The Honorable Tana Lin

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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| URIEL MENDOZA ARAIZA,<br><br>Petitioner,<br>v.<br><br>JULIO HERNANDEZ, Seattle Acting Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement, *et al.*, [1]<br><br>Respondents. | Case No. 2:25-cv-02139-TL<br><br>FEDERAL RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR ATTORNEY FEES AND COSTS |

Federal Respondents oppose Petitioner Uriel Mendoza Araiza's motion seeking $9,505.50 in attorney's fees and costs under the Equal Access to Justice Act ("EAJA"). Dkt. 14 (Petitioner's Motion for Attorney's Fees ("Motion")). Federal Respondents' position was substantially justified. The declaratory relief granted in *Rodriguez Vazquez v. Bostock*, 802 F. Supp. 3d 1297 (W.D. Wash. 2025) ("*Rodriguez Vazquez*") did not include injunctive relief. Both the statutory scheme enacted by Congress—which precludes class-wide injunctive relief in habeas proceedings—and the language of the *Rodriguez Vazquez* order itself required the filing of individual habeas petitions to

[1] Pursuant to Federal Rule of Civil Procedure 25(d), Federal Respondents substitute Julio Hernandez for Laura Hermosillo.



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obtain injunctive relief. Accordingly, Federal Respondents' position regarding the scope and implementation of *Rodriguez Vazquez* through individual habeas actions was lawful, reasonable, and fully justified. Moreover, Petitioner has not established entitlement to enhanced EAJA rates or identified any bad faith that would permit recovery of market-rate fees against the United States. Accordingly, Petitioner's Motion should be denied.

## I. BACKGROUND

Petitioner filed a habeas petition challenging his detention by U.S. Immigration and Customs Enforcement ("ICE"), relying on the declaratory judgment entered in *Rodriguez Vazquez*. *See* Dkt. 1; *Rodriguez Vazquez*, 802 F. Supp. 3d at 1303. The Court granted the habeas petition and ordered Federal Respondents to either release Petitioner or administer a bond hearing. Dkt. 12.

On March 9, 2026, Petitioner's counsel filed the present Motion seeking $9,505.50 in attorneys' fees and costs. Dkt. 14. Federal Respondents oppose the Motion because (1) their position was substantially justified, and (2) Petitioner seeks fees exceeding the statutory EAJA rate cap without demonstrating entitlement to any enhancement including cost-of-living or special-factor adjustments. Furthermore, Federal Respondents' arguments in the underlying action were not taken in bad faith.

## II. ARGUMENT

### A. Petitioner's Motion should be addressed entirely under EAJA

"Sovereign immunity bars an award of attorneys' fees against the United States unless a statute expressly authorizes such an award." *Anderson v. United States*, 127 F.3d 1190, 1191 (9th Cir. 1997). Federal Respondents acknowledge that EAJA is such a waiver of sovereign immunity.



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First, Petitioner seeks attorney fees under 28 U.S.C. § 2412(d)(2)(A). Under this provision, a party may recover attorney's fees if: (1) the party prevailed; (2) the government's position was not substantially justified; (3) the requested fees are reasonable; and (4) the application is timely and supported. 28 U.S.C. § 2412(d)(1); *see also United States v. Milner*, 583 F.3d 1174, 1196 (9th Cir. 2009). Federal Respondents do not dispute that Petitioner is a prevailing party or that the application is timely. As relevant to the Motion, the disputes between the parties turn on substantial justification and the permissible scope of any fee award.

