UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E.M.M.,

Petitioner,

v.

Judith ALMODOVAR, Acting Director, New York City Field Office, U.S. Immigration and Customs Enforcement; Paul ARTETA, Director of the Orange County Correctional Facility; Teresa L. RILEY, Acting Chief Immigration Judge, Executive Office of Immigration Review; Daren K. MARGOLIN, Director, Executive Office of Immigration Review; Pamela BONDI, Attorney General of the United States; Kristi NOEM, Secretary of Homeland Security; and Todd M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement,

Respondents.

Case No. 1:25-cv-9592-DEH

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR ATTORNEYS' FEES

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PRELIMINARY STATEMENT

Petitioner E.M.M. moves for attorneys' fees and costs incurred in successfully challenging his unconstitutional detention by Respondents pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412 (the "EAJA").

Under the EAJA, a court shall award to a "prevailing party" reasonable fees and expenses incurred in a "civil action" against the United States unless the court finds that "the position of the United States was substantially justified." 28 U.S.C § 2412. "A party prevails if the court grants relief to the party based on 'an assessment of the merits' and thus 'unquestionably' and 'materially alter[s] the existing legal relationship between the parties.'" *Barco Mercado v. Francis*, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (quoting *Vacchio v. Ashcroft*, 404 F.3d 663, 674 (2d Cir. 2005)). Habeas petitions "challenging immigration detentions" are "civil actions" within the meaning of the EAJA. *Id.*

This Court held E.M.M.'s detention unconstitutional under the Fifth Amendment and ordered his release on November 26, 2025. He is now entitled to fees and expenses in the amount of $11,751.22, including for time spent litigating this fee application.

RELEVANT FACTS AND PROCEDURAL HISTORY

Petitioner E.M.M. is a 36-year-old who has lived in New York for over 18 years. Amend. Pet., ECF No. 9. While living in New York, he has worked in various forms of employment, including landscaping, swimming pool maintenance, and construction. *Id.* He has an 11-year-old son whom he supports emotionally and financially. *Id.* He also faithfully attended his Catholic Church, relying on his faith community as he grieved the recent loss of his brother. *Id.*

E.M.M.'s life was completely upended on May 19, 2025, when armed Immigration and Customs Enforcement ("ICE") officers entered a friend's home where he had spent the night and

held him at gunpoint in the bed where he was sleeping. *Id.* The ICE officers proceeded to handcuff him and take him away without any explanation. *Id.*

On August 11, 2025, E.M.M. appeared for a custody redetermination hearing before the Varick Street Immigration Court and presented legal briefing and evidence in support of his request for release on bond. *Id.* Counsel for ICE did not present any evidence prior to or during the hearing. *Id.* The same day, on August 11, 2025, the immigration judge ("IJ") ordered his release on bond, finding that he was detained pursuant to 8 U.S.C. § 1226(a). *Id.* Then, counsel for ICE invoked an automatic stay of the IJ's bond decision. *Id.* Then, on August 21, 2025, counsel for ICE appealed the IJ's bond decision to the Board of Immigration Appeals ("BIA"), again unilaterally invoking an automatic stay during the appeals process. *Id.*

Counsel for E.M.M. filed a habeas petition with this Court on November 17, 2025. Pet., ECF 1. At this point, Respondents had kept E.M.M. detained for nearly six months. *Id.* Amongst other arguments, E.M.M. maintained that his detention violated his procedural due process rights under the Fifth Amendment because of Respondents' invocation of a unilateral automatic stay to the IJ's release order. *See id.* (Count 1).

Days after the habeas petition was filed, on November 20, 2026, the BIA granted DHS's custody appeal and vacated the IJ's bond order solely based on its intervening precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), asserting that E.M.M. is detained under 8 U.S.C. § 1225(b)(2)(A) and thus ineligible for bond. *See* Joint Letter, Ex. A (BIA Decision), ECF No. 8-1; Amend. Pet., ECF No. 9.

The same day, counsel for E.M.M. filed an amended habeas petition with this Court adding to its claims for relief that Respondents additionally violated his due process rights under the Fifth

Amendment in unlawfully subjecting him to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Amend. Pet., ECF No. 9.

In the habeas proceedings, Respondents' counsel maintained the government's position that E.M.M. was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) but conceded that this Court's decision in *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025), "would appear to control the result in this case." Resp't Letter, ECF 16, at 4.

