

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING

Castañon Nava et al. v. Dep't of Homeland Security et al., No. 18-cv-3757-RRP
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

If you were arrested by Immigration & Customs Enforcement (“ICE”) in Illinois, Indiana, Wisconsin, Missouri, Kentucky, or Kansas without a warrant or during a vehicle stop, your rights may be affected by a proposed settlement agreement.

This notice is to inform you of a proposed settlement agreement in the class action lawsuit, *Castañon Nava et al. v. Dep't of Homeland Security et al.*, No. 18-cv-3757-RRP (N.D. Ill.), which challenged ICE’s practice of conducting warrantless arrests and vehicle stops within the ICE Chicago Field Office’s jurisdiction through large-scale enforcement operations and other enforcement actions. The parties in the lawsuit have proposed to settle the case, and a federal court must decide whether to approve the settlement.

This notice will tell you about your rights under this proposed settlement agreement. You are not being sued, and this is not an advertisement.

1. WHAT IS THIS LAWSUIT ABOUT?

In May 2018, persons arrested by ICE and impacted organizations challenged ICE’s large-scale enforcement operation in the Chicagoland area, which resulted in the collateral arrest of hundreds of non-citizens through warrantless arrests and vehicle stops. Plaintiffs argued that ICE failed to comply with the terms of 8 U.S.C. § 1357(a)(2) and the Fourth Amendment in carrying out these arrests and stops, including by failing to make findings that the person was likely to escape before ICE could obtain a warrant and that there was a reasonable suspicion that a person in the vehicle did not have lawful status.

The parties have now reached a settlement agreement and the Court has preliminarily approved it. The proposed settlement agreement is subject to the final approval of the Court and will fully resolve the issues raised in this litigation.

2. WHO IS A CLASS MEMBER?

A person is a “Class Member” covered by the settlement if they are currently arrested and detained or are arrested in the future, without a warrant for a civil violation of U.S. immigration laws, and the arrest occurred or occurs within the jurisdiction of the ICE Chicago Field Office. The ICE Chicago Field Office consists of Illinois, Indiana, Wisconsin, Missouri, Kentucky, and Kansas.

Class Members are eligible for individual remedies through the settlement, as described below in Question No. 3.

3. WHAT DOES THE SETTLEMENT AGREEMENT PROVIDE?

The following description is only a summary of the key points in the settlement agreement. Instructions for how to obtain a copy of the full agreement are provided below in Question No. 7.

In brief, under the proposed settlement agreement:

- A. *ICE Must Issue a Nationwide Policy Regarding Warrantless Arrests and Vehicle Stops.* Within ten days after the settlement agreement takes effect, ICE will broadcast to all ICE officers nationwide a statement of policy (attached as Appendix A to the proposed settlement agreement) that clarifies the applicable standards for warrantless arrests and certain vehicle stops. The policy requires ICE to weigh relevant factors before making a warrantless arrest including, for example, the individual's history of previous escapes, attempted flight, as well as ties to the community (*e.g.*, family, home, or employment), among other particularized circumstances in order to show that there is probable cause the person is likely to escape before obtaining a warrant. The statement of policy also provides that ICE may only make a vehicle stop if it has reasonable suspicion—based on specific, articulable facts—that a person inside the vehicle does not have legal status.
- B. *ICE Must Document the Bases for Warrantless Arrests and Vehicle Stops.* The settlement agreement and statement of policy require ICE officers nationwide to document the facts and circumstances surrounding warrantless arrests and vehicle stops in the narrative section of an individual's Form I-213—including the fact that the person was arrested without a warrant, the location of the arrest, the person's ties to the community or lack thereof, and other particularized facts justifying a warrantless arrest. With respect to vehicle stops, ICE must document specific facts that formed the basis for its reasonable suspicion that a person in the vehicle did not have legal status justifying the stop.
- C. *ICE Must Undergo Training Nationwide.* ICE will adopt or amend training materials, subject to Class Counsel's input and review, to ensure compliance with the terms of the statement of policy and settlement agreement. ICE will train its officers within the ICE Chicago Field Office within 45 days of the broadcast of the statement of policy, and all officers nationwide within 180 days.
- D. *ICE Must Provide Documentation to Confirm Compliance with the Settlement.* On a monthly basis while the agreement is in effect, ICE will provide to Class Counsel copies of all Form I-213s related to warrantless arrests and vehicle stops conducted in the Northern District of Illinois to ensure compliance with the policy and settlement agreement.
- E. *ICE Must Remedy Violations of the Settlement Agreement and Statement of Policy.*
 - i. *Individual Remedies.* If a Class Member is arrested contrary to the terms of the settlement agreement, the person must be released from ICE custody as soon as

