

## Welcome

This template is intended as a practice resource for immigration attorneys representing clients seeking to request a joint motion to reopen and dismiss under the *Calderon* Settlement Agreement. Use of this template is not mandatory, and it should not be treated as a substitute for independent legal analysis.

Practitioners should independently review Section II of the Settlement Agreement, available at <https://www.aclum.org/calderon-settlement/>. The Settlement Agreement is controlling; this template is provided for reference and guidance only.

### Notice Regarding Use of This Template:

This template is illustrative and does not suggest that every item included is required in every case. Submissions should be tailored to the client's individual circumstances, consistent with the practitioner's professional judgment.

#### Settlement Agreement Requirements:

- Identify the client as a *Calderon* class member.
- Demonstrate your client's prima facie eligibility for adjustment of status or consular processing with a Form I-601A.
  - Please note that if your client would be prima facie eligible to adjust status in the U.S. only with a 212(h) or 212(i) waiver of inadmissibility, you will need to also provide the waiver application with supporting documents.
- Include your client's I-130 application, even if already approved.
- Include the I-601A or I-485 application that your client intends to file, including supporting documentation. In the case of the I-601A, if the application has been filed, and even if it has been approved, submit a copy of the application and supporting materials.
  - Please note no filing fees for these forms are required with your JMTR packet to OPLA. This documentation is for OPLA to review before deciding if they will join your motion, not a filing with USCIS or EOIR. Trying to pay the I-485 filing fee may result in the appearance of having an I-485 pending with USCIS, which could lead OPLA to believe your client is not a class member.
- Include proof of residency or detention in MA, ME, CT, NH, RI, or VT.
- Include a declaration from the noncitizen class member attesting to an intention to depart the U.S. to consular process after the Form I-601A is approved by USCIS, or an intention to apply for adjustment of status with USCIS.

#### Additional Considerations That You May Wish to Address in Your Cover Letter:

- Any **criminal history**, as necessary to demonstrate that it does not disqualify your client and/or that your client does not pose a threat to public safety.
- Any **prior fraud**, as necessary to demonstrate that it does not disqualify your client from adjustment of status or consular processing with Form I-601A and/or that the client has not engaged in "serious immigration benefit fraud" or is a "repeat immigration violator."
- Any **other potential grounds of ineligibility or case-specific factors** relevant to the request for joint reopening.

# SAMPLE COVER LETTER

[Date]

[ICE OPLA field location with jurisdiction over the class member's removal order]

By email to [Calderon-JTMR-Requests@ice.dhs.gov](mailto:Calderon-JTMR-Requests@ice.dhs.gov)

Re: [Client], [A#: XXX-XXX-XXX]

**REQUEST FOR ICE OPLA TO JOIN IN A MOTION TO REOPEN AND DISMISS  
REMOVAL PROCEEDINGS PURSUANT TO *CALDERON JIMENEZ ET AL. V.  
NOEM ET AL.***

Dear ICE OPLA:

I represent [Client] [A#: XXX-XXX-XXX], a class member in *Calderon Jimenez et al. v. Noem et al.* Under the Settlement Agreement in that case, we respectfully request that ICE OPLA join [Client]'s Motion to Reopen and Dismiss their removal proceedings.

[Client] is a *Calderon* class member because:

- They are the spouse of a U.S. citizen;
- They are subject to a final order of removal and have not departed the U.S. under that order;
- Their U.S. citizen spouse has filed an I-130 Petition for Alien Relative with USCIS, and the application [is pending / has been approved];
- They [reside in OR are detained in [Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, or Maine]]
- They are 17 years old or older and do not have a pending application with USCIS for lawful permanent resident status.

The *Calderon* Settlement Agreement entitles [Client] to have OPLA join a motion to reopen and dismiss their removal proceedings because:

1. They are *prima facie* eligible for [consular processing utilizing the Form I-601A OR adjustment of status];
2. They are not a threat to public safety or national security; have not engaged in serious immigration benefit fraud and are not a repeat immigration violator.

The information and documents required by Section II(B) of the Settlement are enclosed.