The Court granted E.M.M.'s petition for habeas corpus on November 26, 2025 and ordered his immediate release, for the reasons stated in the Court's opinions and orders in *Lopez Benitez*, 795 F. Supp. 3d at 482, and *J.M.P. v. Arteta*, 807 F. Supp. 3d 265, 292 (S.D.N.Y. 2025). Order, ECF No. 17.

The Court then issued an opinion and order on December 15, 2025, concluding that E.M.M.[1] raised the same legal issues as addressed in *Lopez Benitez* and that he was subject to discretionary detention under 8 U.S.C. § 1226(a) rather than mandatory detention under 8 U.S.C. § 1225(b). Opinion and Order, ECF No. 19 (consolidated for decision with *Gooakani v. Lyons*, No. 25 Civ. 9456 (DEH), 2025 WL 3632896 (S.D.N.Y. Dec. 15, 2025)). Accordingly, in addition to E.M.M.'s immediate release, the Court ordered that Respondents are enjoined from denying bond in any subsequent proceedings on the basis that E.M.M. must be detained pursuant to: (1) 8 U.S.C. § 1225(b), or (2) 8 U.S.C. § 1226(c) absent a change in relevant circumstances consistent with the Court's order and further enjoined Respondents from invoking the automatic stay provision at 8 C.F.R. § 1003.19(i)(2). *Id.* at 24-25. The Court also permitted E.M.M. to file an

[1] The Court's Order and Opinion collectively addressed the cases of three other similarly situated petitioners to E.M.M. who presented similar challenges to the lawfulness of their respective detentions by ICE.

application for attorney's fees and costs pursuant to 5 U.S.C. § 504 and 28 U.S.C. § 2412 within the time provided by the Local Rules. *Id.* at 25. On December 17, 2025, the Court entered the Judgment, granting E.M.M.'s habeas petition. Judgment, ECF No. 20. E.M.M. now presents his timely[2] application for attorneys' fees and costs.

ARGUMENT

I. E.M.M. is entitled to fees and costs under EAJA.

E.M.M. is entitled to fees and costs incurred litigating his habeas petition because he is a prevailing party, the government's position was not substantially justified, and no special circumstances make the award of fees unjust. *See* 28 U.S.C. § 2412(d)(1)(A). "[U]nder the EAJA, eligibility for a fee award in any civil action requires: (1) that the claimant be a prevailing party; (2) that the Government's position was not substantially justified; and (3) that no special circumstances make an award unjust." *Gomez-Beleno v. Holder*, 644 F.3d 139, 144 (2d Cir. 2011) (internal quotation marks and alteration omitted). The Second Circuit has found that EAJA encompasses immigration habeas petitions. *Vacchio v. Ashcroft*, 404 F.3d 663, 668 (2d Cir. 2005). By directing that a court "'*shall award*' such fees 'unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust,'" EAJA "creates a presumption" that a prevailing party may recover fees. 33 Charles A. Wright and Arthur R. Miller, *Federal Practice & Procedure* § 8389 (2d ed.) (emphasis added). As described below, E.M.M. is entitled to reasonable fees here.

[2] 28 U.S.C. § 2412(d)(1)(B) (providing 30-day deadline from date of *final* judgment for seeking an award of fees and other expenses); 5 U.S.C. § 504(a)(2) (same); Fed. R. App. P. 4(a)(1)(B) (noting 60-day appeal period if one of the parties is the United States).

A. E.M.M. is a prevailing party.

On November 26, 2025, this Court granted E.M.M.'s petition for habeas corpus, ordering his immediate release, and as such, E.M.M. is clearly the prevailing party in this action. "A party prevails if the court grants relief to the party based on 'an assessment of the merits' and thus 'unquestionably' and 'materially alter[s] the existing legal relationship between the parties.'" *Barco Mercado v. Francis*, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (quoting *Vacchio v. Ashcroft*, 404 F.3d 663, 674 (2d Cir. 2005)).

E.M.M. is a "party" because he is a private individual whose net worth has never exceeded 2 million dollars. *See* Exh. A, Declaration of E.M.M.; 28 U.S.C. § 2412(d)(2)(B) (defining a "party" as "an individual whose net worth did not exceed $2,000,000 at the time the civil action was filed").

