

1 CENTER FOR HUMAN RIGHTS AND CONSTITUTIONAL LAW
 2 Carlos R. Holguín (Cal. Bar No. 90754)
 3 Peter A. Schey (Cal. Bar No. 58232)
 4 Marchela Iahdjian (Cal. Bar No. 295595)
 5 256 S. Occidental Blvd.
 6 Los Angeles, CA 90057
 7 Telephone: (213) 388-8693
 8 Facsimile: (213) 386-9484
 9 Email: crholguin@centerforhumanrights.org
 10 pschey@centerforhumanrights.org
 11 marchela@centerforhumanrights.org

9 PUBLIC COUNSEL
 10 Judy London (Cal Bar No. 149431)
 11 Kristen Jackson (Cal Bar No. 226255)
 12 610 S. Ardmore Ave.
 13 Los Angeles, CA 90005
 14 Telephone: (213) 385-2977
 15 Facsimile: (213) 385-9089
 16 email: jlondon@publiccounsel.org
 17 kjackson@publiccounsel.org

18 *Attorneys for Plaintiffs*

19 IN THE UNITED STATES DISTRICT COURT

20 FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

21	LUIS JAVIER PEREZ-OLANO, <i>et al.</i>,	)	Case No. CV 05-3604 DDP (RZx)
22)	
23	Plaintiffs,	)	STIPULATION SETTLING MOTION FOR
24		)	CLASS-WIDE ENFORCEMENT OF
25	- vs -	)	SETTLEMENT [DKT. 176].
26)	
27	ERIC H. HOLDER, JR., ATTORNEY)	
28	GENERAL, <i>et al.</i> ,)	
)	
	Defendants.	)	Motion filed July 21, 2014
		)	Hearing: April 6, 2015

1 It is hereby stipulated by the parties through their undersigned counsel that
2 plaintiffs' motion for class-wide enforcement of settlement (Dkt. 176) be withdrawn
3 upon the following terms:
4

5 1. USCIS will not deny, revoke, or terminate a class member's application for
6 Special Immigrant Juvenile (SIJ) classification or SIJ-based adjustment of status if,
7 at the time of filing an application for SIJ classification (Form I-360), (1) the class
8 member is or was under 21 years of age, unmarried, and otherwise eligible, and (2)
9 the class member either is the subject of a valid dependency order or was the subject
10 of a valid dependency order that was terminated based on age prior to filing.
11

12 2. USCIS will, without additional fee, reopen applications for SIJ
13 classification or SIJ-based adjustment of status it has denied, revoked or terminated
14 on or after December 15, 2010, on the ground, in whole or in part, that the class
15 member's valid dependency order had been terminated, in whole or in part, based on
16 age prior to filing Form I-360 with USCIS, provided that at the time of filing Form I-
17 360 the class member was under 21 years of age and unmarried. USCIS will, without
18 additional fee, re-adjudicate such reopened applications for SIJ classification and/or
19 SIJ-based adjustment of status consistent with ¶ 1 of this Stipulation. Except for
20 criminal activity that would disqualify an applicant for adjustment of status, such re-
21 adjudication shall proceed on the basis of the facts, law, and regulations extant at the
22 time USCIS initially denied, revoked, or terminated the class member's application
23 for SIJ classification or SIJ-based adjustment of status on the grounds stated in ¶ 1 of
24
25
26
27
28

1 this Stipulation. USCIS will make good faith efforts to promptly re-adjudicate such
2 reopened applications for SIJ classification and/or SIJ-based adjustment of status
3
4 over later-filed applications for SIJ classification or SIJ-based adjustment of status.

5 3. Within 90 days of the date the Court approves this Stipulation, USCIS will
6 send letters in the form attached hereto as Exhibit A, to all persons whose Form I-
7
8 360 applications for SIJ classification and/or Form I-485 applications for SIJ-based
9 adjustment of status were denied, terminated, or revoked on or after December 15,
10 2010, except where denied solely for fraud, explaining the terms of this Stipulation
11 and describing the process by which they or their counsel may request reopening and
12 re-adjudication of their Forms I-360 and/or I-485 under the terms of this Stipulation.
13 Copies of these letters will also be sent in the same fashion to such persons' counsel
14 of record. USCIS will make best efforts to send such letters to current addresses by
15 relying upon information found in CLAIMS-3 and AR-11 systems, as applicable,
16 and by contacting any attorneys of record whose information is contained within
17 those systems. Within 30 days of mailing such letters, USCIS shall provide
18 plaintiffs' counsel with the names, A numbers, last known addresses and, if
19 available, telephone numbers of persons to whom it sends letters pursuant to this
20 Paragraph, and the last known name, address and, if available, telephone number of
21 such persons' counsel of record, if any. USCIS will forward to plaintiffs' counsel on
22 a monthly basis any updates to the list of persons described above to include (1) the
23 names of persons whose letters are returned as undeliverable; and (2) forwarding
24
25
26
27
28