Second, Petitioner purports to base his Motion on a "bad-faith" exception, citing *Roadway Exp., Inc. v. Piper*, 447 U.S. 752, 766 (1980). *Roadway* is inapposite because it concerned private parties and not a waiver of sovereign immunity. Nevertheless, Federal Respondents acknowledge 28 U.S.C. § 2412(b) "waives the government's sovereign immunity for the imposition of attorneys' fees to the same extent that any other party would be liable under the common law," which may include "the assessment of attorneys' fees against 'a party that has acted in bad faith.'"[2] *Lu v. United States*, 921 F.3d 850, 854, 859 (9th Cir. 2019) (internal quotations omitted); *accord Brown v. Sullivan*, 916 F.2d 492 (9th Cir. 1990) (recognizing a bad-faith exception under 28 U.S.C. § 2412(b)). Petitioner never mentions 28 U.S.C. § 2412(b) in his Motion; however, because this is the applicable waiver of sovereign immunity, the Court should analyze his arguments under the cases interpreting that statute.

With those distinctions in mind, we will now address each statutory provision in turn, beginning with 28 U.S.C. § 2412(d), and then 28 U.S.C. § 2412(b).

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[2] Section 2412(b) is separate from 28 U.S.C. § 2412(d)(2)(A). *See Lauritzen v. Lehman*, 736 F.2d 550, 552 (9th Cir. 1984).



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**B. Petitioner is not entitled to attorneys' fees under 28 U.S.C. § 2412(d)**

**1. Federal Respondents' position was substantially justified**

Fees are unavailable if the government demonstrates that its position was "substantially justified." 28 U.S.C. § 2412(d)(1)(A). Substantial justification means the position was "justified to a degree that could satisfy a reasonable person." *Pierce v. Underwood*, 487 U.S. 552, 565 (1988). The government need not show it was correct—only that its position had a reasonable basis in law and fact. "That formulation implicitly permits the government some leeway, so long as its conduct on the whole remained justified." *Ibrahim v. U.S. Dep't of Homeland Sec.*, 835 F.3d 1048, 1056 (9th Cir. 2016).

While Federal Respondents acknowledge that other courts in this district have recently found their position not substantially justified in similar matters, they respectfully disagree with that decision for the reasons stated herein. *M.M. v. Hermosillo,* No. 25-2074-TMC, 2026 WL 252076, at *2–3 (W.D. Wash. Jan. 30, 2026); *Garcia v. Wamsley*, No. 25-1980-TMC, 2026 WL 776151, at *5 (W.D. Wash. Mar. 19, 2026). The courts in *M.M.* and *Garcia* did not address the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) in deciding whether Federal Respondents' position was substantially justified. While Federal Respondents recognize that *Buenrostro-Mendez* does not address the scope of what declaratory relief means in the class action context, which is at issue here, and is not binding precedent on this Court, the Fifth Circuit nevertheless reached a different conclusion than the *Rodriguez Vazquez* court about the statutory underpinnings of that declaratory relief. The Fifth Circuit's decision demonstrates that there is room for disagreement on whether the statutory framework that this Court used to award declaratory relief is correct, which should be sufficient to show substantial justification. *Ibrahim*, 835 F.3d at 1056.



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Furthermore, Federal Respondents reasonably litigated the scope of declaratory relief in *Rodriguez Vazquez*. Federal Respondents opposed Petitioner's habeas petition by advancing arguments grounded in the statutory detention framework and the absence of class-wide injunctive relief in *Rodriguez Vazquez*. Dkt. 9. In the alternative, Federal Respondents stipulated that Petitioner was a member of the bond denial class for purposes of this litigation, while preserving their position regarding the need for individual relief. *Id.*

Federal Respondents' core position—that *Rodriguez Vazquez* granted declaratory relief only—was legally correct and reasonable. The court in *Rodriguez Vazquez* did not issue class-wide injunctive relief governing future bond hearings or detention decisions. That limitation reflects the jurisdictional constraint imposed by 8 U.S.C. § 1252(f)(1), which generally bars courts from "enjoin[ing] or restrain[ing] the operation" of immigration detention statutes except as applied to an individual noncitizen. Declaratory relief announces the court's interpretation of the law. Where a court grants declaratory relief but injunctive relief is unavailable or expressly declined, it is reasonable, and often necessary, for impacted individuals to seek case-specific relief through individual actions, including habeas petitions.

