

**TEMPLATE NOTICES OF CLASS MEMBERSHIP
UNDER THE *MENDEZ ROJAS* SETTLEMENT AGREEMENT TO
THE BOARD OF IMMIGRATION APPEALS**

These template notices are not a substitute for independent legal advice supplied by a lawyer familiar with your case.

Only use one of these template notices if:

- You are a member of one of the classes in *Mendez Rojas v. Wolf* (see below);
- You either were or are currently are in removal proceedings before the Board of Immigration Appeals (BIA); and
- You received a Form I-862 Notice to Appear (NTA) or were in removal proceedings (including having a pending BIA appeal) on or after June 30, 2016.

If your case is pending before an immigration court or your asylum application is pending with U.S. Citizenship and Immigration Services (USCIS), you should use the template notices for cases before those agencies.

If your case is administratively closed, you should also use a **template motion to recalendar**. If you have already been ordered removed (deported) and your case is not still on appeal to the BIA, you may be able to reopen your case and should review the **template motions to reopen**.

Class Membership

Class A

- You are a member of Class A if:
 - You were detained by DHS *either* (i) when you came to the United States; *or* (ii) within fourteen days of entering the United States without permission;
 - You received a screening interview with an asylum officer (a credible fear interview) and DHS released you after the interview because the asylum officer found that you had a credible fear of persecution or torture;
 - The government did not notify you that your asylum application had to be filed within one year of your arrival to the United States; **and**
 - You are applying, or you applied, for asylum more than one year after the last time you arrived in the United States.
- Subclasses:
 - You are a member of Subclass A.I if you **are not** in removal proceedings.
 - You are a member of Subclass A.II if you **are** in removal proceedings.

Class B

- You are a member of Class B if:
 - You were detained by DHS *either* (i) when you came to the United States; *or* (ii) within fourteen days of entering the United States without permission;
 - You told an immigration officer you were afraid to return to your country of origin and then DHS released you from detention and gave you a Notice to Appear (NTA) before an immigration judge in removal proceedings (Form I-862);
 - The government did not notify you that your asylum application had to be filed within one year of your arrival to the United States; **and**

- You are applying, or you applied, for asylum more than one year after the last time you arrived in the United States.
- Subclasses:
 - You are a member of Subclass B.I if you **are not** in removal proceedings.
 - You are a member of Subclass B.II if you **are** in removal proceedings.

When preparing a notice of class membership, please note:

You only need to submit one notice. **Template notice #1** below is for *Mendez Rojas* Subclass A.II members, and **template notice #2** is for *Mendez Rojas* Subclass B.II members.

Be sure to complete the sections in **yellow** highlight with information specific to your case.

Your notice of class membership must be submitted **in writing** to the BIA.

If you have not submitted an asylum application already, you **must** submit one along with the notice of class membership.

- A notice of class membership is not a substitute for an asylum application.
- Instructions on filing a Form I-589, Application for Asylum and for Withholding of Removal, can be found at www.uscis.gov/i-589.

Deadline for filing:

You must file a notice of class membership with the BIA under the *Mendez Rojas* Settlement Agreement by **April 22, 2022**.

This means that the BIA must **receive** the notice on or before **April 22, 2022**.

It is strongly recommended that you mail the notice by overnight, certified, or priority mail so you have proof of delivery on or before the deadline.

Where to File

You must send the notice of class membership and all supporting documents to:

Board of Immigration Appeals
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

You must also send **a copy** of the notice of class membership and all supporting documents to the U.S. Immigration and Customs Enforcement Office of Chief Counsel (also known as the Office of the Principal Legal Advisor). The addresses for these offices are available online at www.ice.gov/contact/legal. The documents should be sent to the Office of Chief Counsel whose area of responsibility includes the immigration court in which your case was most recently decided.

TEMPLATE NOTICE #1: SUBCLASS A.II

[Attorney & EOIR ID #]
[Address, Phone, Email]

[DETAINED/NON-DETAINED]

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

In the Matter of:) File No.: A[]
)
[RESPONDENT'S NAME],)
)
Respondent,)
)
In Removal Proceedings.)
_____)

**RESPONDENT'S NOTICE OF *MENDEZ ROJAS* CLASS MEMBERSHIP
(SUBCLASS A.II)**

RESPONDENT’S NOTICE OF MENDEZ ROJAS CLASS MEMBERSHIP

Pursuant to the Settlement Agreement in *Mendez Rojas v. Wolf*,¹ Respondent hereby notifies the Board of Immigration Appeals that **he/she** is a member of a class certified in *Mendez Rojas* and that, therefore, this Board must deem **his/her** asylum application to have been timely filed. *See* Exhibit A (*Mendez Rojas* Settlement Agreement).

Respondent in this case is a member of *Mendez Rojas* Subclass A.II, because:

1. Respondent is in removal proceedings.
2. **[Either:** Respondent was encountered by the Department of Homeland Security (DHS) upon arrival. **OR** Respondent was encountered by the Department of Homeland Security (DHS) within fourteen days of unlawful entry.]
3. Respondent was released from DHS custody, after **he/she** was deemed to have a credible fear of persecution or torture.
4. Respondent did not receive individualized notice of the one-year filing deadline.
5. Respondent applied for asylum more than one year after **his/her** last arrival.