1 addresses for persons mailed letters pursuant to this Paragraph of which USCIS is
2 advised. USCIS will provide plaintiffs' counsel like information for such persons'
3 counsel of record. Where a letter to an applicant's counsel of record is returned as
4 undeliverable, USCIS shall make efforts to identify the counsel of record's new
5 address using publicly available information and databases. If USCIS identifies
6 updated address information for an applicant's counsel of record, USCIS will resend
7 the notice of this Stipulation as this Paragraph prescribes with respect to counsel of
8 record and inform plaintiffs' counsel of the attorney's updated address. Prior to the
9 exchange of information pursuant to this Stipulation, the parties shall execute a
10 protective order in the form attached hereto as Exhibit B providing that the
11 information furnished under this Paragraph shall be held confidential and used solely
12 for the purposes of monitoring or securing compliance with this Stipulation.

17 4. Upon reopening, USCIS will approve those applications for SIJ
18 classification or SIJ-based adjustment of status that are approvable consistent with
19 this Stipulation on the basis of the existing administrative record: that is, without the
20 class members' submitting further evidence or information. USCIS will notify class
21 members' whose applications for SIJ classification or SIJ-based adjustment of status
22 it approves that their applications have been approved by first class mail, with copies
23 to their counsel of record, if any. If a class member's reopened application for SIJ
24 classification or SIJ-based adjustment of status is not adjudicable on the basis of the
25 existing administrative record, USCIS shall notify the class member, and his or her
26
27
28

1 counsel of record, if any, that his or her application for SIJ classification and/or SIJ-
2 based adjustment of status has been reopened and issue him or her a request for
3 evidence or a notice of intent to deny. Such notification and request for additional
4 evidence or notice of intent to deny shall be sent by first class mail. The class
5 member shall thereafter be permitted 180 days to provide USCIS such additional
6 evidence or response to the notice of intent to deny. Denials of applications for SIJ
7 classification or SIJ-based adjustment of status shall be in writing and explain the
8 reasons for the denial. Copies of denials shall be sent to the class member's counsel
9 of record, if any, and to class counsel. USCIS may redact information from copies of
10 denials sent to class counsel pursuant to this paragraph that is protected by privacy or
11 not germane to this Stipulation.
12
13
14
15

16 5. Class members or counsel acting on behalf of individual class members
17 shall have until June 15, 2018, to advise USCIS by correspondence postmarked on or
18 before such date, that they request USCIS to reopen and re-adjudicate applications
19 for SIJ classification and/or SIJ-based adjustment of status pursuant to this
20 Stipulation.
21

22 6. Within 30 days of the Court's approving this Stipulation, USCIS shall
23 forward notice of this agreement to its list of community-based organizations and
24 stakeholders, in the form attached hereto as Exhibit C, forward plaintiffs' counsel a
25 statement affirming that notice has been given as required by this Paragraph, and
26
27
28

1 post this Stipulation on its web site, where it will remain until the expiration date
2 specified in ¶ 10 below.
3

4 7. Within 14 days of the Court's approving this Stipulation, USCIS will
5 distribute this Stipulation to officers, agents and employees who adjudicate
6 applications for SIJ classification or SIJ-based adjustment of status, and instruct
7 them to proceed to adjudicate pending applications for SIJ classification and/or SIJ-
8 based adjustment of status in accordance with this Stipulation. Within 90 days of the
9 Court's approving this Stipulation, USCIS will issue a policy memorandum to its
10 officers, agents and employees who adjudicate applications for SIJ classification or
11 SIJ-based adjustment of status. The policy memorandum will include the terms of
12 this Stipulation and shall be made public by publication on USCIS's web
13 site. USCIS shall provide plaintiffs' counsel with a courtesy copy of any final policy
14 memorandum provided to its agents or employees implementing this Stipulation
15 before it is made public.
16
17
18
19

20 8. Plaintiffs reserve their right to seek an award of attorney's fees and costs
21 incurred in the prosecution and settlement of their motion for class-wide enforcement
22 of the settlement herein (Dkt. No. 176). The parties have met and conferred, and
23 shall continue to meet and confer, under the auspices of the Mediation Office of the
24 Ninth Circuit Court of Appeals, in an effort to settle plaintiffs' claim for attorney's
25 fees and costs. Within 30 days of the Court's approving this Stipulation, the parties
26 may file a stipulation settling plaintiffs' claim for attorney's fees and costs. If the
27
28

1 parties are unable to reach agreement, plaintiffs may, within 30 days of the Court's
2 approving this Stipulation, file and serve a motion for an award of fees and costs.
3

4 9. This Court shall retain jurisdiction to enforce the terms set forth in this
5 Stipulation.

