

## **“A Stunning Conflict of Interest”**

### **Why DOJ Cannot Fulfill the *Ms. L.* Settlement Agreement Without Independent Legal Service Providers**

The public alarm over family separations made headline news during the first Trump administration, but as recent reports have noted, “[this time, the world isn’t watching.](#)” The families that were separated are still at risk, some have never been reunited, and other families are still being separated today. The concerns about government accountability and the legacy values of US immigration policy (especially the value of family reunification) that catalyzed public opinion around family separations are just as [urgent](#) now as they have ever been.

### **What are the *Ms. L.* Settlement Agreement and the LASRF Program?**

The *Ms. L.* Settlement Agreement is the result of a lawsuit brought by the ACLU after the Trump Administration’s “Zero Tolerance” policy at the southern border separated children from their parents and legal guardians. The Settlement Agreement established a number of benefits for families that were separated during the first Trump Administration, and established policies to govern any future family separation at the border. Under the Settlement Agreement, the government is required to provide a number of social services to *Ms. L.* class members, as well as legal support services to all unrepresented *Ms. L.* class members and their qualifying additional family members. Legal services required by the Settlement Agreement include legal advice; assistance with parole, employment authorization, and other immigration applications or motions; placement with pro bono attorneys; and mentoring of pro bono attorneys.

The Legal Access Services for Reunified Families (LASRF) program was created to fulfill these requirements. Qualifying individuals and families who register via [Together.gov](#) are added to the list of participants eligible for services through the LASRF program.

From May 2024 through April 2025, Acacia managed the legal services<sup>1</sup> required by the Settlement Agreement with a network of subcontracted independent legal service providers that facilitated the Program in communities around the US. During this time, the LASRF Program served nearly 1200 class members and their qualifying additional family members and provided them with almost 1800 individual consultations, including initial and follow up consultations.

### **Does DOJ's plan to run the program in-house comply with the *Ms. L.* Settlement Agreement?**

On April 11, 2025, the Department of Justice (DOJ) [notified Acacia](#) that they would not be renewing the contract to run the LASRF program. Instead, DOJ has stated that it

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<sup>1</sup> See Settlement Agreement Section IV.B.2.c.i. Section IV.B.2.c.i.

will run the program in-house. However, the government's plan violates the Settlement Agreement and leaves class members without critical and legally required services. In addition, DOJ's proposal to provide legal services to the same families it seeks to deport is a stunning conflict of interest.

DOJ, through the Executive Office of Immigration Review (EOIR), plans to operate the program [through DOJ staff](#) providing group services to class members and qualified family members, and placing cases with pro bono counsel. This plan fails to comply with the Settlement Agreement in key ways, effectively eliminating the legal lifeline upon which class members and their qualifying additional family members depend:

- Rather than provide all unrepresented class members and qualifying additional family members the individualized orientations, consultations, and legal advice required by the Settlement Agreement, DOJ is limiting its services to [group orientations, group workshops, and referrals to pro bono counsel](#).
- EOIR services will not include legal advice, since EOIR cannot ethically provide the legal advice required by the Settlement Agreement. Moreover, due to confidentiality requirements, information specific to an individual's immigration case cannot be shared during a group session. As such, the generalized group orientations will offer little more than generic legal information, and case-specific issues will not be addressed.
- DOJ's claim that it will fulfill the Settlement Agreement through [pro bono referrals](#) fails to meet the terms of the agreement; leaving class members without access to required services. EOIR has indicated that it will rely on placing cases with pro bono attorneys who may not receive mentorship in immigration law. This plan of replacing seasoned immigration law attorneys with volunteers is not equivalent to providing services required under the Settlement Agreement. Moreover, DOJ will be unable to place more than a fraction of class members and their qualified additional family members with pro bono attorneys.
- DOJ's plan eliminates the nine regional office locations where individuals could receive in-person services from a LASRF program attorney or legal staff member. EOIR has indicated that its "[group] sessions will be offered in person on a rotating basis in at least eight regional locations based on interest and location availability" (see [Supplemental Declaration of Stephanie E. Gorman](#), emphasis added). Periodic service availability is not a substitute for ongoing support. Further, in-person services cannot be limited to group sessions only under the Settlement Agreement.
- The self-help materials EOIR has made available are not a sufficient replacement for independent and individualized legal services. These self-help options do not fulfill the requirements of the Settlement Agreement, which require that class members and their qualifying additional family members receive case-specific legal advice as well as individualized assistance with the preparation of forms and case filings. In addition, self-help materials require that people be able to access them in a language they

understand, with an appropriate level of literacy, and on an array of topics not currently available from EOIR.

### **What are some ethical considerations of the DOJ attempt to run this program in-house?**

DOJ's plan to provide services directly to *Ms. L.* class members does not pass ethical muster.

