Law Offices of Michael Z. Goldman
Michael Z. Goldman
100 Church Street, Suite 800
New York, NY 10007
212 901-3799
michael@mzglaw.com

Attorney for Petitioner

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Nouamane Sidqui, ***Petitioner,*** **v.** **Raul Maldonado, et al.** ***Respondents.***	**1:25-cv-09349-VSB**

MOTION FOR EAJA FEES[1]

Petitioner requests attorney's fees incurred in successfully challenging his constitutional detention by Respondents. *See* Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 (entitling a prevailing party to fees and costs in a civil action against the United States). On January 29, 2026, this Court held Petitioner's continued detention by Respondents to be a due process violation, and ordered his release. ECF No. 13. Petitioner now seeks fees in the amount of $5,757.83.

Courts must grant attorney's fees and expenses under the EAJA where: (1) the petitioner requesting the fees has a net worth below $2,000,000; (2) the petitioner is a prevailing party; (3) the

[1] Counsel for Petitioner has conferred with counsel for Respondents concerning this motion and will present a schedule to the Court by the Court-ordered deadline of February 6, 2026.

respondents cannot meet their burden to show the government's position was substantially justified; (4) no special circumstances make an award unjust; and, (5) the amount requested is reasonable. 28 U.S.C. § 2412(d). Here, Petitioner meets all the requirements for an award for fees.

I. Petitioner Meets the Requirements for an Award of EAJA Fees

A. *Petitioner's Net Worth Is Below $2,000,000*

Pursuant to 28 U.S.C. § 2412(d)(2)(B), an individual may seek fees and expenses pursuant to the EAJA if their net worth was below $2,000,000 at the time the action was filed. Petitioner is statutorily eligible for an award of attorney's fees and expenses because Petitioner's net worth at the time the instant habeas petition was filed did not exceed $2,000,000. *See* Ex. A.

B. *Petitioner Is a Prevailing Party in This Litigation*

Pursuant to 28 U.S.C. § 2412(b), the Court may award EAJA fees and expenses to the "prevailing party" in an action against an agency of the United States. Since the Court granted Petitioner's habeas petition, ordering his immediate release, Petitioner is a prevailing party. *See Buckhannon Board of Care & Home, Inc. v. West Virginia Department of Health and Human Resources*, 532 U.S. 598, 603 (2001) ("A 'prevailing party' is one who has been awarded some relief by the court.").

C. *The Position of the United States Was Not Substantially Justified*

Pursuant to 28 U.S.C. § 2412(d)(1)(B), a party seeking an award of fees and expenses shall allege that "the position of the United States was not substantially justified." Furthermore, 28 U.S.C. § 2412(d)(1)(A) provides that "a court shall award a fee to a prevailing party . . . unless the court finds that the position of the United States was substantially justified."

Critically, once "prevailing party" status is established, the burden falls on the government to prove that its position was substantially justified. *Scarborough v. Principi*, 541 U.S. 401, 414 (2004). Significantly, the government must meet this threshold *twice*—it must independently

establish that the agency conduct that gave rise to the litigation was substantially justified, *and* that its litigation positions also were substantially justified. 28 U.S.C. § 2412(d)(2)(D). *See also Comm'r, Immigration & Naturalization Serv. v. Jean*, 496 U.S. 154, 158-60 (1990).

Respondents cannot meet their burden.

1. *The Agency's Prelitigation Position was Not Substantially Justified*

First, the agency's prelitigation position was not substantially justified. On November 7, 2025, ICE detained Mr. Sidqui without an individualized assessment that he posed a flight risk or a danger to the community and, therefore, without due process. This Court has already held that by doing so, Respondents acted in violation of the Constitution. *See* ECF 31.

A violation of the Constitution cannot be substantially justified. *See Meinhold v. U.S. Dep't of Defense*, 123 F.3d 1275, 1278 (9th Cir. 1997) ("If the government's position violates the Constitution . . . a finding that the government was substantially justified would be an abuse of discretion.").