E.M.M. is a "prevailing" party because he has achieved a "material alteration of the legal relationship of the parties" and that alteration was "judicially sanctioned." *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res.*, 532 U.S. 598, 604–05 (2001). Here, over the government's opposition, the Court agreed with E.M.M. that Respondents violated his constitutional right to due process. *See* Opinion and Order, ECF No. 19. The Court accordingly materially altered the parties' legal relationship by ordering his immediate release and by enjoining Respondents from redetaining him subject to certain conditions. *Id.* As such, the judgment altered the legal relationship of the parties and E.M.M. is considered the prevailing party for EAJA purposes.

B. The government Respondents' position was not substantially justified.

An award of fees under EAJA is required where the government's position is not "substantially justified." 28 U.S.C. § 2412(d)(1)(A). "The burden of establishing that the position of the United States was substantially justified, § 2412(d)(1)(A) indicates and courts uniformly

have recognized, must be shouldered by the Government." *Scarborough v. Principi*, 541 U.S. 401, 414 (2004). Petitioner is entitled to a fee award under EAJA unless the Government can show that "its position had a reasonable basis in both law and fact." *Gomez-Beleno*, 644 F.3d at 145 (internal quotation marks omitted); *Healey v. Leavitt*, 485 F.3d 63, 67 (2d Cir. 2007). The government must meet this burden twice: first, with regard to the agency action giving rise to the litigation; and, second, with regard to its litigation positions. *See* 28 U.S.C. § 2412(d)(2)(D) (defining "position" as both "the position taken by the United States in the civil action" and "the action or failure to act by the agency upon which the civil action is based"); *see also Healey*, 485 F.3d at 67 ("[I]t is well-established that the Government's prelitigation conduct or its litigation position could be sufficiently unreasonable by itself to render the entire Government position not 'substantially justified.'" (internal quotation marks omitted)).

First, Respondents' actions giving rise to the litigation—invoking an automatic stay to keep E.M.M. detained for months after an IJ ordered his release on bond—was not substantially justified and could be sufficiently unreasonable by itself to render the entire government position not substantially justified. In dozens of decisions across the country, a clear consensus has found the automatic stay unlawful. *See* Amend. Pet., ECF No. 9, at ¶ 52 n.3 (collecting cases); *see also* J.M.P, 807 F. Supp. 3d. at 288 n. 21 (collecting dozens of cases so holding); *O.F.C. v. Almodovar*, No. 25-CV-9816 (LJL), 2026 WL 74262, at *15 (S.D.N.Y. Jan. 9, 2026) ("Numerous courts around the country have in recent weeks held that automatic stays violate procedural due process because they result in continued detention without requiring any articulated basis or individualized findings. Judge Ho's excellent decision in *J.M.P.* exhaustively outlines why these stays violate due process, and the Court joins the reasoning of that decision in full."). Respondents themselves

acknowledged that their position on this issue was contrary to a prior ruling by this Court.[3] *See* Resp't Letter, ECF No. 16, at 4. As such, Respondents' actions detaining E.M.M. were not substantially justified.

Alternatively, Respondents' litigation position asserting that E.M.M. was subject to detention under 8 U.S.C. § 1225(b) was not substantially justified. To start, Respondents' shifting justifications for detaining E.M.M. subjected him to a moving target in seeking his release, which was not substantially justified. *See generally J.G.O. v. Francis*, No. 25-CV-7233 (AS), 2025 WL 3040142, at *5 (S.D.N.Y. Oct. 28, 2025) (finding petitioner's detention based on an automatic stay, discretionary stay, and misapplication of the statute "ha[d] been improperly prolonged by a constantly moving set of goalposts"). Here, Respondents' own actions establish that it had detained E.M.M. under 8 U.S.C. § 1226(a). At the time of arrest, Respondents issued E.M.M. a Form I-200 warrant under 8 U.S.C. § 1226 and an IJ ordered his release on bond under the same statute, § 1226. *See* Amend. Pet., ECF No. 9, at ¶¶ 26, 29. And then, Respondents did an about-face and shifted their rationale to justify his detention under 8 U.S.C. § 1225(b). *Id.* ¶ 36. As this Court concluded, "Respondents' previously consistent treatment of [E.M.M.] as subject to discretionary detention … is fatal to their position" in his case. Opinion and Order, ECF No. 19, at 22-23 ("But the question here is whether *these Respondents*, serving in *this administration*, can assert that they are detaining an individual on a discretionary basis citing their authority to do so under Section 1226(a), and then, when that purported exercise of discretion is challenged in court, suddenly shift gears and