- The federal government, whose separation policies set the stage for the *Ms. L.* Settlement Agreement, is also the adjudicator for the immigration cases that participants must navigate, which are made more complicated by the trauma and separation they experienced. To receive services, class members must now return to the same government that tore their families apart and rely on them to provide the information those families need to remain reunified and in the United States. Many class members will be too afraid to accept services directly from the government or to share relevant information with the entity that harmed them, to the detriment of their due process and legal rights.
- DOJ is currently providing misleading information by posting and handing out a [DHS flyer](#) titled "Message to Illegal Aliens: A Warning to Self-Deport." As stated by the [American Immigration Lawyers Association](#), the flyers "contain legally inaccurate language, violate the ethical duties of immigration judges, and jeopardize the integrity of removal proceedings and immigration courts" by "mischaracterize[ing] the law, fail[ing] to account for individualized procedural postures, and pressur[ing] respondents to abandon valid claims for relief." The lack of judgment and ethics demonstrated by DOJ in posting this misleading information shows why independent legal services are needed and, until now, have been provided under the Settlement Agreement. In addition, the flyers call into question the court's ability to adjudicate cases fairly.
- As a neutral arbiter, the court cannot ethically provide legal advice. Legal advice should only come from an independent party focused on the individual's expressed interests (see e.g., [ABA Model Rules](#) of Professional Conduct,<sup>2</sup> [State Bar Associations](#)<sup>3</sup>). Under EOIR's own practice manual, EOIR staff are prohibited from providing legal advice ([Immigration Court Practice Manual, Ch. 1.6\(c\)\(2\)](#), "Court Administrators and other staff members are prohibited from providing any legal advice."). Recognizing this prohibition, DOJ has stated that it intends on using volunteer pro bono attorneys to provide legal advice and individual services to thousands of class members and their qualifying additional family members. DOJ's plan to have pro bono attorneys provide legal advice is untenable, given the large number of people in need of legal advice,

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<sup>2</sup> The *ABA Model Rules of Professional Conduct* serve as models for the ethics rules of most jurisdictions. See ABA, [About the Model Rules](#).

<sup>3</sup> In every state, however, there is at least one entity that exists to streamline and support the legal profession and to engage with the public to assure confidence in and accountability for attorneys.

as discussed below, and the limited number of attorneys willing and able to work for free on immigration matters.

### **Does DOJ even have the capacity to run the LASRF program internally?**

EOIR, the DOJ agency that runs the immigration court system, has never been adequately staffed to manage the growing court backlog, and things have gotten worse over the past few months. [Almost 50 Immigration judges have either resigned or been fired](#) since January 2025, and there have been additional cuts to key administrative positions. DOJ states that it can comply with the Settlement Agreement by providing LASRF services directly themselves and through pro bono attorneys, but the data shows that they cannot handle their existing work of adjudicating immigration proceedings. It is not credible that EOIR has the capacity to take on the additional services required under the *Ms. L* Settlement Agreement, unless at the cost of increasing the crushing case backlog.

For context, when Acacia managed the LASRF program on behalf of EOIR, the LASRF network had 20 full-time equivalent staff members managing and providing services across the nine regional legal services offices and one additional national provider who exclusively placed and mentored pro bono cases. In contrast, EOIR plans to only assign two staff members supported by 10 part-time staff members to manage the Program.

- Even with 20 full-time dedicated staff members, the demand for LASRF program services outweighed the available capacity to conduct the required services. Further, only about 20 percent of identified class members have received any outreach to date, and only 13 percent have received at least one service as required by the Settlement Agreement (see summary at end of this document). EOIR's stated level of staffing does not come close to the level needed to provide the required services. Even if EOIR is working with pro bono volunteers, there is no guarantee they can recruit sufficient pro bono attorney staff to meet the full-time demands this Program requires.
- Compounding EOIR's lack of capacity to provide services required under the Settlement Agreement, EOIR has stated in separate litigation that it will also staff the Legal Orientation Program, Immigration Court Helpdesk, and Legal Orientation Program for Custodians of Unaccompanied Children in house, with a "team of EOIR employees including the Immigration Judge corps" for those programs.<sup>4</sup> These three legal services programs were provided with upwards of 280 full-time equivalent staff members at the time they were terminated by DOJ in April 2025. EOIR would need to task or hire dozens of additional staff and judges to fulfill the commitments it has made in court filings.

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<sup>4</sup> Owen declaration p.3, which continues to state that EOIR will be able to spend down FY 2024 and FY2025 appropriations through federalizing these programs]

## **Why can't the government use pro bono attorneys to provide the services?**

Simply put, there are not enough pro bono attorneys with the experience to provide the services required by the Settlement, and DOJ will be unable to fulfill the requirements of the Settlement Agreement through pro bono placements. EOIR's plan to utilize pro bono attorneys for legal advice is, on its face, a violation of the Settlement Agreement. EOIR will not be able to place all unrepresented class members and qualified additional family members with pro bono counsel and therefore cannot provide them with the required legal advice or other individualized services.

