

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

ABDISALAM WILWAL, SAGAL
ABDIGANI, individually and on behalf of
their children N.W., A.W., A.M., and
MOHAMED OSMAN,

Plaintiffs,

v.

CHAD A. WOLF, Acting Secretary of the
Department of Homeland Security, in his
official capacity, *et al.*,

Defendants.

Case No. 0:17-cv-02835
(DWF/DTS)

PETITION FOR APPROVAL OF MINOR SETTLEMENT

Abdisalam Wilwal and Sagal Abdigani (“Petitioners”), individually, and as
parents and natural guardians for minors [REDACTED], [REDACTED], and [REDACTED]
[REDACTED], petition the Court for approval of a minor settlement on behalf of their
minor children. In support of this request, Petitioners state as follows:

1. [REDACTED] is the minor child of Abdisalam Wilwal and Sagal
Abdigani. Her date of birth is [REDACTED] and she is presently 13 years old. She
resides with her parents in Eagan, Dakota County, Minnesota.

2. [REDACTED] is the minor child of Abdisalam Wilwal and Sagal
Abdigani. His date of birth is [REDACTED] and he is presently 11 years old. He
resides with his parents in Eagan, Dakota County, Minnesota.

3. [REDACTED] is the minor child of Abdisalam Wilwal and Sagal Abdigani. His date of birth is [REDACTED] and he is presently 10 years old. He resides with his parents in Eagan, Dakota County, Minnesota.

4. In 2017, Petitioners retained the American Civil Liberties Union Foundation, American Civil Liberties Union Foundation of Minnesota, and Robins Kaplan LLP to represent them and their minor children (collectively, “Plaintiffs”) in an action relating to an incident that occurred on March 30, 2015 at the border crossing in Portal, North Dakota.

5. Plaintiffs filed their original complaint in this Court on July 13, 2017, and filed an amended complaint on October 12, 2017. (ECF Nos. 1, 25.)

6. Following informal settlement discussions between the parties, and two formal settlement conferences before Magistrate Judge David Schultz, Defendants offered Plaintiffs a series of non-monetary terms, in addition to monetary relief totaling \$215,000.00, to settle this case. Plaintiffs carefully considered the settlement and decided it was in the best interests of the family, including the minor children, to accept the settlement offered by Defendants.

7. In advance of reaching a settlement, Petitioners, as well as their adult son, Mohamed Osman,¹ entered a written agreement in which they agreed that any monetary recovery obtained through a settlement with the Defendants would be divided equally among all six Plaintiffs, *i.e.*, Abdisalam Wilwal, Sagal Abdigani, their three minor

¹ Mr. Osman reached the age of majority during the pendency of this lawsuit.

children, and Mohamed Osman.

8. Plaintiffs and Defendants have finalized two agreements that encompass the settlement in this case: (a) a Settlement Agreement and Release of Constitutional and Administrative Procedure Act Claims; and (b) a Stipulation for Compromise Settlement and Release of Federal Tort Claims Act Claims Pursuant to 28 U.S.C. § 2677.

9. In entering these agreements, Defendants specifically deny any fault or liability to Plaintiffs.

10. Plaintiffs' attorneys provided legal services in this matter *pro bono*. To allow Plaintiffs to recover the largest settlement possible, all settlement funds, inclusive of attorneys' fees and costs, have been allocated to Plaintiffs as part of a global settlement agreement. Plaintiffs' counsel are not seeking any fees or costs associated with this matter separate from those that have been allocated to Plaintiffs.

11. Petitioners believe that the proposed settlement is in the best interest of the minor children and should be accepted subject to the approval of this Court, rather than impose upon the minors and their parents the emotional distress, burden, additional expenses, delay, and uncertainty of moving ahead with a trial.

WHEREFORE, Petitioners pray for an order of this Court as follows:

1. Approving Petitioners' acceptance of Defendants' settlement offer of \$215,000.00, in addition to non-monetary terms to which the parties have agreed as set forth in the Settlement Agreement and Release of Constitutional and Administrative Procedure Act Claims.
2. Approving distribution of the settlement funds as follows:

- a. To [REDACTED], the sum of \$35,833.00. Since [REDACTED] is a minor, said amount is to be invested in a Certificate of Deposit to be purchased through Wells Fargo Bank. The Certificate of Deposit and the safekeeping receipt and/or any other document evidencing its purchase shall show on their face the following legend: **NO TRANSACTIONS SHALL BE MADE WITHOUT COURT ORDER.** The Certificate of Deposit shall be maintained in the following format:

[REDACTED], a minor, by her parents and natural guardians, Abdisalam Wilwal and Sagal Abdigani. **Redemption by court order only until the minor reaches the age of majority.** United States District Court for the District of Minnesota, Case No. 17-cv-02835-DWF-DTS.

