

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

Civil Action No. 1:25-cv-04014-CNS

JOSUE ALDAIR ALFARO HERRERA

Petitioner-Plaintiff,

v.

JUAN BALTAZAR, Warden, Aurora ICE Processing Center,
GEORGE VALDEZ,¹ Acting Field Office Director, U.S. Immigration and Customs
Enforcement,

MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security,
TODD LYONS, Acting Director of Immigration and Customs Enforcement,
TODD BLANCHE, Acting U.S. Attorney General, U.S. Department of Justice,

In their official capacities,

Respondents-Defendants.

**MOTION FOR AWARD OF ATTORNEYS' FEES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT**

INTRODUCTION

Pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412,
Petitioner, Josue Aldair Alfaro Herrera ("Josue"), moves for an award of attorneys' fees.
Immigration habeas petitions constitute "civil actions" and the EAJA authorizes fee
awards against the federal government. *Daley v. Ceja*, 158 F.4th 1152 (10th Cir. 2025).
For the following reasons, Josue qualifies for reasonable fees incurred in challenging

¹ George Valdez is substituted for Robert Hagan, Markwayne Mullin is substituted for Kristi Noem, and Todd Blanche is substituted for Pam Bondi pursuant to Fed. R. Civ. P. 25(d).

his illegal and unconstitutional detention while in the custody of the Department of Homeland Security ("DHS").

Josue merits attorneys' fees because he is a prevailing party, meets the EAJA's net worth limitation, the government's litigation position was not substantially justified, and there are no special circumstances that make an award unjust. 28 U.S.C. § 2412(d)(1)(A). The Court granted Josue's petition for writ of habeas corpus ("Petition") on January 13, 2026, ordering Respondents to immediately release him with no conditions on his release. See ECF No. 12 at 36, *Alfaro Herrera v. Baltazar*, No. 1:25-CV-04014-CNS, 2026 WL 91470, at *14 (D. Colo. Jan. 13, 2026). The Court entered final judgment on February 6, 2026, ECF No. 15, explicitly identifying Josue as the "prevailing party" and awarding costs. Finally, this Motion is timely filed within 60 days of final judgment.

Accordingly, Josue moves the Court for an award of **\$136,111.79**. Pursuant to D.C.COLO.LCivR 7.1(a), counsel for Josue conferred with counsel for Respondents prior to filing this motion. On April 22, 2026, Respondents indicated they are opposed to this Motion.

SUMMARY OF FACTUAL AND PROCEDURAL BACKGROUND

The full factual background for Josue's claim is laid out in the Verified Petition for Writ of Habeas Corpus filed on December 15, 2025, ECF No. 1, with accompanying Exhibits, ECF Nos. 1-1-1-11, and his Reply, ECF No. 11. Relevant portions of the facts are summarized here.

Josue is a twenty-two-year-old citizen of Honduras. He was abandoned by his father and neglected by his mother who struggled to care for him and his siblings. He was forced to work full-time from the age of twelve to help support his mother and siblings. At the age of sixteen, gang members threatened his life and he fled to the United States.

When Josue crossed the border in September 2019 as an unaccompanied child, he was placed in the custody of Health and Human Services Office of Refugee Resettlement ("ORR"). He remained in federal custody until just before his eighteenth birthday in September 2021. At that time, he was released into the Unaccompanied Refugee Minor program where he elected to stay in an independent living program past the age of eighteen.

After his initial entry into the United States, Immigration and Customs Enforcement ("ICE") initiated removal proceedings against him. Josue sought legal protections against his removal and filed applications for relief, including one seeking asylum as an unaccompanied child and another seeking Special Immigrant Juvenile ("SIJ") status from U.S. Citizenship and Immigration Services ("USCIS"). After filing his asylum application with USCIS, ICE moved to dismiss removal proceedings, which an immigration judge granted in May 2021.

In July 2021, USCIS granted Josue's SIJ application after a juvenile court determined that he could not reunify with his parents due to neglect and abandonment and that return to Honduras would not be in his best interest. In conjunction, USCIS also granted him deferred action and work authorization. While awaiting his opportunity to

apply for permanent residency based on his approved SIJ status, Josue graduated from high school, worked, and prepared for the birth of his first child.