## **I. Background and eligibility under the *Calderon* Settlement Agreement.**

On January 16, 2025, the U.S. District Court for the District of Massachusetts approved a class wide settlement agreement in *Calderon Jimenez et al. v. Noem et al.*, Case No. 18-10225-MLW. The settlement defines a class member as: “any U.S. citizen and his or her noncitizen spouse who (1) has a final order of removal and has not departed the United States under that order, (2) is the beneficiary of a pending or approved I 130, Petition for Alien Relative filed by the U.S. citizen spouse, (3) is not ineligible for a provisional waiver under 8 C.F.R. § 212.7(e)(4)(i) or (vi), and

and (4) resides or is detained within the jurisdiction of Boston ICE ERO (comprising Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, and Maine).”

Under the settlement terms, “ICE OPLA attorneys who receive requests to join motions to reopen and dismiss will review each request on a case-by-case basis and will presumptively join motions to reopen and dismiss filed by Noncitizen Class Members who comply with the requirements in Section II(B) and demonstrate they are prima facie eligible for either (a) consular processing utilizing the Form I 601A, or (b) adjustment of status. ICE OPLA attorneys may decline to join a motion to reopen for a Noncitizen Class Member who has met the requirements of this paragraph and II(B) if ICE determines, in its sole discretion based on an assessment of the totality of the facts and circumstances, that an individual (1) is a threat to public safety, typically because of 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.”

**II. [Client] is a Calderon class member and is entitled to joinder of their motion to reopen and dismiss under Section II of the Settlement Agreement.**

[Client] qualifies as a class member under these standards, has satisfied all necessary procedural steps through the submission of this packet, and poses no public safety, national security, or fraud related concerns that would allow denial of this request.

[Client] entered the United States on [Date], [include information regarding arrival (i.e. visa, without inspection, etc.)]. [if applicable Exhibit # Documentation of Initial Entry]

[Client] has a final order of removal from the Immigration Court in [Location], from [Date]. [Exhibit # Proof of Final Order of Removal]. [Client] has not departed the United States under that order.

On [Date], [background information regarding marriage, including: date of marriage, name of spouse, spouse’s citizenship]. [Exhibit # Marriage License; Exhibit # Spouse’s Identification]

[Client] currently resides in [Location] with [their spouse, [Spouses Name]] [and their children]. [Exhibit # Proof of Residence]

[Client]’s spouse, [Client’s Spouse], filed a Form I-130 (Petition for Alien Relative) on [Client]’s behalf on [Date]. [Exhibit # I-130 Application]. The application [is pending OR was approved] as of [Date] [Exhibit # I-130 Receipt Notice OR Approval Notice]

**I-130:** Include BOTH the application AND notice of receipt OR approval.

[Client] has [no criminal record OR an explanation of Client’s criminal record]. [If applicable: Address any criminal history in detail, including dates, dispositions, and outcome, and explain why it does not disqualify the client under the *Calderon* Settlement and why the client does not pose a threat to public safety. Include rehabilitation, age of convictions, and equities as relevant.] [if applicable Exhibit # Criminal Background Checks]

**Criminal Background Check:** Clients with criminal history likely should provide a State and/or Federal criminal background check. If a client has no criminal history, submission of a background check is optional, unless required by the local rules.

[Client] has [no history of immigration fraud OR an explanation of any prior misrepresentation, entry without inspection, or other immigration violations]. [If applicable: Address any prior fraud or misrepresentation, explaining why it does not constitute “serious immigration benefit fraud,” why the client is not a repeat immigration violator, and why it does not disqualify the client from eligibility for adjustment of status or consular processing with a Form I-601A. Include mitigating facts and legal eligibility as relevant.]

[If applicable: Address any other potential grounds of ineligibility or case-specific factors relevant to the request for joint reopening, including but not limited to prior removal orders, prior voluntary departure, unlawful presence, or procedural irregularities. Explain why these factors do not bar relief or weigh against joint reopening under the *Calderon* Settlement Agreement.]

**I-601A/I-485:** You should complete the applicable form and gather all required supporting documents. Attach the full application as an exhibit. If the client has already filed an I-601A, attach the completed application and all supporting materials that were submitted.

[Client] has completed a [Form I-601A OR Form I-485], meeting all requirements therein, and intends to pursue lawful residency through [consular processing OR status adjustment]. [Exhibit # Form I-601A or Form I-485, Client Declaration].