See Exhibit B (Respondent’s Declaration).

Pursuant to the *Mendez Rojas* Settlement Agreement, the Board must deem Respondent’s asylum application to have been timely filed because it was filed on or before **April 22, 2022**.

Respectfully submitted,

[Respondent’s or, if represented, Attorney’s Name]

Date

¹ The case was filed and decided by the district court under the name *Mendez Rojas v. Johnson*. *See* 305 F. Supp. 3d 1176 (W.D. Wash. 2018).

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

In the Matter of:)
)
)
 [RESPONDENT'S NAME],) File No.: A[]
)
 Respondent,)
)
 In Removal Proceedings.)
)
)

Exhibit List in Support of Respondent's Notice of Mendez Rojas Class Membership

- Exhibit A *Mendez Rojas v. Wolf* Settlement Agreement
- Exhibit B Respondent's Declaration

EXHIBIT B

DECLARATION OF [RESPONDENT'S NAME]

1. My name is [RESPONDENT'S NAME]. I am in removal proceedings.
2. [Either: I was encountered by the Department of Homeland Security (DHS) upon arrival.
OR I was encountered by the Department of Homeland Security (DHS) within fourteen days of having entered the United States without inspection.]
3. I was released from DHS custody, after DHS found that I have a credible fear of persecution or torture.
4. I did not receive individualized notice of the one-year filing deadline.
5. I applied for asylum more than one year after I last arrived in the country.

I declare that the following is true and correct. Executed at [CITY, STATE].

[RESPONDENT'S NAME]

Respondent

Date

File No.: A[]
[RESPONDENT'S NAME]

PROOF OF SERVICE

On [DATE], I, [NAME], served a copy of Respondent's Notice of *Mendez Rojas* Class Membership (Class A.II) by **first class mail** to the U.S. Immigration and Customs Enforcement Office of Chief Counsel, at the following address:

[ICE OCC Address]

[NAME]

Date

TEMPLATE NOTICE #2: SUBCLASS B.II

[Attorney & EOIR ID #]
[Address, Phone, Email]

[DETAINED/NOT DETAINED]

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

In the Matter of:)
)
 [RESPONDENT'S NAME],)
) File No.: A[]
 Respondent,)
)
 In Removal Proceedings.)
)

**RESPONDENT'S NOTICE OF *MENDEZ ROJAS* CLASS MEMBERSHIP
(SUBCLASS B.II)**

RESPONDENT’S NOTICE OF MENDEZ ROJAS CLASS MEMBERSHIP

Pursuant to the Settlement Agreement in *Mendez Rojas v. Wolf*,² Respondent hereby notifies the Board of Immigration Appeals that **he/she** is a member of a class in *Mendez Rojas* and that, therefore, the Board must deem **his/her** asylum application to have been timely filed. See Exhibit A (*Mendez Rojas* Settlement Agreement).

Respondent in this case is a member of *Mendez Rojas* Subclass B.II, because:

1. Respondent is in removal proceedings.
2. **[Either:** Respondent was encountered by the Department of Homeland Security (DHS). **OR** Respondent was encountered by the Department of Homeland Security (DHS) within fourteen days of unlawful entry.]
3. Respondent expressed a fear of return to **his/her** country of origin.
4. DHS released Respondent upon issuance of a Notice to Appear.
5. Respondent did not receive individualized notice of the one-year filing deadline.
6. Respondent applied for asylum more than one year after **his/her** last arrival.

Pursuant to the *Mendez Rojas* Settlement Agreement, the Board must deem the Respondent’s asylum application to have been timely filed because it was filed on or before **April 22, 2022.**

Respectfully submitted,

[Respondent’s or, if represented, Attorney’s Name]

Date

² The case was filed and decided by the district court under the name *Mendez Rojas v. Johnson*. See 305 F. Supp. 3d 1176 (W.D. Wash. 2018).

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

In the Matter of:)
)
)
[RESPONDENT'S NAME],) File No.: A[]
)
Respondent,)
)
)
In Removal Proceedings.)
)
)

Exhibit List in Support of Respondent's Notice of *Mendez Rojas* Class Membership

- Exhibit A *Mendez Rojas v. Wolf* Settlement Agreement
Exhibit B Respondent's Declaration

EXHIBIT B

DECLARATION OF [RESPONDENT'S NAME]

1. My name is [RESPONDENT'S NAME]. I am in removal proceedings.
2. [Either: I was encountered by the Department of Homeland Security (DHS) upon arrival.
OR I was encountered by the Department of Homeland Security (DHS) within fourteen days of having entered the United States without inspection.]
3. I expressed a fear of return to my country of origin.
4. I was released from DHS custody, after DHS issued a Notice to Appear placing me in removal proceedings.
4. I did not receive individualized notice of the one-year filing deadline.
5. I applied for asylum more than one year after I last arrived in the country.

I declare that the following is true and correct. Executed at [CITY, STATE].

[RESPONDENT'S NAME]
Respondent

Date

File No.: A[]
[RESPONDENT'S NAME]

PROOF OF SERVICE

On [DATE], I, [NAME], served a copy of Respondent's Notice of *Mendez Rojas* Class Membership (Class B.II) by **first class mail** to the U.S. Immigration and Customs Enforcement Office of Chief Counsel, at the following address:

[ICE OCC Address]

[NAME]

Date