

# NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

## *L.V.M. v. MARCOS*

**If you are an unaccompanied child in U.S. government custody in New York State and you have ever been placed in a “staff-secure” or “secure” facility, you may be affected by a proposed class action settlement. *This case is NOT related to your immigration case, and you are NOT required to do anything in response to this notice.***

A proposed settlement (“Settlement”) has been reached in a class action lawsuit called *L.V.M. v. Marcos*, Case No. 1:18-CV-01453 (S.D.N.Y.). This lawsuit is about noncitizen children—that is, immigrant children who are or will be in U.S. government custody with the Office of Refugee Resettlement (“ORR”)—who are in New York and who are either *currently* or *have ever been* placed in a heightened security setting (a “secure” or “staff-secure” facility). The parties in the lawsuit have proposed to settle the case, and the U.S. District Court for the Southern District of N.Y. (“Court”) must decide whether to approve the Settlement.

This Notice will tell you about your rights under the Settlement. You are not being sued, and this is not an advertisement. If you think the Settlement relates to you, please read this Notice.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.**

### **What is the lawsuit about?**

*L.V.M. v. Marcos* (originally named *L.V.M. v. Lloyd*) is a federal court case brought on behalf of a group (a “class”) of noncitizen children who entered or will enter the United States without their parents (often called “unaccompanied minors”), who are in New York State, and who either *are* or *ever were* in a “secure” or “staff secure” facility while in the custody of ORR. A case like this is brought on behalf of a group of people who have similar legal claims, leading the court to treat them as a “class” of people who all might benefit from a single resolution. The people who stand to benefit from the resolution of the case and fall into the class bringing the case are called “petitioners”. They can also be referred to as “class members”.

The case was filed in February 2018 and claimed that at that time, the Office of Refugee Resettlement/ORR and its Director (Scott Lloyd) had put in place a policy called the “Director Review Policy” that delayed the release of class members. The Petitioners alleged that, under the Director Review Policy, any child who had ever been in a heightened security placement (a “secure” or “staff-secure” facility) required the personal approval of Director Lloyd before they could be released to a sponsor. Petitioners further alleged that this policy caused class members’ releases to be unlawfully delayed in violation of the U.S. Constitution and federal laws, specifically the Trafficking Victims Protection Reauthorization Act and the Administrative Procedure Act.

In June of 2018, the court granted the Petitioners a preliminary injunction—in other words, a court order that prohibited ORR from continuing to use the Director Review Policy. Since that time, the Director Review Policy has not been in place, and class members have not been subject to it. Petitioners and the government have now agreed to settle this case and have asked the Court to approve a proposed Settlement that would prohibit ORR from subjecting class members to the Director Review Policy for as long as the settlement is in place (3 years). The Court has appointed lawyers to represent the Class as it considers finalizing the Settlement. They are called “Class Counsel” and their contact information is listed at the end of this document.

### **Am I a member of the class?**

You are a member of the class if you meet each of the following three criteria: (1) you are a noncitizen child in the custody of the United States Office of Refugee Resettlement (“ORR”), (2) you are currently in New York State, AND (3) you either *are* or *ever were* in a “secure” or “staff-secure” ORR facility.

### **What happens if the Settlement is approved?**

This is only a summary of the Settlement. If you want to know more, you should read the Settlement or talk to your lawyer (if you have one) or Class Counsel to learn more about it.

The Settlement, which lasts for three years from the date of the Court’s final approval, requires the government to:

- (1) Not reinstate the Director Review Policy for as long as the settlement is in effect;
- (2) Track and report key information about Class Members to Class Counsel on a monthly basis for monitoring purposes, including information that would reveal if class members are experiencing delays in their release to sponsors.

The lawsuit does not request any money damages, so the Settlement does not include payment of money to any members of the Class.

### **You have the right to object to the Settlement.**

You have the right to say what you think about the Settlement before the Court decides whether to approve it. You can do this by submitting something in writing to the Court, attending a Court hearing about the Settlement, or both.

**However, *YOU DO NO NEED TO DO ANYTHING IN RESPONSE TO THIS NOTICE IF YOU DO NOT OBJECT TO THE SETTLEMENT.*** If you like the Settlement’s terms, or you do not have an opinion on the terms, you do not need to do anything related to this lawsuit.

If you are not satisfied with the Settlement, you have the right to ask the Court to deny approval for the Settlement. If the Court denies approval, the Settlement will not happen and the lawsuit will continue. If that is what you want, you must object to the proposed Settlement in writing. If you object in writing, you may, if you choose, also appear at the Final Approval Hearing, but are not required to. If you choose to appear at the Final Approval Hearing, you can appear either on your own behalf or through your own

attorney. If you choose to appear through your own attorney, you are responsible for hiring and paying for that attorney. If the Court approves the Settlement despite any objections, it will apply to you even if you do not agree with it.

All written objections and supporting papers must:

- Clearly identify the following case name and number: *L.V.M. v. Marcos*, Case No. 1:18-CV-01453 (S.D.N.Y.);
- Be submitted to the Court either by mailing them to the Clerk of the Court, United States District Court for the Southern District of New York, Daniel Patrick Moynihan Courthouse, 500 Pearl St., New York, NY, 10007, ATTN: *L.V.M. v. Marcos* Class Objection; or by filing them in person at the same address; or by emailing a copy to Class Counsel using the contact information at the end of the document;
- Be filed or received on or before Monday, November 6, 2023.

**When and where will the Court decide whether to approve the Settlement?  
(YOU DO NOT NEED TO ATTEND THIS)**

The Final Approval Hearing is scheduled to take place on December 11, 2023, at the United States District Court for the Southern District of New York, Daniel Patrick Moynihan Courthouse, 500 Pearl St., New York, NY, 10007. The date and time of the Final Approval Hearing may change without notice to you. Information about any changes to the Final Approval Hearing date or time will be available, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system, at <https://ecf.nysd.uscourts.gov/>, using the Case No. 1:18-CV-01453. ***You are not required to attend this hearing. Your lawyer does not need to attend this hearing. Your sponsor does not need to attend this hearing. You are welcome to attend if you want to object to the settlement or if you are interested in observing the hearing, but you are not required to.***

**Where can I get more information?**

This Notice summarizes the Settlement. The full terms of the agreement are attached. You should feel free to talk to your lawyer if you want to know more. The Settlement Agreement is also available at the following website:

<https://tinyurl.com/LVMSettlement>

You can also contact Class Counsel at these mail or email addresses:

ATTN: L.V.M. CLASS COUNSEL  
New York Civil Liberties Union Foundation  
125 Broad St., 19th Floor  
New York, NY 10004  
Tel: 518-602-7046 (designated class voicemail)  
[LVMClass@nyclu.org](mailto:LVMClass@nyclu.org) (designated class email)

You can also access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.nysd.uscourts.gov/>, using the Case No. 1:18-CV-01453.