practicable, without paying a bond or being subject to conditions of release. This applies to all Class Members, unless the person is subject to mandatory detention, a criminal detainer, or is deemed to pose a danger to the community under certain limited situations. ICE will also impose appropriate remedial measures, including training, on the ICE officer(s) who violated the agreement.

- ii. *Remedies for Repeated, Material Violations.* Class Counsel may seek to enforce the terms of the settlement with the Court in the event of repeated, material violations.

4. WHAT ARE MY RIGHTS AS A CLASS MEMBER OF THE SETTLEMENT?

If you believe you are a Class Member, you should contact Class Counsel immediately for possible remedies under the settlement. (See Question No. 6 for Class Counsels' contact information.)

If you are satisfied with the settlement agreement, you do not have to do anything.

If you are *not* satisfied with the settlement agreement, you have the right to ask the Court to deny approval for the settlement by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the settlement.

You may object to the settlement agreement in writing. Written objections must:

- a) Identify the case name and number (*Castañon Nava et al. v. Dep't of Homeland Security et al.*, No. 18-cv-3757-RRP (N.D. Ill.);
- b) Include the individual's contact information and basis for the objection;
- c) Be submitted to the Court, either:
 - i. by mailing them to the Clerk, United States District Court for the Northern District of Illinois, 219 South Dearborn Street, Chicago, IL 60604 (attn: *Castañon Nava et al. v. Dep't of Homeland Security et al.*, No. 18-cv-3757-RRP (N.D. Ill.)), or
 - ii. by filing them in person at any location of the United States District Court for the Northern District of Illinois; and
- d) Be filed or postmarked on or before January 11, 2022.

You may also object by appearing at the Final Approval Hearing, either in person or through your own attorney, as described below in Question No. 5. If you appear through your own attorney, you are responsible for paying that attorney if required.

5. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

Before the proposed settlement agreement can take effect, the Court will hold a "Final Approval Hearing" to decide whether the settlement is fair, reasonable, and adequate and whether it is in the best interests of the Class Members. At the hearing, Class Counsel and the Government will ask

the Court to approve the proposed settlement agreement. If there are objections, the Court will consider them. All Class Members are welcome to attend the Final Approval Hearing if they choose to do so, but no one is required to attend.

The Final Approval Hearing will be held on February 8, 2022, at 10:00 AM at the United States District Court for the Northern District of Illinois, located at 219 South Dearborn Street, Chicago, IL 60604.

The date may change without further notice to Class Members. To confirm the date, you should check the settlement websites listed below or the Court’s docket in this case (through the Court’s Public Access to Court Electronic Records (“PACER”) system at <https://ecf.cand.uscourts.gov>).

6. WHO REPRESENTS THE CLASS MEMBERS IN THIS CASE?

The Court ordered that the following attorneys represent the Class Members. These lawyers are called “Class Counsel.”

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7. WHERE CAN YOU GET MORE INFORMATION?

This notice summarizes the proposed settlement agreement. For the precise terms and conditions of the settlement, please see a copy of the entire settlement agreement on the following websites: <https://immigrantjustice.org/NavaSettlement> or <https://www.aclu-il.org/en/castanon-nava-settlement-documents>. You may also access the proposed settlement agreement by accessing the Court docket in this case, for a fee, through the PACER system at <https://ecf.cand.uscourts.gov>.

For any other information, please contact Class Counsel above or speak to your own attorney.

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