[3] In arguing that E.M.M.'s claims related to the automatic stay were moot, Respondents ignored that his prolonged detention claim involved the assessment of the automatic stay procedure, which contributed to his prolonged detention of more than six months. *See* Amend. Pet., ECF No. 9, at ¶ 83; *see also* Order, ECF No. 17 (citing reasoning in *J.M.P.*, 807 F. Supp. 3d 265, as a basis for ordering release).

say that they actually had no discretion at all, because such detention is *mandatory* under a different statutory provision, Section 1225(b)."); *see also Ye v. Maldonado*, No. 25-CV-6417 (AMD), 2025 WL 3521298, at *5 (E.D.N.Y. Dec. 8, 2025) ("[T[he fact that the government took precisely the opposite position is a relevant factor for the Court's consideration.").

Moreover, an overwhelming majority of courts across the country have favored E.M.M.'s reading of the statute. *See Yao v. Almodovar*, No. 25 CIV. 9982 (PAE), 2025 WL 3653433, at *12 (S.D.N.Y. Dec. 17, 2025) ("[H]ere, [the petitioner] 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."); *see also Galeas Miranda v. Maldonado*, No. 25-CV-6882 (PKC), 2026 WL 25405 (E.D.N.Y. Jan. 5, 2026) (citing *Barco Mercado*, 2025 WL 3295903 at *4) ("By a recent count, the central issue in this case … has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States."). As a court in this District recognized, the government "Respondents' position does not and has never had a reasonable basis in statutory text, structure, or history. Their position has been rejected with near unanimity in the overwhelming majority of cases across the country." *Barco Mercado*, 2025 WL 3295903, at *13 (granting writ of habeas corpus and finding petitioner was entitled to reasonable fees and costs); *see also Sandoval Abzun v. Genalo*, No. 25-CV-9489, 2026 WL 100028, at *2 (S.D.N.Y. Jan. 14, 2026) (same); *Verduzco v. Francis*, No. 26-CV-218, 2026 WL 102920, at *2 (S.D.N.Y. Jan. 14, 2026) (same); *Cornejo Guanuquiza v. Francis*, No. 25-CV-10267 (RA), 2025 WL 3678121, at *2 (S.D.N.Y. Dec. 18, 2025) (same); *Rivera Esperanza v. Francis*, No. 25-CV-8727, 2025 WL 3513983, at *9 (S.D.N.Y. Dec. 8, 2025) (same); *but see Chen v. Almodovar*, No. 25 Civ. 8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025). E.M.M. filed a petition for writ of habeas corpus on November 17, 2025, and he was granted relief and ordered released nine days later, on November 26,

2025, based on this Court's caselaw. Order, ECF No. 17. Again, Respondents themselves acknowledged that their position on the statute of detention classification was contrary to a prior ruling by this Court. *See* Resp't Letter, ECF 16, at 4.[4]

In sum, the government's position was not substantially justified in this case. *See, e.g., Jean v. Nelson*, 863 F.2d 759, 767 (11th Cir. 1988), aff'd sub nom. *Comm'r, I.N.S. v. Jean*, 496 U.S. 154 (1990) (identifying factors to be considered including: the state at which the litigation was resolved; views expressed by other courts on the merits; and the legal merits of the government's position).

C. No special circumstances make an award unjust.

The government bears the burden of showing special circumstances. *See* 28 U.S.C. § 2412(d)(1)(A) (requiring both a substantially justified position and the existence of special circumstances). None exist—as Respondents themselves acknowledged that the Court's decision on the principal legal issues in its opinion in *Lopez Benitez*, 795 F. Supp. 3d 475, would control in this case. *See* Resp't Letter, ECF No. 16, at 4. And Respondents' position both as to the automatic stay and the statute of detention issue has been rejected with "near unanimity"; indeed,