As the Supreme Court has long recognized, a declaratory judgment may be used as a predicate to further relief, but it does not itself mandate that relief. *Powell v. McCormack*, 395 U.S. 486, 498-499 (1969); *Great Lakes Dredge & Dock Co. v. Huffman*, 319 U.S. 293, 300-301 (1943). Thus, as a limitation on its jurisdiction, this Court had the legal authority to declare the law but not to enjoin Federal Respondents to take any particular action in response to the order. Moreover, while acknowledging and applying the declaration in *Rodriguez Vazquez*, Federal Respondents were also required to follow their own contrary binding precedent in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). Consequently, Federal Respondents were substantially justified and not acting in bad faith in their approach under these circumstances. Indeed, the Petition here may



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be seen as a misuse of EAJA to compel Federal Respondents—through the imposition of a series of monetary penalties in the form of EAJA fees—into giving the Court's order in *Rodriguez Vazquez* greater legal effect than that to which it is entitled as a matter of law because of a jurisdictional limitation on the Court's authority. That misuse of EAJA should be soundly rejected.

It is well settled that district court decisions do not freeze the law or require universal acquiescence by the government. *Camreta v. Greene*, 563 U.S. 692, 709 n.7 (2011) ("A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case") (internal quotations omitted). As the Supreme Court further explained in *Camreta*, "district court decisions—unlike those from the courts of appeals do not necessarily settle constitutional standards or prevent repeated claims…." *Id.* The government is therefore permitted to continue litigating unsettled legal questions in subsequent cases. This principle is particularly true in the context of habeas litigation where injunctive relief for a class of petitioners is foreclosed by Congress. 8 U.S.C. § 1252(f)(1).

Although *Camreta* arose in the qualified-immunity context, the Court's reasoning applies with equal force here, especially where this case is currently pending before the Ninth Circuit. *Rodriguez Vazquez v. Bostock,* No. 25-6842 (9th Cir. pending Oct. 29, 2025).[3] District court decisions, particularly declaratory judgments in the habeas context, do not definitively resolve statutory or constitutional questions for all future habeas petitioners. They do not bind other courts, do not displace agency precedent, and do not eliminate the government's ability to seek further clarification through continued litigation and appellate review. As noted previously, that the Fifth Circuit in *Buenrostro-Mendez* has arrived at the opposite conclusion clearly evidences that reasonable minds can differ on the underlying legal questions and weighs heavily in favor of the

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[3] Oral argument in *Rodriquez Vazquez v Bostock* occurred before a panel of the Ninth Circuit on March 4, 2026.



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conclusion that in continuing to advocate for its position in this District and in the Ninth Circuit, despite this Court's decision in *Rodriguez Vazquez*, Federal Respondents are acting in a substantially justified way.

The Supreme Court has further held that the government is not subject to non-mutual offensive collateral estoppel and may litigate the same legal issue in cases involving different parties in subsequent litigation, as its litigation interests differ from private parties. *United States v. Mendoza*, 464 U.S. 154, 160–63 (1984). The Court emphasized that requiring government-wide acquiescence based on a single adverse decision would improperly freeze the development of the law and undermine the government's institutional role. *Id.* at 163. The Ninth Circuit has likewise recognized similar principles. *Hart v. Massanari*, 266 F.3d 1155, 1171-72 (9th Cir. 2001) (discussing binding versus non-binding precedent). In *Hart*, the court explained that non-acquiescence in certain contexts is not misconduct, but a lawful and necessary feature of federal adjudication, particularly where issues are unsettled or unpublished. *Id.* at 1177–79.

For these reasons, Federal Respondents' litigation position advanced within an evolving legal framework and now subject to appellate review was therefore objectively reasonable and substantially justified.

