

1 UNITED STATES DISTRICT COURT FOR THE
2 CENTRAL DISTRICT OF CALIFORNIA

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4 CHANG, Wen Wan, et al.,
5 Plaintiffs,

Case No.: CV 99-10518-
GHK(AJWx)¹

6
7 v.

~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF
SETTLEMENT

8
9 UNITED STATES OF AMERICA,
10 Defendant.

NOTE CHANGES MADE BY THE COURT

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12 This matter has come before the Court to determine whether there is any
13 cause by this Court to deny approval of the settlement reached by the parties, as
14 set forth in the Settlement Agreement (“Agreement”) submitted to this Court in
15 final form on October 5, 2012, *see* Doc. 375 and preliminarily approved
16 thereafter, *see* Doc. 376. The Court, after review of the entire record, and after
17 considering all papers filed and proceedings held in connection with the
18 Agreement, including the fairness hearing held on January 14, 2013, has
19 determined that the settlement should be **APPROVED**.
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24 In determining that the Agreement reached by the parties is fundamentally
25 fair, adequate, and reasonable to the class, the Court has considered a number of
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27 ¹ The instant case has been consolidated with *Ahn v. United States*, Case No.: CV
28 01-07382-GHK(AJWx).

1 factors: the strength of the plaintiffs' case; the risk, expense, complexity, and
2 likely duration of further litigation; the risk of maintaining class action status
3 throughout the trial; the terms of the settlement for plaintiffs; the extent of
4 discovery completed and the stage of the proceedings; the experience and views
5 of counsel; the presence of a governmental participant; and the reaction of the
6 class members to the proposed settlement.
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9 Here, a balancing of these factors counsels strongly in favor of settlement
10 approval. The primary consideration counseling in favor of approval of this
11 settlement is that it provides for a favorable resolution of this protracted litigation
12 for the members of the class. So long as the class members provide the
13 government with standard biometric information, and unless the government
14 determines by clear and convincing evidence that a petitioner made a willful
15 material misrepresentation on his or her Form I-829, in the evidence supporting
16 his or her Form I-829, or in the evidence establishing the initial source of funds;
17 or finds that the investment was knowingly made solely as a means of evading the
18 immigration laws of the United States, the government must approve the I-829
19 petition and grant the class member unconditional lawful permanent resident
20 status. Moreover, under the terms of the Agreement, class members are given the
21 opportunity to rebut a finding that they made a material misrepresentation or that
22 their investment was made to evade the immigration laws. And even where a
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1 class member fails to rebut such a finding before the United States Citizenship
2 and Immigration Services, the class member is entitled to administrative review
3 of that determination in removal proceedings, and ultimately before the federal
4 courts on petition for review.
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6 While the terms of the Agreement on their face are fundamentally fair and
7 strongly counsel in favor of approval, each of the other factors also suggests that
8 the settlement should be approved. Although this litigation has been ongoing for
9 over fifteen years, extensive discovery matters remained in dispute prior to the
10 initiation of settlement discussions. *See* Doc. 343 (Plaintiffs' Motion to Compel
11 Discovery); Doc. 348 (Defendant's Supplemental Brief [on Plaintiffs' Motion to
12 Compel Discovery]); Doc. (Plaintiffs' Supplemental Memorandum [on Plaintiffs'
13 Motion to Compel Discovery]). Continued litigation in this case would almost
14 certainly involve continued costly and protracted disputes over these discovery
15 matters, subsequent dispositive motions, and potentially a trial. Meanwhile, the
16 class members would face continued uncertainty with respect to their prospects of
17 obtaining unconditional lawful permanent resident status, and for many, their
18 ability to continue their residence in United States after lawfully residing here in
19 conditional resident status for over a decade. All class members have been
20 apprised of the settlement terms, and none ^{has}~~have~~ objected. Experienced counsel for
21 both parties believe the settlement is fair and in the best interests of both parties.
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1 One of the parties is a governmental entity – the United States of America – a fact
2 which further counsels in favor of settlement approval.

3 **WHEREFORE, it is ORDERED, ADJUDGED AND DECREED**
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5 **THAT:**

6 1. The Court has jurisdiction over the subject matter of this litigation, and all
7 actions within this litigation and over the parties to the Agreement, including all
8 members of the class on the one hand, and defendant the United States of
9 America on the other.
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12 2. The Court hereby finally APPROVES and CONFIRMS the settlement set
13 forth in the Agreement and finds that said settlement is, in all respects, fair,
14 reasonable, and adequate to the class, pursuant to Rule 23 of the Federal Rules of
15 Civil Procedure.
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18 3. The notice given to the class members set forth in the Agreement, *see* Doc.
19 375-2, provided due and adequate notice of these proceedings and of the matters
20 set forth therein, including the proposed settlement set forth in the Agreement, to
21 all persons entitled to such notice.
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23 4. Pursuant to the Agreement, this Court shall retain jurisdiction to review any
24 pattern or practice violation by Defendant of Plaintiffs' rights under the
25 Agreement.
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1 5. Pursuant to the Agreement, Plaintiffs shall within five (5) days of this
2 Order, lodge with the Court their Motion to Order Adjudication of Form I-829
3 Petitions, Doc. 375-1.
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6 DATED: ~~January~~ ^{2/13} __, 2013



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9 Hon. George H. King
10 Chief, United States District Judge
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