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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

M.M.M., on behalf of his minor child,
J.M.A., et al.,

Plaintiffs,

v.

Jefferson Beauregard Sessions, III,
Attorney General of the United States,
et al.,

Defendants.

Case No. 3:18-cv-1832-DMS

JUDGE: Hon. Dana M. Sabraw

DATE: November 15, 2018

TIME: 10:30 AM

COURTROOM: 13A

Ms. L, et al.,

Plaintiffs,

v.

U.S. Immigration and Customs
Enforcement, et al.,

Defendants.

Case No. 3:18-cv-428-DMS

JUDGE: Hon. Dana M. Sabraw

DATE: November 15, 2018

TIME: 10:30 AM

COURTROOM: 13A

**ORDER CERTIFYING THE
SETTLEMENT CLASSES AND
GRANTING FINAL APPROVAL
OF CLASS ACTION
SETTLEMENT**

1 Upon consideration of the Plaintiffs' Motion for Final Approval of Class
2 Action Settlement and Certification of Settlement Classes;

3 WHEREAS, the *M.M.M.*, *Ms. L*, and *Dora* named Plaintiffs allege that they
4 and members of the Settlement Classes were injured as a result of Defendants'
5 actions;

6 WHEREAS, the Court granted the *M.M.M.* Plaintiffs' request for a
7 Temporary Restraining Order temporarily restraining Defendants "from removing
8 [specified persons] from the United States, until the merits of Plaintiffs' motion for
9 a preliminary injunction is resolved," *M.M.M. v. Sessions*, Case No. 3:18-cv-1832-
10 DMS (S.D. Cal.) (Aug. 16, 2018), Dkt No. 55 at 15;

11 WHEREAS the Court ordered the parties to consider "how they wish to
12 proceed on the issues of class certification and Plaintiffs' entitlement to asylum
13 proceedings" and to "meet and confer and propose a solution—one which follows
14 the law, and is equitable and reflective of ordered governance," *id.* at 16;

15 WHEREAS, the parties reached a settlement agreement that was filed with
16 the Court on September 12, 2018 ("Agreement" or "Settlement");

17 WHEREAS, on October 9, 2018, the Court granted preliminary approval of
18 the Agreement, approved the proposed notice plan, and provisionally certified the
19 Settlement Classes; and

20 WHEREAS, the Court has considered the Agreement, the filed objections to
21 the agreement, arguments presented at the fairness hearing held on November 15,
22 2018, and all other submissions in connection with the parties' request for final
23 approval of the Agreement and certification of the Settlement Classes set forth in
24 the Agreement for the purposes of settlement only, and good cause appearing
25 therefor;

26 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS**
27 **FOLLOWS:**

28 1. The Motion is **GRANTED**.

1 **Final Approval of the Settlement**

2 2. The form and method by which notice was given to the Settlement
3 Classes met the requirements of due process, Rules 23(c)(2) and 23(e) of the
4 Federal Rules of Civil Procedure, constituted the best notice practicable under the
5 circumstances, and constituted due and sufficient notice to all persons entitled
6 thereto.

7 3. The Court finds that: (a) the Settlement is fair, reasonable, and
8 adequate in accordance with Fed. R. Civ. P. 23(e)(2); (b) the Agreement was
9 negotiated at arm's length by experienced counsel acting in good faith; and (c) there
10 has been adequate opportunity for experienced counsel to evaluate the claims and
11 risks at this stage of the litigation.

12 4. The Court has reviewed the six objections filed regarding the
13 Settlement and carefully considered each of the issues raised by those filings, and
14 finds that the objections do not impact the conclusion that the Settlement is fair,
15 reasonable, and adequate.

16 5. The Court therefore finds that final approval is appropriate and hereby
17 grants final approval of the Settlement. The parties are directed to consummate the
18 Agreement according to its terms. The Agreement and every term thereof shall be
19 deemed incorporated herein as if explicitly set forth and shall have the full force of
20 an Order of the Court.

21 **Certification of the Settlement Classes, Appointment of Settlement Class**
22 **Representatives, and Appointment of Co-Lead Counsel**

23 6. For purposes of the Settlement, and only for that purpose, and without
24 an adjudication on the merits, pursuant to Rules 23(a) and 23(b)(2) of the Federal
25 Rules of Civil Procedure, the Court finds that the requirements for a class action are
26 met, and hereby defines the following classes.

