

**SUMMARY OF APPROVED SETTLEMENT IMPACTING NONCITIZENS WITH
FINAL ORDERS OF REMOVAL WHO ARE MARRIED TO U.S. CITIZENS
(MA, RI, CT, VT, NH, ME)**

Calderon, et al. v. Mayorkas, et al., Case No. 18-10225-MLW (D. Mass.)

Background

This is a summary of a settlement agreement that has been approved in the class action lawsuit, *Calderon, et al. v. Mayorkas, et al.*, Case No. 18-10225-MLW.

The settlement agreement resolves a lawsuit that was brought in February 2018 by a class of U.S. citizens and their noncitizen spouses who have final orders of removal and reside in **Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, or Maine**. The settlement impacts the ways that couples who are in the class may seek lawful status for the noncitizen spouse, and what happens if U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (“ICE ERO Boston”) want to take action against the noncitizen spouse.

After a hearing that was held on January 16, 2025 in which the Court found the settlement agreement to be fair, reasonable, and adequate, the settlement agreement has been granted final approval. As part of the settlement agreement, class counsel have dismissed the lawsuit. **The settlement agreement is now in effect from January 16, 2025 to January 16, 2027, and class members may begin to use its provisions during this time period.**

Class Definition

If you are in a marriage where one spouse is a U.S. citizen and the other spouse is a noncitizen, then you are likely a class member if you meet the following criteria:

- (1) The noncitizen spouse is subject to a final order of removal and has not left the U.S. under that order;
- (2) The U.S. citizen spouse has filed an I-130 Petition for Alien Relative with USCIS, and the application is pending or has been approved; and
- (3) The noncitizen spouse resides in Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, or Maine; or the noncitizen spouse is in ICE detention in one of these states.

Settlement Agreement

The following description is a summary of the key points of the settlement agreement.

- a) **Motions to Reopen**: For requests received by ICE within two years after this settlement goes into effect, ICE will presumptively join a noncitizen class member’s Motion to Reopen and Dismiss their removal proceedings if the noncitizen class member includes required documentation with their Motion, such as a declaration of the noncitizen’s intention to pursue lawful status through their U.S. citizen spouse or consular process abroad. ICE may only decline to join a motion to reopen and dismiss for a class member if ICE determines that the noncitizen (1) is a threat to

public safety (typically due to serious criminal conduct); (2) is a threat to national security; or (3) has engaged in serious immigration benefit fraud or is a repeat immigration violator. If ICE does not find one of these conditions to be true, ICE will join a motion to reopen and dismiss removal proceedings for which the required documentation has been provided.

- b) Enforcement Actions: For two years after this settlement goes into effect, ICE ERO Boston cannot arrest, detain, or seek to remove a noncitizen class member, or require the noncitizen class member to leave the United States, unless a Deputy Field Office Director at ICE (or someone with equivalent or higher authority) has decided that the noncitizen poses a threat to public safety or national security. The ICE official must also consider the noncitizen's eligibility to seek lawful status under the provisional waiver process. Finally, in cases where ICE seeks to transfer a detained class member outside of New England, ICE can only do so if ICE ERO Boston has already complied with the procedures required by the settlement and determined that the noncitizen's removal from the United States is appropriate.

In the event of a dispute about compliance with the settlement, the settlement provides a conflict resolution process that class members must use before the dispute may be brought to a federal court.

This class action does not contain any claim for monetary damages, and thus this settlement does not award any monetary payments under Rule 23(b)(2) of the Federal Rules of Civil Procedure.

Finally, during the two-year term of this agreement, class members cannot bring claims that a noncitizen's arrest, detention, or removal unlawfully interferes with their rights to pursue lawful status by way of their marriage to a U.S. citizen spouse and the provisional waiver process, but instead are limited to the conflict resolution and enforcement procedures provided by this agreement with regard to any such claims.

For Further Information

THIS IS MERELY A SUMMARY OF THE SETTLEMENT AGREEMENT. A copy of the complete Settlement Agreement is available at the following website:
www.aclum.org/calderonsettlement.

Translations of the Settlement Agreement and this summary are available on the website in English, Spanish, Portuguese, Haitian Creole, and Simplified Chinese.