In May 2025, Josue was arrested in Wyoming following a traffic stop and shortly thereafter, ICE took him into custody and transferred him to Aurora, Colorado. ICE re-initiated removal proceedings against him, charging him as being inadmissible because he was present in the United States without inspection or parole. In June 2025, an immigration judge denied Josue's request to be released on bond. In July 2025, USCIS sent him a notice revoking his deferred action and employment authorization. Between July 2025 and December 2025, Josue submitted three motions to terminate removal proceedings based on his SIJ status and pending asylum application before USCIS. The immigration court denied all motions and Josue remained detained while ICE continued to pursue removal proceedings against him.

Facing indefinite detention or the unlawful revocation of his SIJ status and right to pursue adjustment of status and asylum, Josue filed his Petition and Motion for Temporary Restraining Order and/or Preliminary Injunction ("Motion for TRO and/or PI") in this Court on December 15, 2025. See ECF Nos. 1, 2. Respondents submitted their Response and Petitioner submitted his Reply on December 24, 2025 and December 31, 2025, respectively. See ECF Nos. 10, 11.

On January 13, 2026, this Court entered an order ("Order") granting Josue's Petition and ordering his immediate release from DHS custody with no conditions. ECF No. 12. The Court found that "Respondents' violations of Petitioner's rights are best remedied by ordering his immediate release from immigration detention." *Id.* at 35. On

February 6, 2026, the Court entered a final judgment, declaring Josue the “prevailing party” and awarding costs and fees “pursuant to Fed.R.Civ.P. 54(d)(1), D.C.COLO.LCivR 54.1 and 28 U.S.C. § 2412(a)(1),” and closed the case. ECF No. 15.

LEGAL STANDARD

Under 28 U.S.C. § 2412(d)(1)(A)-(B), a court “shall” award fees and other expenses to the eligible prevailing party in a civil action against the United States when that party files a timely and complete application for fees, the government’s position was not substantially justified, and no special circumstances exist that would make an award unjust. See 28 U.S.C. § 2412(d)(1)(A)-(B); *Al-Maleki v. Holder*, 558 F.3d 1200, 1204 (10th Cir. 2009). Additionally, the petitioner must have a net worth of less than two million dollars. See 28 U.S.C. § 2412(d)(2)(B)(i).

EAJA provides for a fee award in “any civil action.” 28 U.S.C. § 2412(d)(1)(A). The Tenth Circuit recently confirmed that habeas challenges to immigration detention constitute “civil actions” under the EAJA, and thus the statute “unambiguously authorize(s) fees” in these cases. *Daley*, 158 F.4th at 1164.

ARGUMENT

An award of fees and costs would effectuate the EAJA’s purpose of removing financial barriers to judicial review and ensuring that individuals are not forced to bear the cost of correcting unlawful government conduct.

The Court should grant this Motion because Josue merits a fee award and the legal fees sought are reasonable.

I. JOSUE MERITS AN EAJA FEE AWARD

Josue is entitled to fees and other expenses under the EAJA because he meets each of the statute's requirements: (1) his motion is timely; (2) he is an eligible and prevailing party; (3) the government's position was not substantially justified; and (4) no special circumstances exist to make an award of fees unjust.

A. The Fee Application is Timely

An EAJA application for fees and other expenses must be filed "within thirty days of final judgment in the action." 28 U.S.C. § 2412(d)(1)(B). The thirty-day EAJA clock does not begin to run until after the time to appeal an effective final judgment has expired. *Melkonyan v. Sullivan*, 501 U.S. 89, 96 (1991); see, e.g., *Morelos Valdovinos v. Noem*, No. 1:26-CV-0338 JB/DLM, 2026 WL 948285, at *10 (D.N.M. Apr. 8, 2026) (finding an EAJA motion premature where no final judgment had been entered). In district court cases in which the United States is a party, a party has 60 days after the judgment or order is entered by the district court to file an appeal. Fed. R. App. P. 4(a)(1)(B). Thus, an EAJA fee application must be filed within 30 days after the expiration of the 60-day appeal period. *Arias v. Choate*, No. 1:22-CV-02238-CNS, 2023 WL 4488890, at *6 (D. Colo. July 12, 2023) (finding that an EAJA motion was timely when "the application was submitted within thirty days after the expiration of the sixty-day period for filing an appeal.") (citing Fed. R. App. P. 4(a)(1)(B)).