6 10. This Stipulation shall expire on June 15, 2018, except that USCIS shall
7 complete re-adjudication of applications for SIJ classification and SIJ-based
8 adjustment of status for which a timely request has been made pursuant to ¶ 5 in
9 accordance with this Stipulation.
10

11
12 Dated: March 4, 2015.

CENTER FOR HUMAN RIGHTS &
CONSTITUTIONAL LAW

13
14 /s/ Carlos R. Holguín
15 Carlos R. Holguín
16 Peter A. Schey
Marchela Iahdjian

17 PUBLIC COUNSEL
18 Judy London
19 Kristen Jackson

Attorneys for plaintiffs

20
21 Dated: March 4, 2015.

BENJAMIN C. MIZER
Acting Assistant Attorney General
Civil Division

22
23 WILLIAM C. PEACHEY
24 Director

25 ELIZABETH J. STEVENS
26 Assistant Director

27 /s/ Brian C. Ward
28 BRIAN C. WARD
Trial Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

District Court Section
Office of Immigration Litigation Civil
Division
United States Department of Justice

Attorneys for Federal Defendants Eric
H. Holder, Jr. Attorney General, *et al.*

Exhibit A

PEREZ OLANO SETTLEMENT
EXHIBIT A

Text of letter to be sent to persons denied SIJ classification and/or SIJ-based adjustment of status on or after December 15, 2010.

Date

Please read. This is an important notice about your potential rights under a settlement agreement to have your Special Immigrant Juvenile immigration case reopened.

Dear _____:

According to U.S. Citizenship and Immigration Services (USCIS) records, you or your attorney previously applied for Special Immigrant Status (SIJ) status or adjustment of status by filing a Form I-360 for SIJ status or Form I-485 application for SIJ-based adjustment of status and USCIS denied, revoked, or terminated your application(s) on or after December 15, 2010.

Based on a recent agreement between USCIS and the plaintiffs in a case called *Perez-Olano v. Holder*, No. CV 05-3604 (C.D. Cal.), you may be eligible to have your application(s) reopened and reconsidered by USCIS. Denied application(s) will be reopened and reconsidered if you were denied because your state court order ended because of your age before you filed your petition for SIJ status (Form I-360) with USCIS. To be eligible to have your case reopened and reconsidered, you must have:

- Had your SIJ petition (Form I-360) or SIJ-based application for adjustment of status (Form I-485) denied, revoked or terminated on or after December 15, 2010; and
- Been under 21 years of age and unmarried at the time you or your attorney filed the petition for SIJ status (Form I-360); and
- Had a valid state court order that ended because of your age before you filed your petition for SIJ status (Form I-360).

You do not have to pay a new fee to request that your case be reopened and reconsidered.

If you believe you are eligible to have USCIS reopen and reconsider your SIJ petition or your SIJ-based application for adjustment of status, you (or your lawyer) must send an email or letter containing your name, your USCIS "A" or file number (if you know it and, if not, your date of birth and place of birth, and any other personal identity information), and a statement saying: "Please reopen my SIJ case based on the Perez-Olano settlement," to the following address: [CIS to insert email and mailing address]

Be sure to include your name and your address in your email or letter. Your email or letter requesting reopening of your case must be emailed or mailed (and post-marked) on or before June 15, 2018. You should keep a copy of your email or letter and proof of emailing/ mailing on or before the June 15, 2018 deadline.

If USCIS can adjudicate your petition and/or application based on the documents you previously submitted, it will do so. If USCIS requires more information in order to decide your case, the agency will send you a letter asking for more information.

The full Perez-Olano agreement described in this letter is available on the USCIS website at the following link: [CIS to supply]. If you have any questions, you or your attorney may

contact USCIS (insert email) or class attorneys, CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW, 256 S. Occidental Blvd., Los Angeles, CA 90057, (213) 388-8693 ext. 301, pscley@centerforhumanrights.org and crholguin@centerforhumanrights.org.