27 The class of parents is defined as follows:
28

1 All adult alien parents who entered the United States at or between
 2 designated ports of entry with their child(ren), and who, on or before
 3 the effective date of this agreement: (1) were detained in immigration
 4 custody by the DHS; (2) have a child who was or is separated from
 5 them by DHS and, on or after June 26, 2018, was housed in ORR
 6 custody, ORR foster care, or DHS custody, absent a determination
 7 that the parent is unfit or presents a danger to the child; and (3) have
 8 been (and whose child(ren) have been) continuously physically
 9 present within the United States since June 26, 2018, whether in
 10 detention or released. The class does not include alien parents with
 11 criminal histories or a communicable disease, or those encountered in
 12 the interior of the United States.¹

13 The class of children is defined as follows:

14 All alien children who are under the age of 18 on the effective date of
 15 this agreement who: (1) entered the United States at or between
 16 designated ports of entry with an alien parent, and who were separated
 17 from their parents, on or before the effective date of this settlement
 18 agreement; (2) have been or will be reunified with that parent
 19 pursuant to the preliminary injunction issued by the Court in *Ms. L v.*
 20 *U.S. Immigration and Customs Enforcement*, No. 18-428 (S.D. Cal.
 21 June 26, 2018); and (3) have been continuously physically present in
 22 the United States since June 26, 2018.

23 The Settlement Classes are certified for settlement purposes.

24 7. The Court finds that certification of the Settlement Classes is
 25 warranted in light of the Settlement under the prerequisites of Federal Rule of Civil
 26 Procedure 23(a) because: (1) the members of the Settlement Classes are so
 27 numerous that joinder is impracticable; (2) there are issues of law and fact common
 28 to the Settlement Classes; (3) the claims of the named Plaintiffs in *M.M.M.*, *Ms. L*,
 and *Dora* are typical of the claims of the Settlement Class Members; and
 (4) Plaintiffs and Class Counsel will fairly and adequately represent the interests of
 the Settlement Class Members.

8. The Court also finds that certification of the Settlement Classes is
 warranted in light of the Settlement under the requirements of Federal Rule of Civil
 Procedure 23(b)(2) because Defendants are alleged to have acted or refused to act

¹ References to a “class” or “class member” in the Agreement refer to the
 classes described in the text, as well as alien parents who are not part of the *Ms. L*
 class due to criminal history or communicable disease, but who the Court has
 ordered must be reunified. The Agreement also addresses parents who are covered
 by the above description, but who have been removed from the United States.

1 on grounds that apply generally to the Settlement Classes, so that final injunctive
2 relief or corresponding declaratory relief is appropriate respecting the Settlement
3 Classes as a whole.

4 9. The Court hereby appoints the named Plaintiffs in *M.M.M.* and *Ms. L.*
5 (as recently amended) as Settlement Class Representatives. The Court finds that the
6 Settlement Class Representatives will fairly and adequately protect the interests of
7 the Settlement Classes because: (1) the interests of the Settlement Class
8 Representatives are consistent with those of Settlement Class Members; (2) there
9 appear to be no conflicts between or among the Settlement Class Representatives
10 and the other Settlement Class Members; (3) the Settlement Class Representatives
11 have been and appear to be capable of continuing to be active participants in both
12 the prosecution and the settlement of this litigation; and (4) the Settlement Class
13 Representatives and Settlement Class Members are represented by qualified,
14 reputable counsel who are experienced in preparing and prosecuting large,
15 complicated class action cases, including those concerning alleged violations of the
16 relevant laws.

17 10. The requirements of Rule 23(g) of the Federal Rules of Civil
18 Procedure are met, and the Court hereby confirms the appointment of the law firm
19 Eversheds Sutherland, Muslim Advocates, and the Legal Aid Justice Center as
20 counsel for the parent class for parents continuously physically present in the
21 United States since June 26, 2018, the ACLU as counsel for parents who have been
22 removed, and Hogan Lovells US LLP as counsel for the child class.

23 **Other Provisions**

24 11. Neither the Agreement, nor any of its terms or provisions, nor any of
25 the negotiations or proceedings in connection with it, shall be construed as an
26 admission or concession by Defendants of the truth of any allegations in the
27 litigation, or of any fault or wrongdoing of any kind, or of a lack of merit of
28 Plaintiffs' allegations.

1 **IT IS SO ORDERED.**

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3 Dated: November 15, 2018

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5 Hon. Dana M. Sabraw
6 United States District Judge
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