Here, the Court granted Josue's habeas petition on January 13, 2026, ECF No. 12, and entered a final judgment pursuant to Federal Rule of Civil Procedure 58(a) on February 6, 2026, ECF No. 15. The government is a party to this action, and pursuant to Fed. R. App. Proc. 4(a)(1)(B)(ii), the Parties therefore had 60 days to file an appeal

before the judgment became final. This EAJA application was submitted within thirty days of the expiration of the appeal period. Therefore, this Motion is timely.

B. Josue Meets the EAJA Net Worth Requirement

Josue is eligible for EAJA fees because he is “an individual whose net worth did not exceed \$2,000,000 at the time the civil action was filed.” See 28 U.S.C. § 2412(d)(2)(B)(i). Although the EAJA does not define “net worth,” it is generally “calculated by subtracting total liabilities from total assets.” *Shooting Star Ranch, LLC v. United States*, 230 F.3d 1176, 1178 (10th Cir. 2000) (citation omitted). An affidavit from the party seeking attorneys’ fees likely satisfies the moving party’s burden of proof.

Here, undersigned counsel represented Josue on a pro bono basis because he could not afford to pay for legal counsel. Without the offer of free legal services, Josue would not have had the opportunity to challenge his unconstitutional confinement. In support of his eligibility, Josue is submitting a declaration along with this Motion confirming that his net worth is below the statutory threshold and that he meets all other requirements for an award of EAJA fees. ECF No. 16-1, Declaration of Josue Aldair Alfaro Herrera.

C. Josue is a Prevailing Party.

A petitioner is a “prevailing party” when the suit results in a “judicially sanctioned change in the legal relationship of the parties,” *Buckhannon Bd. and Care Home, Inc. v. W. Va. Dep’t of Health and Human Resources*, 532 U.S. 598, 604-05 (2001), such that the petitioner “could obtain a court order to enforce the merits of some portion of the claim it made in its suit.” *Biodiversity Conservation Alliance v. Stem*, 519 F.3d 1226,

1230 (10th Cir. 2008); *see also Iqbal v. Holder*, 693 F.3d 1189, 1193-94 (10th Cir. 2012) (applying *Buckhannon* to EAJA).

The Supreme Court has recognized that a party prevails when a court reverses an agency action and orders remand, enters judgment, and relinquishes jurisdiction. *Shalala v. Schaefer*, 509 U.S. 292, 300–02 (1993); *see also Goatcher v. Chater*, 57 F.3d 980, 981 (10th Cir. 1995) (citing *Schaefer* in noting that entry of judgment reversing and remanding to agency, in social security case, confers prevailing party status). Courts look at whether “actual relief on the merits of [the] claim materially alters the legal relationship between the parties by modifying the defendant’s behavior in a way that directly benefits the plaintiff.” *Farrar v. Hobby*, 506 U.S. 103, 111-12 (1992). “A plaintiff prevails for attorney fee purposes if success on a significant issue of litigation achieves some of the benefit the plaintiff sought in bringing the suit.” *Kopunec v. Nelson*, 801 F.2d 1226, 1228–29 (10th Cir. 1986) (citing *Hensley v. Eckerhart*, 461 U.S. 424 (1983)).

Josue is a prevailing party: he obtained the relief that he initially sought through a “judicially sanctioned change in the legal relationship of the parties.” *Al-Maleki*, 558 F.3d at 1204 (citing *Buckhannon*, 532 U.S. at 600-01) (emphasis in original). In his Petition, Josue challenged his unconstitutional and unlawful detention and sought immediate release from immigration custody. In its Order granting his Petition, this Court found that Respondents violated Josue’s substantive and procedural due process rights, and that his detention was arbitrary and capricious agency action under the Administrative Procedure Act (“APA”). ECF No. 12 at 16-34. Based on these findings,

the Court granted Josue's Petition, reasoning that "Respondents' violations of Petitioner's rights are best remedied by ordering his immediate release from immigration detention." ECF No. 12 at 35. Further, in its Final Judgment, the Court explicitly found that Josue was the "prevailing party." ECF No. 15 at 1.

