.
5 Mail to a number of non-governmental organizations and other community
6 organizations in the United States, who may be able to help us locate parents because
7 they work in the communities these parents are likely to have contact with. In
8 addition, the Steering Committee sent letters in Spanish and English to
9 approximately 1,600 addresses provided by the government for the potential class
10 members that the Steering Committee has not yet reached. These letters explain our
11 role in this action and invite parents to contact the Steering Committee to call these
12 toll-free numbers. The Steering Committee continues to monitor voicemail boxes
13 reachable via these toll-free numbers, and plans to renew its mailing effort with the
14 new address information received for children and their attorneys from the
15 government.

16 Additionally, as previously reported, the Steering Committee has undertaken
17 broad-based media outreach efforts to publicize the toll-free phone numbers created
18 by the Steering Committee in Spanish language media. The Steering Committee has
19 also arranged for advertisements on Spanish language radio in Central America.
20 Those advertisements have begun airing. The Steering Committee continues to work
21 to identify opportunities to broadly disseminate the toll-free numbers through
22 various media to maximize visibility to potential *Ms. L.* class members, including
23 seeking to collaborate on such media outreach initiatives with other non-profit
24 organizations.

25 The Steering Committee also receives additional contact information for a
26 limited number of families from third parties, including a number of non-
27 governmental organizations. The Steering Committee uses that information to re-
28

1 attempt telephonic communication with all families for whom new contact
2 information has become available, in addition to the efforts underway using new
3 information provided by the government as described above.

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5 **III. MMM-Dora Plaintiffs' Report Regarding Settlement Implementation**

6 The parties continue to work together to implement the Settlement Agreement
7 approved on November 15, 2018. Class counsel are providing the Government with
8 signed waiver forms as they are received from class members, and class counsel are
9 continuing to work on outreach efforts to class members who may qualify for relief
10 under the settlement. The parties continue to meet and confer on issues related to
11 settlement implementation as they arise.
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1 DATED: November 3, 2021

Respectfully submitted,

2 /s/ Lee Gelernt

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