Exhibit B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT B
STIPULATED PROTECTIVE ORDER

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

LUIS JAVIER PEREZ-OLANO, <i>et al.</i>,	)	Case No. CV 05-3604 DDP (RZx)
)	
Plaintiffs,	)	[PROPOSED] STIPULATED PROTECTIVE
	)	ORDER.
- vs -)	
)	
ERIC H. HOLDER, JR., ATTORNEY	)	Motion filed July 21, 2014
GENERAL, <i>et al.</i>,	)	Hearing: April 6, 2015
)	
Defendants.)	
_____)	

1. The following protective order is hereby incorporated into the stipulation resolving plaintiffs’ motion to enforce judgment (Dkt. No. 176).

2. The stipulation resolving plaintiffs’ motion to enforce judgment provides for the disclosure of documents and information that may be protected from release

1 by the Privacy Act of 1974, 5 U.S.C. § 552(a). Fed.R.Civ.P. 26(c) provides for the
2 issuance of protective orders limiting the disclosure of privileged and confidential
3 documents and information. 5 U.S.C. § 552a(b)(11) and (g)(1), provides an
4 exception to the Privacy Act of 1974 for documents and information released
5 pursuant to court order. This order does not apply to any documents or information
6 other than documents and information that are subject to the Privacy Act, and the
7 terms and conditions set forth herein shall not apply to the disclosure of any
8 classified national security information or any information subject to a claim of
9 privilege or other basis of exclusion, and this Order shall not be precedent for
10 adopting any procedure with respect to the disclosure of any such other information.
11

12
13
14 3. The procedures set out herein shall be followed with respect to copies of
15 denials sent to class counsel (“Denials”) pursuant to Paragraph 4 of the Stipulation
16 Settling Motion for Class-wide Enforcement of Settlement (“Stipulation”).
17

18
19 4. All copies of Denials provided by defendants to class counsel pursuant to
20 the Stipulation shall be used solely in connection with this lawsuit. No information
21 included in Denials may be released or disclosed by class counsel to any person
22 other than —
23

24 a. the potential class member the information relates to or that class member’s
25 attorney of record;

26 b. secretaries, paralegal assistants, and other employees and agents of class
27 counsel who are engaged in assisting class counsel in this action;
28

1 c. outside consultants and experts consulted or retained for the purpose of
2 assisting class counsel in the prosecution of this action, upon condition that, before
3 making disclosure, class counsel must obtain and retain an agreement in writing from
4 the outside expert or consultant reciting that he or she has read a copy of this
5 Stipulation and Order and agrees to be bound by its provisions; and
6

7
8 d. any other person mutually authorized by all counsel to examine such
9 information and materials.

10 5. Any person having access to Denials disclosed by defendants pursuant to
11 the stipulation resolving plaintiffs' motion to enforce judgment, such as paralegals or
12 other staff or agents of plaintiffs' counsel, shall be informed that information in
13 Denials is confidential and subject to this Stipulation and Order. No such person
14 shall release or disclose the information to any person other than those specifically
15 identified in ¶ 4, above, without further order of the Court or stipulation of the
16 parties.
17
18

19
20 6. All copies of Denials provided by defendants to class counsel must be
21 stored and maintained in a secure location and manner to ensure access is limited to
22 only the persons authorized under this Order.
23

24 7. If class counsel learns that, by inadvertence or otherwise, it has disclosed
25 Denials or information included in Denials to any person or in any circumstance not
26 authorized under this Order, class counsel must immediately (a) notify defendants of
27 the unauthorized disclosures, (b) use its best efforts to retrieve the information or
28

1 Denials, (c) inform the person or persons to whom unauthorized disclosures were
2 made that information in the Denials is confidential and subject to this Order, and (d)
3 obtain and retain an agreement in writing from the person or persons to whom
4 unauthorized disclosures were made agreeing to be bound by the provisions of this
5 Order.
6

7
8 8. All provisions of this order restricting the communication or use of
9 information contained in the Denials shall continue to be binding after the conclusion
10 of this action and the expiration of the Stipulation.
11

12
13 Dated: _____, 2015.

CENTER FOR HUMAN RIGHTS &
CONSTITUTIONAL LAW

14
15
16 _____
17 Carlos R. Holguín
18 Peter A. Schey
19 Marchela Iahdjian

20 PUBLIC COUNSEL
21 Judy London
22 Kristen Jackson

Attorneys for plaintiffs

23 ///

24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: _____, 2015.