Thus, this Court's Order conferred prevailing party status on Josue for EAJA purposes. *See Arias*, 2022 WL 4467245, at *6 ("Petitioner was awarded relief from the Court when her writ of habeas corpus was granted making her a prevailing party.").

D. Respondents Fail to Demonstrate That Both Their Prelitigation and Litigation Positions Were Substantially Justified.

As a prevailing party, Josue is entitled to EAJA fees and costs unless the government can show that "the position of the United States was substantially justified." 28 U.S.C. § 2412(d)(1)(A).

Congress placed a heavy burden of proof on the government to demonstrate that its position was substantially justified. H.R. Rep. No. 96-1418, 96th Cong., 2d Sess. 10, 13-14 (1980) ("[T]he strong deterrents to contesting government action require that the burden of proof rest with the government."). To meet this burden, the government must show that its position had a reasonable basis both in law and in fact. *Pierce v. Underwood*, 487 U.S. 552, 566 n.2 (1988).

In an assessment for an EAJA award, the government "bears the burden of establishing its position was justified to a degree that could satisfy a reasonable person." *Al-Maleki*, 558 F.3d at 1207 (internal quotation marks omitted). "The law is clear that the test of substantial justification is essentially one of reasonableness in both law and fact." *United States v. 2,116 Boxes of Boned Beef, Weighing Approximately*

154,121 Pounds, 726 F.2d 1481, 1486 (10th Cir. 1984). When the government's position violates or misapplies a clear, unambiguous, uncomplicated law, it cannot be substantially justified. See, e.g., *Role Models Am., Inc. v. Brownlee*, 353 F.3d 962, 967 (D.C. Cir. 2004) (concluding that "the agency's position lacked substantial justification because it was wholly unsupported by the text of the applicable regulations.") (internal quotation marks omitted)); *Meinhold v. U.S. Dept. of Defense*, 123 F.3d 1275, 1278 (9th Cir. 1997). "EAJA fees generally should be awarded where the government's underlying action was unreasonable even if the government advanced a reasonable litigation position." *Al-Maleki*, 558 F.3d at 1207.

The government must meet this reasonableness threshold twice—it must demonstrate both that the agency action giving rise to the litigation as well as its ultimate litigation position were substantially justified. 28 U.S.C. § 2412(d)(2)(D). For purposes of the EAJA, "the position of the United States" includes the government's litigation position at the time of the litigation and the agency's pre-litigation actions, each of which must be substantially justified, or "reasonable in fact and law." *Al-Maleki*, 558 F.3d. at 1206–07; see also *Hackett v. Barnhart*, 475 F.3d 1166, 1174 (10th Cir. 2007); *Washington v. Heckler*, 756 F.2d 959, 961 (3d Cir. 1985) (citing *Nat. Res. Def. Council v. EPA*, 703 F.2d 700, 708 (3d Cir. 1983)). Unless the government can prove both positions were reasonable, the Court must award attorneys' fees and costs.

Because Josue is the prevailing party, Respondents must demonstrate that the government's positions were substantially justified. They cannot meet their steep burden here.

1. Respondents cannot demonstrate that the government's pre-litigation conduct was substantially justified.

Respondents' decision to re-arrest and subject Josue—who USCIS awarded SIJ status and deferred action—to prolonged detention for over seven months was not substantially justified. As the Court held, ICE did not have proper grounds to arrest and detain Josue where they could not provide any "legitimate, let alone compelling, justification to support his prolonged re-detention," ECF No. 12 at 16, without the sufficient process he was due, despite a prior agency finding that he qualified for SIJ status, let alone for a prolonged period of time.

First, the government previously determined that Josue was not a flight risk or a danger to the community when he was released from ORR custody in 2021. Respondents' decision to re-detain him without a pre-deprivation hearing to determine whether there were changed circumstances justifying detention was not substantially justified. Second, Respondents detained Josue even though he had SIJ status and deferred action—legal protections specifically aimed at protecting immigrant youth, like Josue, from detention and removal and allowing them to remain in the United States to pursue permanent residency. Third, Respondents subjected Josue to prolonged detention while ICE pursued removal proceedings against him, despite the fact that: (1) a juvenile court had determined that removal to Honduras would not be in his best interest; (2) another DHS sub-agency, USCIS, granted him SIJ status and deferred action; (3) removal would serve as an unlawful revocation of Josue's SIJ status and a denial of his right to pursue adjustment of status, which he could not pursue at the time of filing his Petition because his priority date was not yet current; and (4) USCIS

retained sole jurisdiction over his pending asylum application, adjudication of which was subject to an indefinite pause based on agency policy. By the time this Court ruled in his case, Respondents deprived Josue of his liberty for almost eight months. Given the procedural posture of his immigration case, his incarceration had no end in sight until this Court intervened.