[4] In the face of the government's "string of losses" in this District and across the country, the fact that a small minority of courts have sided with Respondents does not render their position substantially justified. *Pierce v. Underwood*, 487 U.S. 552, 569 (1988); Opinion and Order, ECF No. 19, at 15-16, 24 (rejecting the reasoning in *Chen v. Almodovar*, No. 1:25-cv-8350-MKV, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025), which reached "the contrary conclusion on the legal issues presented" in this case, and characterizing *Chen*'s acknowledgment of "its minority status" as "something of an understatement" in light of "'the overwhelming, lopsided majority'" agreeing with Petitioner's position). "As the Supreme Court has explained, 'the fact that one other court agreed or disagreed with the Government does not establish whether its position was substantially justified.'" *Padula v. Colvin*, 602 F. App'x 25 (2d Cir. 2015) (citing *Pierce*, 487 U.S. at 569. And where, as here, the Respondents' own prior position is contrary to its litigation position with respect to the same petitioner, there can be no doubt that Respondents' abrupt shift in rationale is not substantially justified.

Respondents' position with respect to the latter is directly contradicted by their own prior actions with respect to E.M.M.'s detention. *Barco Mercado*, 2025 WL 3295903, at *13.

II. E.M.M. seeks an award of $11,751.22 as a reasonable attorneys' fee.

E.M.M.'s counsel seeks compensation for a combined total of 44.9 hours spent litigating this case and $245.58 spent for associated costs. The Second Circuit has held that "the lodestar—the product of a reasonable hourly rate and the reasonable number of hours required by the case—creates a presumptively reasonable fee." *Millea v. Metro-N. R. Co.*, 658 F.3d 154, 166 (2d Cir. 2011); *see also Aston v. Sec'y of Health & Human Servs.*, 808 F.2d 9, 11 (2d Cir. 1986) ("The district court need not . . . scrutinize[] each action taken or the time spent on it."). Under the EAJA, "attorney fees shall not be awarded in excess of $125 per hour unless the court determines that an increase in the cost of living or a 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).

E.M.M.'s counsel is entitled to enhanced rates under both prongs: because of an increase in the cost of living and because of a "special factor," namely as exceptionally qualified in the complex field of immigration-specific habeas petitions.[5] Counsel's specialization and skill entitle

[5] Attorneys who possess "some distinctive knowledge or specialized skill" in a particular regulatory or statutory scheme merit an award of enhanced hourly rates. *Pierce*, 487 U.S. at 572; *see, e.g.*, *Schwebel v. Crandall*, No. 17 CIV. 8541 (CM), 2021 WL 2269523, at *6 (S.D.N.Y. June 3, 2021) ("immigration law is 'an identifiable practice specialty' that could fall easily within the standard announced in *Pierce*"); *Martin v. Sec'y of Army*, 463 F. Supp. 2d 287, 293 (N.D.N.Y. 2006) (enhanced rates for attorney with specialized expertise in military law who represented conscientious objector); *David v. Sullivan*, 777 F. Supp. 212, 221 (E.D.N.Y. 1991) (prevailing market rates for class action attorneys with unique knowledge of Medicare). Here, undersigned counsel's reasonable market rates would be considerable. Attorney Natalie Maust, lead counsel for E.M.M. in this matter, has a high degree of specialization and experience in immigration law, and she has nearly 10 years of experience representing clients like E.M.M. in their immigration matters, which has included federal habeas petitions. Maust Decl. ¶ 1. Additionally, Ms. Maust currently works as a lecturer-in-law at Columbia Law School, providing instruction on topics related to immigration law. *Id.* at ¶ 4. Furthermore, The Legal Aid Society as an institution has a

them to an award based on "prevailing market rates" for services by lawyers with special expertise in this area of law. *See David*, 777 F. Supp. 212, 221 (E.D.N.Y. 1991) (internal quotation marks omitted). Nonetheless, in the interest of making a modest request, E.M.M.'s counsel have elected to seek only rates adjusted for increased cost of living.

Here, E.M.M. seeks only an adjustment to reflect the cost of living. The applicable hourly rate is determined by 28 U.S.C. § 2412(d)(2)(A), which set a base rate of $125 in March 1996 and allows for cost-of-living adjustments. *Make Rd. New York v. Blinken*, No. 19-CV-11633 (GBD) (OTW), 2024 WL 4664712, at *13 (S.D.N.Y. Sept. 4, 2024); *Williams v. Kijakazi*, 797 F. Supp. 3d 164 (E.D.N.Y. 2025). To do so, "[d]istrict courts determine the cost-of-living adjustment by multiplying the basis EAJA rate by the current consumer price index ('CPI') for urban consumers, and then dividing the product by the CPI for urban consumers in the month that the cap was imposed." *Linda R. on behalf of D. J. R. v. Dudek*, No. 24 CIV. 6514 (SLC), 2025 WL 1135655, at *3 (S.D.N.Y. Apr. 17, 2025) (cleaned up). To determine EAJA fees, adjusting to the CPI-U for "New York-Newark-Jersey City" (or "CPI-U New York") is reasonable. *See Saposnick v. Kijakazi*, No. 23-CV-3600 (PKC), 2025 WL 373463, at *3 (E.D.N.Y. Feb. 3, 2025); *see also Make Rd. N.Y.*, 2024 WL 4664712, at *13 (finding Plaintiff's proposal for "using the CPI-U for the Northeast region"[6] reasonable).