**2. Petitioner fails to show an entitlement to enhanced EAJA hourly rates under 28 U.S.C. § 2412(d)**

Even if this Court rules that Federal Respondents were not substantially justified in their legal positions, Petitioner's requested enhanced fees are excessive. Under EAJA, a district court may not award attorney's fees awarded under 28 U.S.C. § 2412(d) "in excess of $125 per hour unless the court determines that an increase in the cost of living or special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee." 28 U.S.C. § 2412(d)(2)(A)(ii); *see Pierce*, 487 U.S. at 573 (narrowly construing exception to



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exceed EAJA statutory rate cap). Petitioner has failed to justify any warranted departure from EAJA's statutory framework to merit enhanced fees.

A party seeking enhanced fees must prove the following: (1) "the attorney must possess distinctive knowledge and skills developed through a practice specialty," (2) "those distinctive skills must be needed in the litigation," and (3) "those skills must not be available elsewhere at the statutory rate." *Love v. Reilly*, 924 F.2d 1492, 1496 (9th Cir. 1991). Here, regardless of whether Petitioner has shown his counsel have "distinctive knowledge and skills," he has not demonstrated that distinctive skills were needed in *this* litigation or that qualified counsel was not available at the statutory rate or that those skills were not available elsewhere at the statutory rate. *See Nadarajah v. Holder*, 569 F.3d 906, 913 (9th Cir. 2009). Petitioner fails at least the second and third prongs.

Petitioner has not shown that this case required distinctive skills as only knowledge of routine habeas corpus procedures and statutory interpretation concepts were necessary to advance the case. Petitioner states only that his counsel "possess the unique skills and expertise necessary to develop and litigate group habeas petitions for meaningful enforcement of the *Rodriguez Vazquez* judgment" and that Petitioner "would never have obtained relief had it not been for class counsel's 'knowledge of ... particular, esoteric nooks and crannies of immigration law....'" Dkt. 14, p. 10. But, in fact, several private attorneys have been able to obtain relief for noncitizens seeking to claim they are entitled to habeas relief under *Rodriguez Vazquez*, both recently and closer to the time that Petitioner filed this action. *See, e.g., Garcia de Jesus v. Noem*, No. 26-391-TMC, 2026 WL 547856, at *2 (W.D. Wash. Feb. 24, 2026); *Suraj v. Bondi*, No. 25-2699-TMC (W.D. Wash. Feb. 24, 2026); *Lopez Rojop v. Wamsley*, No. 25-2058-TMC, 2025 WL 3436811 (W.D. Wash. Oct. 28, 2025); *Guzman Alfaro v. Wamsley*, No. 25-1706-TMC, 2025 WL 2822113 (W.D. Wash. Oct. 2, 2025). Petitioner also purports to justify an enhanced rate based on the



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*Rodriguez Vazquez* litigation, not this particular matter, but entitlement to fees for the *Rodriguez Vazquez* litigation can been addressed there. Dkt. 14, p. 11. Petitioner must justify an enhanced rate based on whether those skills were needed in this case, not *Rodriguez Vazquez.*

Moreover, Petitioner's argument attempts to have it both ways: asserting that the law was so clear that Federal Respondents acted unreasonably by litigating the issue, while simultaneously claiming that the same litigation was so complex that it required specialized expertise warranting extraordinary compensation. The issues presented here, however, were straightforward statutory detention interpretation and habeas procedure. These issues are routinely litigated in this District by competent counsel at EAJA rates. For example, in *M.M.*, which also concerned the scope of *Rodriguez Vazquez*, this Court awarded attorney fees based on the EAJA statutory rate. Case No. 25-2074-TMC, Dkt. 20 (W.D. Wash.) (motion showing that "Petitioner requests fees and costs at the statutory EAJA rate, adjusted for cost of living in the Ninth Circuit, for time reasonably expended on this case").