As a result, the government's pre-litigation position was not reasonable.

2. Respondents fail to meet their burden to show that the government's litigation positions were substantially justified.

The government's litigation position misapplied a clear, unambiguous, and uncomplicated legal analysis. It was not reasonable.

Courts routinely find that the government's litigation position is not substantially justified where the court rejects the government's arguments as inconsistent with statutory authority and constitutional requirements. *See, e.g., Meza Morales v. Barr*, 973 F.3d 656, 667 (7th Cir. 2020); *Thangaraja v. Gonzales*, 428 F.3d 870, 874 (9th Cir. 2005) (government position not substantially justified where it "clearly violated established law"). This Court has granted an EAJA motion under similar circumstances, finding "Respondents were not substantially justified in their pre-litigation and litigation practices because they disregarded a clear legal trend in the District and their own agency policies in the underlying action." *Arias*, 2023 WL 4488890, at *8. These principles apply with full force here.

Josue's request for EAJA fees and costs is well supported by the Court's ruling on his Petition and in its Final Judgment. Not only was Respondents' conduct preceding litigation lacking a reasonable basis, but their positions during litigation were similarly

unjustified. First, Respondents asserted that Josue's detention was constitutional and authorized by statute and the post-detention bond hearing placing the burden of proof on Josue comported with due process. ECF No. 10 at 14. Second, Respondents argued that if the Court found the post-detention bond hearing insufficient, the appropriate remedy would have been to order another bond hearing. ECF No. 10 at 16. Third, Respondents argued that Josue's claims were not ripe for review because he had not been ordered removed and his SIJS had not yet been revoked. ECF No. 10 at 20. Finally, Respondents asserted that the Court lacked jurisdiction over Josue's challenge due to the jurisdictional bar to challenging removal proceedings at 8 U.S.C. § 1252(g). ECF No. 11 at 20-21. The sole evidence Respondents offered to support their claims was an affidavit of Deportation Officer Gary Zoloff that merely repeated the facts and procedural history of Josue's detention and relief applications. ECF No. 11-1.

As the Court aptly described in its Order, Respondents' arguments largely ignored the unique circumstances of Josue having been granted SIJ status and deferred action. ECF No. 12 at 17. This Court then went on to explain that "[t]he facts Respondents chose to ignore in their opposition undermine the legitimacy of Petitioner's prolonged detention for at least four reasons," each of which provided a foundation for the Court's determination that Josue's detention violated his substantive due process rights. *Id.* at 18-24.

Similarly, the Court found that Respondents violated Josue's procedural due process rights, stating that "[b]oth common sense and the mechanics of the immigration system support this conclusion." *Id.* at 26. In so holding, the Court relied on Supreme

Court precedent that provides framework for the type of process required when the government “seeks to justify its interest in [a] person’s continued civil detention.” *Id.* at 27-31. The Court ultimately found that “[t]he government’s failure to bear that burden at Petitioner’s June 2025 bond hearing violated Petitioner’s Fifth Amendment procedural due process rights.” *Id.* at 31.

Finally, the Court assessed Josue’s Administrative Procedure Act (“APA”) claim and ruled in his favor.

For their part, Respondents do not directly address Petitioner’s arguments made in support of his APA claim. Instead, Respondents contend that any claim that Petitioner’s removal would violate the APA is not yet ripe. See ECF No. 10 at 19–20. Respondents’ failure to grapple with the implications of Petitioner’s SIJ status once again dooms its opposition.

ECF No. 12 at 31. Advancing a litigation position that effectively required the Court to disregard controlling statutory and constitutional requirements was not reasonable. See *Wyoming Wildlife Fed’n v. U.S.*, 792 F.2d 981, 985 (10th Cir. 1986) (affirming fee award where the government’s litigation position “threatened noncompliance” with federal law).

The government cannot show that both its prelitigation actions and litigation position were substantially justified.