### Conclusion

In accordance with the *Calderon* Settlement Agreement, ICE OPLA should therefore join in a motion to Reopen and Dismiss [Client]’s removal proceedings

Respectfully submitted,

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[Attorney Signature Block]

# SAMPLE EXHIBIT LIST

## EXHIBIT LIST

[Client], [A # XXX-XXX-XXX]

- Exhibit 1:** Form G-28, Notice of Entry of Appearance ..... [ # ]
- Exhibit 2:** Documentation in Support of the Joint Motion to Reopen request.....[ # - # ]
- A. Respondent’s Sworn Declaration ..... [ # ]
  - B. Respondent’s Certificate of Marriage ..... [ # ]
  - C. Evidence of Respondent Spouse U.S. Citizenship.....[ # ]
  - D. Form I-130 submitted by U.S. citizen spouse ..... [ # ]
  - E. Approval OR Receipt Notice for I-130 Petition ..... [ # ]
  - F. Evidence of Respondent’s Removal Order ..... [ # ]
  - G. Proof of Respondent’s Current Address.....[ # ]
  - H. Respondent’s [State and/or Federal] Criminal Background Check.....[ # ]
  - I. [I-485 Application for Adjustment of Status or Form 1-601A] with supporting documentation..... [ # ]
- Exhibit 3:** Proposed Form EOIR-27 or EOIR-28, Notice of Entry of Appearance.....[ # ]
- Exhibit 4:** Proposed Form EOIR-33, Change of Address.....[ # ]
- Exhibit 5:** Proposed Joint Motion to Reopen and Dismiss..... [ # ]

This exhibit list is provided as an example **only**. Attorneys should be sure to both meet the requirements of Part II of the settlement and think strategically about additional documents that may be helpful in each individual client’s case.

**At a minimum you MUST provide:** I-130, I-601A/I-485, Proof of Residence, Client Declaration, and ensure that you demonstrate prima facie eligibility for consular processing with an I-601A or for adjustment of status.

**Sample Declaration** provided below

**Evidence of Citizenship can include, but is not limited to:** Passport, Birth Certificate, Certificate of Naturalization

**Background Check:** If your client has criminal history please provide a state and/or federal criminal background check. Otherwise, inclusion is optional, unless the rules of the local ICE OPLA office with jurisdiction say otherwise.

**I-601A/I-485:** Provide entire application you plan to submit, with supporting documentation. If I-601A has already been submitted, provide the submitted application and supporting documentation.

**Proposed Order:** Only include if your client’s final order of removal is with an IJ. If their final order of removal was before the BIA you do not need to include a proposed order.

# SAMPLE DECLARATION

## Declaration of [Client] [A# XXX-XXX-XXX]

1. My name is [Client].
2. I am submitting this declaration in connection with my request that OPLA join a motion to reopen and dismiss my removal proceedings under the Settlement Agreement in *Calderon Jimenez et al. v. Noem et al.*, No. 1:18-cv-10225-PBS (D. Mass).
3. I am a *Calderon* class member because I have a final order of removal dated [Date] and have not departed the United States under that order; I am married to a U.S. citizen who filed an I-130, Petition for Alien Relative, on my behalf; I [live OR am detained] in [Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, Maine]; I am age 17 or older; and I do not have a pending application with USCIS for lawful permanent resident status.
4. If my removal proceedings are reopened and dismissed, I intend to [depart the United States to consular process after my form I-601A is approved by USCIS OR apply for adjustment of status with USCIS].

**Practical Note:** Under the terms of the Settlement Agreement, ICE OPLA is *presumptively* required to join your client's motion. Accordingly, class members' declarations should generally be limited to the information required to establish eligibility, as reflected in the sample language provided. If there is criminal history or prior fraud, however, you may consider having the client address it in their declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on [Date].

[Client signature]  
[Client]

## **SAMPLE PROPOSED ORDER JMTR, PROOF OF SERVICE, AND ORDER FOR IMMIGRATION COURT (1-3)**

Please note that class counsel is informed that it has been common practice for OPLA around the country to use its own JMTR language and sign and provide that version to counsel. However, it still seems to be good practice to provide your own proposed JMTR/Dismiss.