Although he has not shown entitlement to enhanced fees, Petitioner has also not met his burden to prove his counsel's rates. Petitioner bears the burden "to prove that the rate charged is in line with the 'prevailing market rate of the relevant community.'" *Carson v. Billings Police Dep't*, 470 F.3d 889, 891 (9th Cir. 2006). The Ninth Circuit has approved a table of annually adjusted EAJA rates for attorneys based on the cost of living. For work performed during the relevant period, the maximum adjusted EAJA rate is $258.46 per hour.[4] Here, Petitioner's counsel billed a total of 12.65 hours for attorney fees. Attorneys are seeking fees at various rates ranging from almost three-and-a-half times to two-and-a-half times the hourly EAJA rate, as shown in the chart below.

[4] *See* https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates (last visited March 3, 2026).



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| Legal Staff | Rate Sought | Percent in Excess of EAJA/ Market Fees | Hours | Total Amount Sought in Dkt. 14 | Adjusted Total per EAJA Rate |
|---|---|---|---|---|---|
| Matt Adams | $885.00/hr. | 342% | 3.20 | $2,832.00 | $827.07 |
| Glenda Aldana Madrid | $754.00/hr. | 247% | 0.55 | $414.70 | $142.15 |
| Leila Kang | $738.00/hr. | 285% | 0.20 | $147.60 | $51.69 |
| | $754.00/hr. | 247% | 1.50 | $1,131.00 | $387.69 |
| Aaron Korthuis | $691.00/hr. | 267% | 7.20 | $4,975.20 | $1,860.91 |
| **Total Attorney Fees** | | | 12.65 | **$9,500.50** | **$3,269.51** |

Even if all that billed time were compensable, the maximum amount Petitioner could claim under the adjusted EAJA statutory rate is $3,269.51. Petitioner relies on the Fitzpatrick Matrix to justify hourly rates exceeding $600-800 per hour. That reliance is misplaced. Like the Laffey Matrix, the Fitzpatrick Matrix reflects prevailing rates in the Washington, D.C., legal market and does not correlate to rates in this District. The Ninth Circuit has declined to apply D.C.-based matrices. *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 454 (9th Cir. 2010). Petitioner cites no authority applying the Fitzpatrick Matrix to EAJA awards in routine immigration habeas cases and offers no persuasive evidence that qualified counsel was unavailable at EAJA rates as discussed above. Even if enhanced fees based on unavailability were to be awarded, other courts have declined to adopt the Fitzpatrick matrix in making such an award. *Garcia*, 2026 WL 776151, at *2.

Petitioner's citations to entitlement to the enhanced fee rates in *Wagafe v. Trump*, No. 17-94 (W.D. Wash.) and *Koonwaiyou v. Blinken*, No. 21-5474-DGE (W.D. Wash.) are inapposite because they were not routine immigration habeas cases. The underlying issue in *Wagafe* is a challenge to the Controlled Application Review and Resolution Program used by the U.S. Citizenship and Immigration Service. *Wagafe v. Biden*, 764 F. Supp. 3d 980, 987 (W.D. Wash. 2025). Meanwhile, *Koonwaiyou* concerned novel questions of statutory interpretation about



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requirements to obtain non-citizen national status for American Samoans. *Koonwaiyou v. Blinken*, 69 F.4th 1004, 1006 (9th Cir. 2023). Petitioner must justify his enhanced fee request within the context of this case, which he has not met here.

**C. Petitioner also fails to show Federal Respondents acted in bad baith or that market-rate attorney's fees are available under the "bad faith" exception**

Petitioner alternatively seeks market-rate attorney's fees by invoking the common-law bad-faith exception, made applicable by 28 U.S.C. § 2412(b).[5] *Su v. Bowers*, 89 F.4th 1169, 1179 (9th Cir. 2024). "This bad faith exception is a narrow one, typically invoked in cases of vexatious, wanton, or oppressive conduct." *Brown*, 916 F.2d at 495. "Mere recklessness does not alone constitute bad faith; rather, an award of attorney's fees is justified when reckless conduct is combined with an additional factor such as frivolousness, harassment, or an improper purpose. Naturally, this is a higher burden than § 2412(d)'s requirement that the government's case be substantially justified." *Bowers*, 89 F.4th at 1179 (internal quotations and citations omitted). The mere fact that the government litigated an issue and did not prevail does not support the finding of bad faith. *Rodriguez v. United States*, 542 F.3d 704, 709–10 (9th Cir. 2008).