E. No Special Circumstances Exist That Would Make an Award of EAJA Fees Unjust.

Finally, Josue’s case does not present “special circumstances” that would render an EAJA award “unjust.” See 28 U.S.C. § 2412(d)(1)(A). If the EAJA’s requirements are met, fees are mandatory unless the government demonstrates that the special circumstances exception exists. See, e.g., *Abela v. Gustafson*, 888 F.2d 1258, 1266 (9th Cir. 1989); *Dougherty v. Lehman*, 711 F.2d 555, 561 (3d Cir. 1983). “The ‘special

circumstances' exception to the mandatory award of attorney fees ... was developed to ensure that the government is not deterred from advancing good faith but novel legal arguments." *Abela*, 888 F.2d at 1266. However, here, as in *Abela*, "[t]he government advanced no novel legal arguments" and "no equitable considerations preclude an award of attorney fees." *Id.*

Moreover, an award of fees would "play an important role in challenging – and deterring – unlawful detention," which would satisfy Congress' express statement of purpose when passing the EAJA—"to diminish the deterrent effect of seeking review of, or defending against, government action." *Daley*, 158 F.4th at 1163 (citing Pub. L. 96–481, § 202(c), 94 Stat. 2321, 2325); *Ardestani v. I.N.S.*, 502 U.S. 129, 138 (1991) ("The clearly stated objective of the EAJA is to eliminate financial disincentives for those who would defend against unjustified government action and thereby deter the unreasonable exercise of Government authority.").

II. THE AMOUNT OF ATTORNEY'S FEES AND EXPENSES IS REASONABLE AND SHOULD BE GRANTED IN FULL.

Because Josue has satisfied EAJA's statutory requirements, he is entitled to "reasonable attorney fees." 28 U.S.C. § 2412(d)(2)(A). The award also includes work completed by paralegals as well as the time spent preparing the motion for EAJA fees. *See id.*; *Missouri v. Jenkins*, 491 U.S. 274, 284-89 (1989); *Jean v. Nelson*, 863 F.2d 759, 778 (11th Cir. 1988) (upholding award for paralegal and law clerk work "normally done by an attorney").

Josue has assigned any EAJA attorneys' fees to counsel. Consistent with *Astrue v. Ratliff*, 560 U.S. 586 (2010), Josue requests that, following any required offset for federal debts, the awarded fees be paid directly to counsel pursuant to that assignment.

A. The attorney time spent in support of Josue's litigation was reasonable given the number of issues presented and the breadth of briefing required.

"The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate." *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); *Anchondo v. Anderson, Crenshaw & Assocs., L.L.C.*, 616 F.3d 1098, 1102 (10th Cir. 2010). "[T]here is nothing inherently unreasonable about a client having multiple attorneys, and they may all be compensated if they are not unreasonably doing the same work and are being compensated for the distinct contribution of each lawyer." *Id.* (quoting *Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292, 1302 (11th Cir.1988)).

When undersigned counsel sought Respondents' position as to this Motion, counsel stated that they opposed the fee amount sought. Respondents did not provide a legal or factual basis for their opposition. Presumably, Respondents take issue with the amount of time undersigned counsel expended to fuel a positive result in Josue's habeas case but did not indicate any particular objections contesting the hours claimed. Respondents' opposition to this Motion fails to acknowledge the strain its litigation positions caused undersigned counsel in representing Josue on a pro bono basis.

The time dedicated to preparing Josue's habeas petition and attendant filings is sound and consistent with fee awards in other immigration habeas petitions that raise

various technically complicated claims that implicate various areas of legal expertise. Namely, the preparation of Josue's case required expertise in federal litigation, a deep understanding of detained immigration removal proceedings, and a nuanced level of expertise in legal defenses for immigrant youth—including the law creating Special Immigrant Juvenile status and affirmative asylum adjudications for unaccompanied minors. The intersection of legal expertise required to prepare Josue's case justifies the expenditure of time claimed in this Motion.

Counsel prepared three claims seeking relief. The litigation was substantively straightforward but procedurally complicated, requiring significant attorney time. The Court provided a detailed analysis on all claims and Josue was the prevailing party on each and every one. ECF No. 12 at 16-34.