2. *The Agency's Litigation Position was Not Substantially Justified*

Respondents presented to this Court a legal theory that, as this Court specifically found, has been rejected by the vast majority of courts to consider the issue, both in the Federal District courts of New York, and nationwide. *See* ECF 31. Because Respondents' legal position was not "substantially justified," EAJA fees are appropriate. *See Cornejo Guanuquiza v. Francis*, 25-CV-10267 (RA), 2025 WL 3678121, at *2 (S.D.N.Y. Dec 18, 2025) (awarding EAJA fees in factually similar habeas proceeding; "[t]he Court finds that the Government's position 'was not substantially justified,' since it does not 'and has never had a reasonable basis in statutory text, structure, or history.'"); *Yao v. Almodovar*, --- F. Supp. 3d ---, 2025 WL 3653433, at *12 (S.D.N.Y. Dec. 17, 2025) ("Here, Yao is the prevailing party, and ICE's position, rejected this year in some 97% of the cases in which it was litigated, was not substantially justified. Yao is thus entitled to reasonable fees

and costs."); *Rivera Esperanza v. Francis*, No. 25-CV-8727 (RA), 2025 WL 3513983, at *9 (S.D.N.Y. Dec. 9, 2025) (awarding EAJA fees in factually similar habeas action); *Barco Mercado v. Francis*, --- F. Supp. 3d ---, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) ("[Respondents'] position has been rejected with near unanimity in the overwhelming majority of cases across the country. Mr. Barco is entitled to reasonable fees and costs.").[2]

D. *There Are Not Special Circumstances in This Case That Would Make a Fee Award Unjust*

Under 28 U.S.C. § 2412(d)(1)(A), "a court shall award a fee to a prevailing party . . . Unless . . . special circumstances make an award unjust." Some courts look to traditional rules of equity to determine whether or not the petitioner has "unclean hands" to determine whether or not the award would be unjust. *See, e.g., Oguachuba v. INS*, 706 F.2d 93, 98 (2d Cir. 1983). In the case at hand, neither Petitioner, nor Petitioner's counsel, have engaged in any type of misconduct that could result in Petitioner being classified as having "unclean" hands.

E. *Petitioner's Request for Fees in this Case is Reasonable*

Petitioner seeks a total of $5,787.83.for 20.5 hours of work performed by his attorney. Attached are specific and contemporaneous statements of hours. *See* Ex. B. The statutory hourly rate of compensation for attorneys is $125 for cases commenced on or after March 29, 1996, when the statutory hourly rate was last raised. The rate can be "adjusted" for inflation based on cost of living adjustments ("COLA"). Courts have held that "cost of living" has the ordinary meaning and is properly measured by the Consumer Price Index ("CPI-U"). *Harris v. Sullivan*, 968 F.2d 263, 265 (2d Cir. 1992). The CPI-U as of March 1996 was 155.7. The CPI-U for NY-NJ-PA for December

[2] *See also Mairena-Munguia v. Arnott*, --- F. Supp. 3d---, 2025 WL 3229132, at *5 (W.D. Miss. 2025) ("As explained throughout, the Court finds the position of the United States is not substantially justified. Historical interpretation of enforcement, legislative intent, statutory construction, and the plain text of the statute all support that the United States is not substantially justified in its novel interpretation of § 1225. Thus, Petitioner may pursue an award of reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act.").

2025, immediately before Petitioner filed the habeas petition, was 350.003. *See* Ex. C. Thus, the COLA can be obtained by dividing 350.003 by 155.7. This results in a COLA of 2.247. When the statutory cap rate of $125 per hour is multiplied by 2.247, the statutory rate adjusted for the cost of living in 2025 is $280.87 per hour.

As the attached invoices show, Petitioner seeks attorney's fees for 20.5 of hours of work at a rate of $280.87 an hour. Ex. B. Multiplying 20.5 of hours of work by $280.87 per hour results in $5,787.83. These rates are reasonable and represent a downward departure from what are the market rates of Petitioner's attorney's time.

Dated: February 5, 2026

Respectfully submitted,

/s/ Michael Goldman

The Law Offices of Michael Z. Goldman
100 Church St., Suite 800
New York, NY 10007
212 901-3799
michael@mzglaw.com

Attorney for the Petitioner

EXHIBIT A

DECLARATION OF NOUAMANE SIDQUI

I, Nouamane Sidqui, hereby declare and state:

1. I am a private individual and my net worth does not, nor has it ever, exceeded the amount of $2,000,000.

2. I make this declaration in support of my motion for attorney fees and costs incurred in my successful representation before the Southern District of New York in *Sidqui v. Almodovar*, Case No. 25-cv-9349 (Broderick, J.).

3. I retained Michael Z. Goldman, Esq. to represent me in this case.

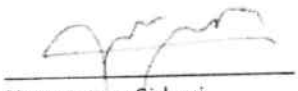
4. I authorize the recovery of fees and expenses to my attorney, Michael Z. Goldman, Esq. in order to compensate him for work performed on my behalf.