Petitioner's bad-faith argument rests on two premises: (1) that once declaratory relief issued in *Rodriguez Vazquez*, the government was obligated to acquiesce and treat that decision as dispositive in all subsequent cases and (2) a quotation attributed to the Western District of Washington United States Attorneys' Office in a news article. Both are incorrect.

First, as explained above, non-acquiescence is not evidence of bad faith. It is well settled that adverse district court decisions do not freeze the law or require government-wide acquiescence. District court rulings do not bind other courts, displace agency precedent, or

[5] Federal Respondents acknowledge that EAJA's statutory cap does not apply to awards made pursuant to 28 U.S.C. § 2412(b).



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foreclose continued litigation of unsettled legal questions. *See Camreta*, 563 U.S. at 709 n.7. The Supreme Court has further held that the federal government is not subject to non-mutual offensive collateral estoppel and may litigate the same legal issue in cases involving different parties. *Mendoza*, 464 U.S. at 160–63. Against this backdrop, Federal Respondents' continued habeas litigation over the scope and effect of declaratory relief as to the impact on this Petitioner cannot plausibly be characterized as bad faith and was substantially justified. Petitioner's disagreement with Federal Respondents' legal position does not transform that position into bad faith. Accepting Petitioner's theory would improperly convert routine government litigation over unresolved legal issues into a basis for punitive fee awards, contrary to EAJA's limited waiver of sovereign immunity and controlling Ninth Circuit precedent.

Second, Petitioner's reliance on a news article attributing a statement to the United States Attorney does not change this analysis. The article mischaracterizes the statement at issue and, in any event, journalistic summaries are not evidence of litigation positions or institutional intent. Notably, the same article reflects that even an academic constitutional-law expert struggled to explain the practical distinction between declaratory and injunctive relief in this context[6]—underscoring that translating complex legal concepts for a general, non-legal audience can be imprecise and easily misunderstood. A public explanation in a non-legal setting is not evidence of a litigation position taken by the United States Attorney's Office or, for that matter, Federal Respondents. Indeed, the same article quotes the United States Attorney emphasizing that the

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[6] "'It's a thorny area of law,' said Elizabeth Porter, a University of Washington professor who teaches constitutional law." *See* Nina Shapiro, *Federal court ruling doesn't stop WA immigration judges' bond denials*, SEATTLE TIMES, Oct. 27, 2025, at A1.



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immigration court must evaluate this Court's opinion in light of existing authority and decide whether to revisit its policy.[7] Nothing in the record supports the finding of bad faith.

## III. CONCLUSION

Federal Respondents advanced colorable legal arguments regarding the scope and effect of declaratory relief, the absence of class-wide injunctive relief, and the procedural mechanism required for individual relief. Those arguments were grounded in statutory text, jurisdictional limits, and settled principles governing declaratory judgments. At most, the parties dispute a novel and currently unsettled legal question now before the Ninth Circuit; such disagreement cannot satisfy the demanding standard for EAJA fees let alone punitive fee shifting. For the foregoing reasons, Petitioner's motion for fees should be denied.

DATED this 24th day of March, 2026.

Respectfully submitted,

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*I certify that this memorandum contains 3,631 words in compliance with the Local Civil Rules.*

[7] "'Now the immigration court has a decision to make,' said Floyd, whose office is defending the government in litigation on the bond cases. Immigration judges must determine 'whether they're going to follow the opinion of Judge Cartwright or the direction of the controlling authority for them,' the U.S. attorney said." *See* Nina Shapiro, *Federal court ruling doesn't stop WA immigration judges' bond denials*, SEATTLE TIMES, Oct. 27, 2025 at A1.