# 1. SAMPLE PROPOSED JMTR

[Attorney Info]

[DETAINED]

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
[LOCATION, E.G. BOSTON, MASSACHUSETTS]

In the Matter of  
[Client]  
In removal proceedings

File No.: [A# XXX-XXX-XXX]

Immigration Judge [Name]

Next Hearing: None

[PROPOSED]  
JOINT MOTION TO REOPEN AND DISMISS  
REMOVAL PROCEEDINGS  
PURSUANT TO *CALDERON JIMENEZ ET AL. V. NOEM ET AL.*

ICE OPLA and Respondent [Client] jointly move this Court to reopen and dismiss removal proceedings in this matter, as the respondent is a member of the class certified in *Calderon Jimenez et al. v. Noem et al.*, D. Mass. No. 1:18-cv-10225-MLW. The agreed-upon facts are as follows:

1. Respondent meets the definition of a class member under the *Calderon Jimenez et al. v. Noem et al.* Settlement Agreement. Respondent is married to a U.S. citizen; has a final order of removal and has not departed the United States under that order; is the beneficiary of a pending or approved Form I-130 filed by their spouse; [lives/is detained in Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, or Maine]; is age 17 or older; and does not have a pending application with USCIS for lawful permanent resident status.
2. Further, Respondent satisfies the discretionary criteria for joint reopening under the Settlement Agreement. Specifically, Respondent is prima facie eligible to pursue lawful permanent residence through [consular processing utilizing a provisional Form I-601A waiver or adjustment of status]; does not present a threat to public safety or national security; and has not engaged in serious immigration benefit fraud nor are they a repeat immigration violator.

3. As this is an agreed-upon, jointly filed motion, the time and numerical limitations on reopening do not apply. 8 C.F.R. § 1003.23(b)(4)(iv) (IJ); 8 C.F.R. § 1003.2(c)(3)(iii) (BIA).
4. Termination of proceedings is also warranted, for the reasons above. As this is a joint motion, termination is mandatory, unless the Court “articulates unusual, clearly identified, and supported reasons for denying the motion.” 8 C.F.R. § 1003.18(d)(1)(i)(G) (IJ); 8 C.F.R. § 1001.3(m)(1)(g) (BIA).
5. In the alternative, the DHS requests dismissal of proceedings under 8 C.F.R. § 239.2(a)(7) & (c), as “circumstances of the case have changed... to such an extent that continuation is no longer in the best interest of the government.”

### CONCLUSION

For the reasons above, the Department of Homeland Security and Respondent [Client] respectfully request that this Court REOPEN and TERMINATE removal proceedings in this matter.

Date: [Date]

Respectfully submitted,

[Client],

By and through counsel,

[Counsel for Client Signature Block]

[ICE OPLA SIGNATURE BLOCK]

## 2. SAMPLE CERTIFICATE OF SERVICE

[Client]

[Client A#XXX-XXX-XXX]

### CERTIFICATE OF SERVICE

On [Date], I [Client], filed a copy of this Joint Motion to Reopen Dismiss and any attached pages to [ICE OPLA [location]] at the following address: [address of party served], by [method of service].

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Signature

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Date

# SAMPLE ORDER

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT

[LOCATION, E.G. BOSTON, MASSACHUSETTS]

In the Matter of: [Client]

File No.: [A# XXX-XXX-XXX]

## ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the parties' Joint Motion to Reopen and Dismiss Removal Proceedings Pursuant to *Calderon Jimenez et al. v. Noem et al.*, it is HEREBY ORDERED that the motion be  **GRANTED**  **DENIED** because:

- DHS does not oppose the motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per:
- Other:

Deadlines:

- The application(s) for relief must be filed by: \_\_\_\_\_
- The respondent must comply with DHS biometrics instructions by:

[Date]

The Honorable [JUDGE NAME]  
Immigration Judge

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### Certificate of Service

This document was served by: [ ] Mail [ ] Personal Service  
To: [ ] Alien [ ] Alien c/o Custodial Officer [ ] Alien's Atty/Rep [ ] DHS

Date:

By: Court Staff

This proposed order should only be included if your client's final order of removal was issued by an IJ. If your client's final order of removal was issued by the BIA you do not need to include a proposed order.

Please note that, if the JMTR is granted, the Court may choose to issue its **own order**.

Nevertheless, you may wish to the proposed order here to assist the Court in efficiently resolving the motion.