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well-earned reputation for high-caliber legal services work, particularly in immigration law. *Id.* at ¶ 2. The Legal Aid Society has represented hundreds of detained noncitizens in immigration proceedings, and it has brought dozens of actions in federal district court challenging unlawful immigration detention. *Id.*

[6] Though the court identified it as the CPI-U for the Northeast region, it appears the Court actually applied the CPI-U for "New York-Newark-Jersey City." *Compare Northeast Make Rd. New York v. Blinken*, No. 19-CV-11633 (GBD) (OTW), 2024 WL 4664712, at *13 (S.D.N.Y. Sept. 4, 2024), *with* CPI Regional Resources, https://www.bls.gov/cpi/regional-resources.htm (selecting "New

The formula for calculating a reasonable rate is thus expressed:

$$\frac{\text{EAJA statutory rate x CPI-U New York}}{\text{CPI-U New York in March 1996}}$$

In November 2025 (the closest available month of data to when E.M.M.'s attorneys litigated this case), the CPI-U index for New York was 348.620.[7] In March 1996, the CPI-U New York was 166.50[8]; *see also Make Rd. New York*, 2024 WL 4664712, at *13 ("The CPI-U figure for the Northeast Region for March 1996 was 166.5[.]"); *Saposnick*, 2025 WL 373463, at *3.

Petitioner's attorneys' fees were thus calculated using the following formula:

$$\frac{\$125 \text{ x } 348.620}{166.5}$$

Under this formula, E.M.M.'s attorneys' reasonable hourly rate is $261.72. The total award sought is $11,751.22 (44.9 hours x $261.72), in addition to $245.58 costs ($240.58 service of process costs and $5.00 habeas filing fee). *See* Exh. B, Declaration of N. Maust with time tracking and cost receipts; Exh. C. Declaration of I. Calderon with time tracking; *see also Michelin v. Warden Moshannon Valley Corr. Ctr.*, No. 24-2990, 2026 WL 263483, at *2 (3d Cir. Feb. 2, 2026) (affirming EAJA awards to prevailing habeas petitioners in the amounts of $18,224.58 and $15,841.60); *Wang v. Noem*, No. 1:25-cv-18053-CPO, ECF No. 48 (D.N.J. Mar. 12, 2026) (awarding $21,775.39 under the EAJA to a prevailing habeas petitioner as reasonable attorneys' fees); *Vaskanyan v. Janecka*, No. 5:25-CV-01475-MRA-AS, 2025 WL 3050075, at *3 (C.D. Cal. Sept. 10, 2025) (awarding $16,067 under

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York" under "Metro Areas (CBSA)") *and* CPI Regional Resources, https://www.bls.gov/cpi/regional-resources.htm (selecting "Northeast" under "Census Regions").

[7] *See* CPI Regional Resources, https://www.bls.gov/cpi/regional-resources.htm (selecting "New York" under "Metro Areas (CBSA)") (last visited March 13, 2026).

[8] *See id.*

the EAJA to a prevailing habeas petitioner as reasonable attorneys' fees). E.M.M. maintains the right to seek additional fees if the government opposes this motion and counsel must draft a reply.

CONCLUSION

For the foregoing reasons, E.M.M. respectfully requests an award of $11,751.22 in fees and expenses, in addition to fees for any time spent preparing a reply brief if the government opposes this motion.

Dated: March 17, 2026
New York, New York

Respectfully submitted,

/s/ Natalie Maust

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Civil Rule 7.1(c), the above-named counsel hereby certifies that this memorandum complies with the word-count limitation of this Court's Local Civil Rules. As measured by the word processing system used to prepare it, this memorandum contains 4,069 words.