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*****FOR IMMEDIATE RELEASE*****

***HUNDREDS OF IMMIGRANT YOUTH ELIGIBLE FOR SPECIAL
IMMIGRANT JUVENILE STATUS—A VITAL FORM OF
HUMANITARIAN RELIEF—CONTINUE TO BE AT RISK OF
DEPORTATION DUE TO GOVERNMENT FAILURE TO
ADEQUATELY SEND COURT-ORDERED NOTICES***

***A New USCIS Compliance Report Shows At Least 500 Immigrant
Youth or Counsel for R.F.M Class Members In New York Have Not
Received Eligibility Notices***

(NEW YORK, NY) – The Legal Aid Society and Latham & Watkins LLP today announced that hundreds of *R.F.M. et al. v. Nielsen, et al.* class members are at further risk of removal due to the United States Citizenship and Immigration Services' (USCIS) unlawful policy of denying Special Immigrant Juvenile Status (SIJS) petitions of New York youth over the age of 18 and USCIS' failure to effectively distribute court-ordered Notices to the class. SIJS is a form of humanitarian relief for vulnerable, immigrant youth who have suffered abuse, abandonment, neglect, or a similar basis by a parent.

At least 500 *R.F.M.* class members or their counsel failed to receive court-ordered Notice of the action, according to a new USCIS compliance report. Adequate notice is crucial and an issue of fundamental fairness as it notifies youth that they are *R.F.M.* class members, an important fact when advocating against removal before the Immigration Court. Additionally, where applicable, notice alerts immigrant youth that they are eligible to apply to reopen their SIJS and must take steps to reopen their cases within the next two years. In a recent hearing to address the compliance report, the U.S. District Court for the Southern District of New York (SDNY) acknowledged Class Counsel's concerns regarding notice and remained open to further briefing from the parties on the matter.

“While we are disappointed at the outcome of the hearing in which the court did not impose additional requirements on USCIS to provide notices, we are hopeful that the Court may reconsider this ruling in the future.” said **Beth Krause, Supervising Attorney of the Immigrant Youth Project at The Legal Aid Society**. “We are now reaching out to the public directly to make sure *R.F.M.* class members are aware of their rights. We will continue to identify and locate eligible individuals to ensure that these young people have the legal support they need to complete the process of obtaining lawful status through this vital humanitarian program.”

“We will continue to work with the thousands of class members to ensure that they get the benefits to which they are entitled under the law,” said **Robert Malione, Latham & Watkins partner**.

Detained class members are at heightened risk of removal as they do not have access to the internet and cannot receive class Notice by finding it online. They are unlikely to receive any notification of eligibility without a formal Notice mailed to their detention center. Despite repeated requests from Class Counsel that detained class members not be removed until their applications are fairly adjudicated, several cases have been reported in which *R.F.M.* class members were nearly deported.

SDNY ordered USCIS to disseminate the Notices in both English and Spanish to over 6,600 eligible immigrant youth across New York State – over twice as many eligible individuals as initially estimated – after the Court ruled that USCIS unlawfully denied SIJS to immigrant youth between the ages of 18-21. The government had until July 30, 2019 to appeal the ruling but declined to do so. As a result, the ruling is final.

SIJS Lawsuit Background

Since 2008, SIJS has served as a legal pathway for vulnerable minors under the age of 21, who have been abused, abandoned, or neglected by one or both parents, to obtain lawful permanent residency and a pathway to citizenship. However, under the Trump Administration’s unlawful policy change, individuals who were over 18, but not yet 21, no longer were granted SIJS, despite there being no change in the federal law or regulations related to SIJS. This was a sharp departure from a decade of consistent policy, where SIJS applications filed by young immigrants between 18 to up to 21 years of age who were placed under guardianship by New York Family Courts were consistently, and properly, granted.

For a young person in New York to apply for SIJS, a New York Family Court must first determine that the applicant was abused, abandoned, neglected or subjected to similar maltreatment under New York State law, that the applicant cannot reunite with one or both parents, and that it’s not in the applicant’s best interest to be returned to the applicant’s country of birth or that of their parent. The court must also declare that the applicant is dependent on the court or must place the youth in the custody of a caretaker. This order is then submitted to USCIS as part of the SIJS application.

Without any prior announcement, USCIS narrowed its interpretation of the law starting in 2017, ultimately documenting its new policy in February 2018, as first [reported](#) in *The New York Times*. The policy change provided that in cases where applicants were 18 or over they no longer qualified, incorrectly reasoning that the state court’s authority ended at 18. This new policy had the practical effect of depriving thousands of immigrant youth of the opportunity to regularize their immigration status, and caused tremendous uncertainty, anxiety and other harm to children who have, by definition, already suffered emotional trauma. As the US District Court for the Southern District of New York recognized, the agency’s new position had no basis in law.

The lawsuit, filed as a class action by five young adults who applied for but were denied SIJS by the U.S. Citizenship and Immigration Services’ (USCIS), challenged USCIS’s new position. Plaintiffs

successfully argued that the agency's new policy violates the federal Administrative Procedures Act (APA) because it contradicted the federal statute that created SIJS and misinterpreted New York law. On July 30, 2019, the government's deadline to appeal the ruling expired, marking the Court's decision final.

Who is Eligible?

Eligible *R.F.M* class members include all individuals, ages 18-21 years, who filed for SIJS after January 1, 2016 based on a New York Family Court Special Findings Order making the findings necessary to apply for SIJS. The class includes all individuals who meet the above requirements, regardless of the status of their application (e.g., denied, revoked, issued a "notice of intent to revoke" issued a "notice of intent to deny," issued an "request for evidence," case on appeal, or pending).

Additionally, unrepresented *R.F.M* class members who no longer have pending SIJS petitions before USCIS, can attend upcoming Class Counsel I-290B clinics for no-fee legal assistance to reopen their case. The USCIS I-290B Form must be submitted to identify individuals as part of the class within two years. If a class member's SIJS application remains pending before USCIS, no further action is required.

Immigrant youth who are *R.F.M.* class members and do not have legal representation should email NYSIJSClassCounsel@lw.com and RFM@legal-aid.org or call 212-418-7626. To learn more, visit <https://www.legalaidnyc.org/sijs-update>.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>

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