BENJAMIN C. MIZER
Acting Assistant Attorney General Civil
Division

WILLIAM C. PEACHEY
Director

ELIZABETH J. STEVENS
Assistant Director

BRIAN C. WARD
Trial Attorney
District Court Section
Office of Immigration Litigation Civil
Division
United States Department of Justice

Attorneys for Federal Defendants Eric
H. Holder, Jr. Attorney General, *et al.*

For good cause shown, it is so ORDERED

Dated _____, 2015

United States District Judge

///

Exhibit C

Perez-Olano Stipulation Exhibit C

NOTICE OF CLASS ACTION SETTLEMENT REGARDING
SPECIAL JUVENILE STATUS APPLICATIONS

The United States Citizenship and Immigration Services (USCIS) has reached a settlement with plaintiffs in the class action case entitled *Perez-Olano v. Holder*, No. CV 05-3604 (C.D. Cal.) The settlement involves cases in which Special Immigrant Juvenile (SIJ) applications or SIJ-based applications for adjustment of status were denied because the applicant's state court dependency order had expired at the time of filing. This notice describes the terms of the settlement and the rights extended by the settlement. A copy of the settlement is available at this link xxxxxxxxx.

1. Under the settlement USCIS agrees that it will not deny, revoke, or terminate a SIJ application (Form I-360) or SIJ-based adjustment of status if, at the time of filing a SIJ application (1) the applicant is or was under 21 years of age, unmarried, and otherwise eligible, and (2) the applicant either is the subject of a valid dependency order or was the subject of a valid dependency order that was terminated based on age prior to filing.

2. USCIS will, without additional fee, reopen applications for SIJ classification or SIJ-based adjustment of status it has denied, revoked or terminated on or after December 15, 2010, on the ground, in whole or in part, that the class member's valid dependency order had been terminated, in whole or in part, based on age prior to filing Form I-360 with USCIS, provided that at the time of filing Form I-360 the class member was under 21 years of age and unmarried. USCIS will, without additional fee, re-adjudicate such reopened applications for SIJ classification and/or SIJ-based adjustment of status consistent with ¶ 1 above. Except for criminal activity that would disqualify an applicant for adjustment of status, such re-adjudication shall proceed on the basis of the facts, law, and regulations extant at the time USCIS initially denied, revoked, or terminated the SIJ application or SIJ-based adjustment of status on the grounds stated in ¶ 1 above. USCIS will make good faith efforts to re-adjudicate such reopened applications before later-filed applications for SIJ classification or SIJ-based adjustment of status.

3. USCIS will send letters to all persons whose SIJ applications or SIJ-based applications for adjustment of status were denied, terminated, or revoked on or after December 15, 2010, except where denied solely for fraud, explaining the terms of the Stipulation and describing the process by which they or their counsel may request

reopening and re-adjudication of their SIJ applications or SIJ-based applications for adjustment of status.

4. Upon reopening, USCIS will approve those applications for SIJ classification or SIJ-based adjustment of status that are approvable on the basis of the existing administrative record. If an applicant's reopened application for SIJ classification or SIJ-based adjustment of status is not adjudicable on the basis of the existing record, USCIS shall notify the class member, and his or her counsel of record, if any, that his or her application for SIJ classification and/or SIJ-based adjustment of status has been reopened and issue him or her a request for evidence or a notice of intent to deny. The applicant shall thereafter be permitted 180 days to provide USCIS such additional evidence or response to the notice of intent to deny. Denials of applications for SIJ classification or SIJ-based adjustment of status shall be in writing and explain the reasons for the denial.

5. Applicants or counsel acting on behalf of applicants shall have until June 15, 2018, to advise USCIS by correspondence postmarked on or before such date, that they request USCIS to reopen and re-adjudicate applications for SIJ classification and/or SIJ-based adjustment of status pursuant to the Stipulation.

6. The Court shall retain jurisdiction to enforce the terms set forth in the Stipulation.

7. The Stipulation shall expire on June 15, 2018, except that USCIS shall complete re-adjudication of applications for SIJ classification and SIJ-based adjustment of status for which a timely request has been made pursuant to ¶ 5 in accordance with the Stipulation.

8. If you have any questions about this notice, please feel free to contact USCIS (insert email) or class counsel Carlos Holguin (213) 388-8693 ext. 309 crholguin@centerforhumanrights.org and Peter Schey (213) 388-8693 ext. 304 pschey@centerforhumanrights.org. If communicating with class counsel via email please contact both Messrs. Holguin and Schey.