5. I further assign payment of any award of fees and costs to Michael Z. Goldman, Esq. and request payment to Michael Z. Goldman, Esq. either via a check mailed to counsel's office address at Law Offices of Michael Z. Goldman, 100 Church St., Suite, 800, New York, NY 10007, or directly deposited into his office's account.

6. To the best of my knowledge, I do not owe any debt to the United States federal government.

I declare under penalty of perjury under the laws of the State of New York that the above is true and correct to the best of my knowledge and belief.

Executed on February 2, 2026



Nouamane Sidqui

EXHIBIT B

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice #
Date: 02/04/2026

Nouamne Sidqui

[redacted]-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	11/08/2025	Drafted Petition and Order to Show Cause	2.00	$1.00	$2.00
				Total	**$2.00**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice #
Date: 02/04/2026

Nouamne Sidqui

-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	11/09/2025	Drafted and Filed Petition and Order to Show Cause	1.50	$1.00	$1.50
				Total	**$1.50**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice #
Date: 02/04/2026

Nouamne Sidqui

[redacted]2-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	11/14/2025	Drafted and Filed Correspondence with Court	0.50	$1.00	$0.50
				Total	**$0.50**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice #
Date: 02/04/2026

Nouamne Sidqui

[redacted]-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	11/21/2025	Drafted and Filed Brief	6.50	$1.00	$6.50
				Total	**$6.50**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice # 1
Date: 02/04/2026

Nouamne Sidqui

[redacted]-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	11/24/2025	Prepared for, Travelled to, and Attended Oral Argument	5.00	$1.00	$5.00
				Total	**$5.00**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice # 1374
Date: 02/04/2026

Nouamne Sidqui

[redacted]-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	11/26/2025	Drafted and Filed Correspondence with Court	0.50	$1.00	$0.50
				Total	**$0.50**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice #
Date: 02/04/2026

Nouamne Sidqui

-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	12/12/2025	Drafted and Filed Correspondence with Court	0.50	$1.00	$0.50
				Total	**$0.50**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice #
Date: 02/04/2026

Nouamne Sidqui

[redacted]-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	12/16/2025	Drafted and Filed Correspondence with Court	1.00	$1.00	$1.00
				Total	**$1.00**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice #
Date: 02/04/2026

Nouamne Sidqui

[redacted]-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	01/08/2026	Drafted and Filed Correspondence with Court	0.50	$1.00	$0.50
				Total	**$0.50**

Law Offices of Michael Z. Goldman

INVOICE

875 Avenue of the Americas, Suite 1703
New York, NY 10001

Invoice # 1
Date: 02/04/2026

Nouamne Sidqui

-Sidqui

Habeas

Type	Date	Description	Quantity	Rate	Total
Service	02/04/2026	Research; Drafted EAJA Motion	2.50	$1.00	$2.50
				Total	**$2.50**

EXHIBIT C

U.S. BUREAU OF LABOR STATISTICS

BLS Data Viewer

Permalink

Time Period: Start Year: 2023 End Year: 2025

Net Monthly Changes:

1 Month Net Change
3 Month Net Change
Update Month Net Change
12 Month Net Change

Percent Monthly Changes:

1 Month % Change
3 Month % Change
6 Month % Change
12 Month % Change

Data extracted on: Jan 14, 2026 (6:12:19 PM)

Consumer Price Index for All Urban Consumers (CPI-U)

Series Title	All items in New York-Newark-Jersey City, NY-NJ-PA, all urban consumers, not seasonally adjusted
Series ID	CUURS12ASA0
Seasonality	Not Seasonally Adjusted
Survey Name	Consumer Price Index for All Urban Consumers (CPI-U)
Measure Data Type	All items
Area	New York-Newark-Jersey City, NY-NJ-PA
Item	All items

Latest Observation:
December 2025
350.003

Jan 2023 - Dec 2025
Minimum Value: January 2023
318.151

Maximum Value: December 2025
350.003

Data Availability:
2014 - 2025

.XLSX .CSV

Year	Period	Label	Value
		Jun	
2025	M07	2025 Jul	346.385
2025	M08	2025 Aug	347.266
2025	M09	2025 Sep	348.096
2025	M10	2025 Oct	
2025	M11	2025 Nov	348.620
2025	M12	2025 Dec	350.003

Footnotes
(X) Data unavailable due to the 2025 lapse in appropriations