A copy of the Court's order is to be delivered to Wells Fargo Bank by Robins Kaplan LLP, along with the check and the request for the Certificate of Deposit. Evidence of purchase of the Certificate of Deposit is to be filed with the Court. Interest earned on the Certificate of Deposit will not be available to [REDACTED] or her parents until released by the Court to [REDACTED]. All interest statements, notifications and tax information shall go to [REDACTED] place of residence at 1540 Thomas Lake Pointe Road, Apartment 316, Eagan MN 55122, or as directed to be changed from time to time by [REDACTED] or her parents. Applications for release of funds, either before or upon the age of majority, may be made by petition to the Court.

b. To [REDACTED], the sum of \$35,833.00. Since [REDACTED] is a minor, said amount is to be invested in a Certificate of Deposit to be purchased through Wells Fargo Bank. The Certificate of Deposit and the safekeeping receipt and/or any other document evidencing its purchase shall show on their face the following legend: **NO TRANSACTIONS SHALL BE MADE WITHOUT COURT ORDER.** The Certificate of Deposit shall be maintained in the following format:

[REDACTED], a minor, by his parents and natural guardians, Abdisalam Wilwal and Sagal Abdigani. **Redemption by court order only until the minor reaches the age of majority.** United States District Court for the District of Minnesota, Case No. 17-cv-02835-DWF-DTS.

A copy of the Court's order is to be delivered to Wells Fargo Bank by Robins Kaplan LLP, along with the check and the request for the Certificate of Deposit. Evidence of purchase of the Certificate of Deposit is to be filed with the Court. Interest earned on the Certificate of Deposit will not be available to [REDACTED] or his parents until released by the Court to [REDACTED]. All interest statements, notifications and tax information shall go to [REDACTED] place of residence at 1540 Thomas Lake Pointe Road, Apartment 316, Eagan MN 55122, or as directed to be changed from time to time by [REDACTED] or his parents. Applications for release of funds, either before or upon the age of majority, may be made by petition to the Court.

c. To [REDACTED], the sum of \$35,833.00. Since [REDACTED] [REDACTED] is a minor, said amount is to be invested in a Certificate of Deposit to be purchased through Wells Fargo Bank. The Certificate of Deposit and the safekeeping receipt and/or any other document evidencing its purchase shall show on their face the following legend: **NO**

TRANSACTIONS SHALL BE MADE WITHOUT COURT ORDER.

The Certificate of Deposit shall be maintained in the following format:

[REDACTED], a minor, by his parents and natural guardians, Abdisalam Wilwal and Sagal Abdigani. **Redemption by court order only until the minor reaches the age of majority.** United States District Court for the District of Minnesota, Case No. 17-cv-02835-DWF-DTS.

A copy of the Court's order is to be delivered to Wells Fargo Bank by Robins Kaplan LLP, along with the check and the request for the Certificate of Deposit. Evidence of purchase of the Certificate of Deposit is to be filed with the Court. Interest earned on the Certificate of Deposit will not be available to [REDACTED] or his parents until released by the Court to [REDACTED]. All interest statements, notifications and tax information shall go to [REDACTED] place of residence at 1540 Thomas Lake Pointe Road, Apartment 316, Eagan MN 55122, or as directed to be changed from time to time by [REDACTED] or his parents. Applications for release of funds, either before or upon the age of majority, may be made by petition to the Court.

d. To Abdisalam Wilwal, Sagal Abdigani, and Mohamed Osman, the sum of \$35,833.00 each (totaling \$107,499.00).

3. Authorizing Petitioners to sign any documents necessary to effectuate the settlement and distribution of the recovered proceeds.

Dated: March 30, 2020 in Hennepin County

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Abdisalam Wilwal
Abdisalam Wilwal, as a parent and natural guardian of [REDACTED] and [REDACTED]

Sagal Abdigani
Sagal Abdigani, as a parent and natural guardian of [REDACTED] and [REDACTED]

LR 7.1 STATEMENT

The parties met and conferred regarding the foregoing petition, and Defendants raised no objection to the petition or the relief sought therein.

This document was prepared by: s/Hugh Handeyside

Hugh Handeyside (*pro hac vice*)
Hina Shamsi (*pro hac vice*)
Noor Zafar (*pro hac vice*)
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Tel: (212) 549-2500
Fax: (212) 549-2583
hhandeyside@aclu.org
hshamsi@aclu.org
nzafar@aclu.org

Teresa Nelson (No. 269736)
Ian Bratlie (No. 319454)
American Civil Liberties Union
Foundation of Minnesota
2300 Myrtle Avenue, Suite 180
Saint Paul, MN 55114
Tel: (651) 645-4097
Fax: (651) 647-5948
tnelson@aclu-mn.org
ibratlie@aclu-mn.org

Randall Tietjen (No. 214474)
Amira A. ElShareif (No. 0395348)
Robins Kaplan LLP
800 LaSalle Avenue Suite 2800
Minneapolis, MN 55402
Tel: (612) 349-8500
RTietjen@RobinsKaplan.com
AElShareif@RobinsKaplan.com

Counsel for Plaintiffs