In the course of this case, counsel kept contemporaneous records of time spent working on the Petition for Writ of Habeas Corpus, ECF No. 1, Motion for Temporary Restraining Order, ECF No. 2, and accompanying evidence, motions, notices, and the Reply brief, ECF No. 11, as well as the preparation of this EAJA motion, all of which is reimbursable. ECF Nos. 16-2, Declaration of Laura Lunn, with attachment; 16-3, Declaration of Ashley Harrington, with attachment; 16-4, Declaration of Christine Ranney, with attachments. Josue will seek additional fees if Respondents oppose this motion and counsel must draft a reply.

In total, Josue seeks an award of **\$136,111.79** in fees, representing **198.41 hours** of attorney time. The time spent by counsel on this matter was reasonable and

necessary to provide an effective presentation of Josue's case particularly in light of some of the novel issues presented.

Specifically, Josue seeks an award for the work of his attorneys at the following rates and amounts:

Name	Rate	Hours	Fee Amount
RMIAN Attorneys			
L. Lunn	\$258.46	20.16	\$5,210.55
A. Harrington	\$258.46	26.75	\$6,913.80
Gibson Dunn Attorneys			
C. Ranney	\$258.46	52.00	\$13,439.92
L. Sturges	\$258.46	56.90	\$14,706.37
D. Reck	\$258.46	42.88	\$11,082.77
Y. Meng	\$258.46	46.94	\$12,132.11
E. Kramer	\$258.46	86.64	\$22,392.97
E. Donnelly	\$258.46	68.57	\$17,722.60
A. Horwitz	\$258.46	29.16	\$7,536.70
D. Recanati	\$258.46	96.04	\$24,822.50
Total:			<u>\$136,111.79</u>

Josue's attorneys seek compensation that accounts for the increased cost of living, which is greater than the statutory rate reflected under EAJA, given that Congress has not adjusted the rate since 1996. *See* 28 U.S.C. § 2412(d)(2)(A); *see also Greenhill v. United States*, 96 Fed. Cl. 771, 783 (Fed. Cl. 2011) ("Except in unusual

circumstances, a COLA should be freely given to plaintiffs applying for attorneys' fees under EAJA."). Josue proposes that the national consumer price index be used for this adjustment. See *Greenhill*, 96 Fed. Cl. at 784 (applying national index); *Thangaraja*, 428 F.3d 870 at 876-77 (same); see also *Harris v. Railroad Retirement Bd.*, 990 F.2d 519, 521 & n.1 (10th Cir. 1993) (granting cost-of-living increase based on consumer price index, with no reference to regional index).

Undersigned counsels' declarations and time accountings are attached, which describe their qualifications and experience, the work performed during the litigation of the habeas case and the present EAJA motion and provide a detailed accounting of the time spent on litigation. See ECF Nos. 16-1–16-4.

B. The fee amount should not be reduced.

Undersigned counsel was judicious in the time billed to Respondents and the fee amount requested is reasonable.

First, Josue obtained the precise outcome sought—immediate release from immigration custody. “Where [a party] has obtained excellent results, his attorney[s] should recover a fully compensatory fee.” *Jane L. v. Bangerter*, 61 F.3d 1505, 1511 (10th Cir. 1995) (quoting *Hensley*, 461 U.S. at 435–36).

Second, undersigned counsel's timekeeping was not excessive. Work performed by various attorneys preparing a single brief is not redundant. Counsel from Gibson Dunn and RMIAN divided sections of the argument and exchanged edits, creating an efficient and cost-effective work allocation. *Anchondo*, 616 F.3d at 1105 & n.6 (10th Cir. 2010) (time records reflect “efficient cooperation, rather than redundancy”). The detailed

summary of time spent on litigation provided satisfies the time accounting requirements under the EAJA.

CONCLUSION

For the foregoing reasons, the Court should award Josue's attorneys' fees and costs in the total amount of **\$136,111.79**.

Dated: May 4, 2026

Respectfully submitted,

/s/ Laura Lunn

Laura Lunn

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Pro Bono Attorneys for Petitioner

CERTIFICATE OF SERVICE

I certify that on May 4, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following recipients by e-mail:

Logan.Brown@usdoj.gov

/s/ Laura Sturges

Laura Sturges

ROCKY MOUNTAIN IMMIGRANT ADVOCACY NETWORK