The number of class members in need of services is much higher than the national capacity of pro bono providers, as upwards of seven thousand individuals remain in need of services (see graphic at the end of this document).

- DOJ reached out to more than 52,000 attorneys to solicit pro bono volunteers, and they only received approximately [70](#) responses -- far fewer than the thousands of cases that must be placed. As of May 23, they had not secured pro bono counsel for a single class member. This is consistent with the decreased interest of volunteer attorneys in taking on pro bono immigration cases: [law firms are seeing a chilling effect](#) in willingness to take on any pro bono immigration case work due to fear of retaliation from the Trump administration.

The Settlement Agreement requires mentorship when a case is placed with a pro bono attorney (see [Settlement Agreement Section IV.B.2.c.ii.\(a\)](#)). To the extent private attorneys are available, there is still a need for mentors to support them. Pro bono attorneys will not take on a case without clear parameters and ongoing mentorship and support.

In addition, nonprofit legal service providers have been experiencing drastic cuts in their funding from the federal government and simply do not have the funding, and therefore capacity, to provide the varied and highly nuanced services many of the class members require.

## **Why is it important to get funding back to independent legal service providers as soon as possible?**

Services to LASRF program participants via the Acacia contract ended on April 30, 2025. Many participants had appointments for services scheduled after that date that were cancelled when the government confirmed they would not renew the contract on April 11. Many participants have upcoming legal deadlines: for example, almost 300 participants had parole deadlines<sup>5</sup> in May and have not received any parole application assistance. Losing active parole status creates the risk that class

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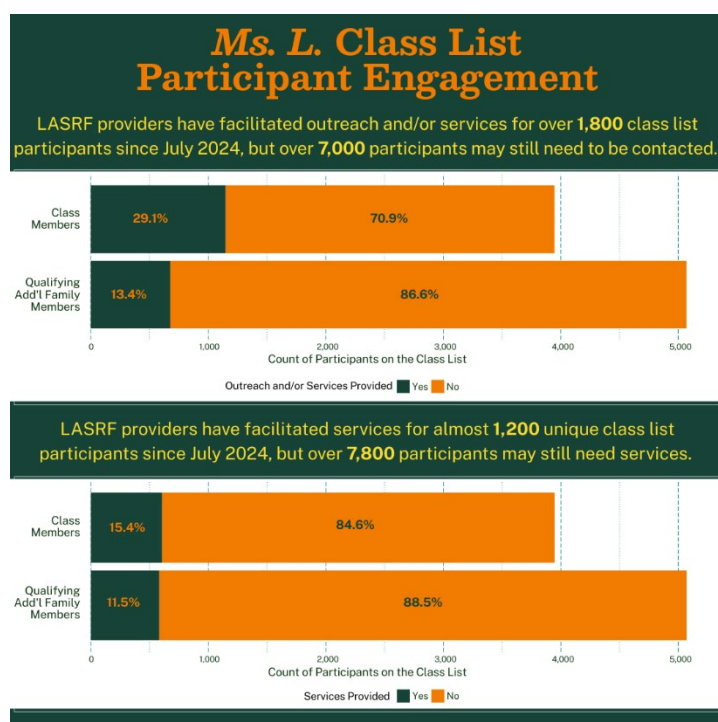
<sup>5</sup> See [Settlement Agreement](#) Section IV.C.1, "If the parole request is approved, USCIS will issue a travel document authorizing parole for a period of 36 months from the date the individual is paroled at the port of entry (for individuals outside the United States) or a Form I-94, Arrival/Departure Record valid for 36 months from the date parole is approved (for requests for parole in place)."

members may be detained and deported, which results in re-separation and further traumatization by the government.

### The Service Needs of *Ms. L.* Class Members.

Even with an experienced and sufficiently staffed legal services network, considerable effort was required to reach *Ms. L.* class members. The graph on the next page shows the proportions of the total *Ms. L.* class list (to which Acacia had access) who have been served or received outreach during the first year of the program (July 2024 through April 2025).

- Over 9,000 individuals are listed on the most recent list of individuals eligible for services under the Settlement agreement from EOIR to Acacia (last updated in February 2025). From that list, Acacia's network of providers has conducted outreach to over 1,800 participants (around 20% of the full class list).



- Only around 1,200 participants (around 13%) have received at least one service required by the Settlement Agreement. Over 400 participants have parole expiring in May 2025 alone, and almost 300 of them have not yet received any parole assistance.

Considering the challenges noted above, should EOIR maintain the in-house operations of the LASRF program through the end of the Settlement Agreement effective date, it is likely that most class members and their qualifying additional family members will remain unserved: this outcome would violate the Settlement Agreement requirements.